

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

IN THE MATTER OF THE *NATURAL PRODUCTS MARKETING (BC) ACT* AND
ALLEGATIONS OF UNLAWFUL ACTIVITY

TRANSCRIPT EXCERPT BOOK OF ANDRE SOLYMOSI

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Marcel Andre Solymosi
Cross-exam by Cnsl C. Hunter

1 A They have no regulation and they are competitive
2 markets based on pure free market supply and
3 demand, correct.

4 Q You're aware that in Alberta and Saskatchewan the
5 market prices for potatoes are almost always
6 lower than the B.C. minimum price set by the
7 Commission?

8 A Correct.

9 Q Now, I've seen in the documents and one example
10 is in the cover email to the June 14th letter
11 we've looked at a few times. A description of
12 two critical components of orderly marketing
13 essential for the system to be effective, those
14 are your words, and those are DA -- delivery
15 allocation and minimum price. You consider those
16 the two critical components of orderly marketing?

17 A Well, I know that for your other question you're
18 talking about minimum pricing but minimum price
19 in B.C. is higher when the minimum price in
20 Alberta or the prairie markets is lower than --
21 that -- that is acknowledged. So in that -- in
22 the context and so I just wanted to expand on
23 that.

24 THE CHAIRPERSON: Please go ahead.

25 CNSL C. HUNTER:

26 Q Thank you. Now, the system -- the two critical
27 components of orderly marketing, DA and minimum
28 price, you agree those -- you consider those to
29 be the two critical components of orderly
30 marketing in the vegetable sector?

31 A So there's actually three critical components of
32 the orderly marketing system in British Columbia.
33 You have -- first and foremost is that you have
34 agencies which are true agents of the Commission
35 that are -- are responsible for representing
36 groups of producers in the marketplace and then
37 you have delivery allocation. That is the tool
38 that is used by agencies to manage the -- I
39 guess, the rotation of producers within that
40 agency to rotate their supply into the
41 marketplace of the customers of that agency.

42 And then fundamental, critical part of the
43 system that ensures that orderly marketing can
44 occur in supply -- in the storage crop --
45 vegetable -- regulated vegetable industry is
46 minimum pricing. If you did not have minimum
47 pricing then you would have agencies competing

40
Marcel Andre Solymosi
Cross-exam by Cnsl C. Hunter

1 and -- on product quality, service and price.
2 That would not be in the best interest of B.C.
3 producers.

4 The purpose of regulated marketing is to
5 provide economic stability to producers and so
6 having a minimum price, the reason we do that is
7 to permit multiple agencies to compete in the
8 same marketplace of -- on service and quality and
9 if you did not have a minimum price in place, it
10 would be a race to the bottom. You would not
11 have [indiscernible] marketing. You would not be
12 protecting producer returns. You would not have
13 economic stability. So we have a system here.
14 We have multiple agencies competing in a market
15 and the key component that allows for that is
16 having minimum pricing.

17 Q So the two -- both delivery allocation and
18 minimum pricing as I understand it are intended
19 to ensure that agencies don't compete against
20 each for the same business on price, correct?

21 A It's minimum pricing is what prevents agencies to
22 compete in the same marketplace on product
23 quality and service.

24 Q Delivery allocation divides up the existing
25 market so that each grower has a right to ship a
26 defined amount based on existing markets?

27 A Can you repeat that again?

28 Q Delivery allocation divides up the existing
29 market for B.C. product so that each grower has a
30 right to ship defined on the historical market
31 share, correct?

32 A The delivery allocation divides up the market
33 being serviced by an agency that represents that
34 group of producers.

35 Q Based on what happened over the last five years?

36 A I don't understand.

37 Q Well, how is the market defined? What's --
38 what's -- how do you define the market that is
39 serviced by the agency?

40 A The market serviced by the agency is a natural
41 marketplace that -- that agency has serviced over
42 time.

43 Q Yes, so what they serviced in the last five years
44 is -- that's -- that's the size of their market.

45 A Well, delivery allocation is an average of the
46 last five years of shipments.

47 Q Right.

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Marcel Andre Solymosi
Cross-exam by Cnsl R. Basham

- 1 make it louder.
2 A Okay, thank you.
3 Q I said that Ms. Hunter's already taken you to the
4 delegation of authority section and there's no
5 issue that a lot of the powers are delegated to
6 you, except for matters related to licencing. Is
7 that a fair statement?
8 A The Commission is responsible for, you know,
9 anything related to licencing or agencies that
10 you -- the -- you know, you have production
11 allocation, delivery allocation. I have certain
12 delegated authorities to proceed if -- say if
13 there's a licence function, a function with a
14 policy attached to it, it's following the policy.
15 So if there's policies in place, then I would
16 follow the policy that's in place for that
17 function.
18 Q And you -- can you agree with me as a general
19 proposition that you knew, throughout the time
20 that you've been a general manager, that the
21 commissioners rely on you to a great extent in
22 helping them do their job?
23 A Correct.
24 Q For example, if an issue arises, you would be the
25 person to collect the information, the evidence,
26 the documents. You look at that all and then you
27 bring it to the Commission and tell them about
28 it. Is that a fair general statement?
29 A That's a fair statement, correct.
30 Q Do you also agree with me that building trust and
31 integrity in an orderly marketing system is a
32 very important mandate for the Commission?
33 A Absolutely.
34 Q And you want the agency producers to be
35 accountable to each other, correct?
36 A We want everyone to be accountable to the system,
37 correct.
38 Q You get feedback that you relate to -- from the
39 industry that you relate to the Commission, along
40 these lines. Growers go to the agencies, the
41 agencies come to you, you then relate the
42 information to the Commission, is that correct?
43 A That's one, I guess, path forward, correct.
44 Q And there are time is when you talk to the
45 growers directly? You don't even go through
46 agencies?
47 A If they call me and -- they can talk to me

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Murray Driediger (a witness)
Exam by Cnsl N. Mitha

1 is something that had been going on for years,
2 you know.

3 In previous general manager meetings, we had
4 talked about enforcement that a lot of discussion
5 at the commission general meetings. We had had,
6 I believe, there was an industry meeting of some
7 kind a few years before that where it was front
8 and centre as well. And I think we were all on
9 the same page when it came to the fact that if we
10 didn't have -- if we're going to have rules and
11 regulations, if they weren't enforced, what was
12 the point. And as agencies, we're licensed to
13 the commission. We're the ones that are required
14 to make sure that we're abiding by the general
15 orders and that our growers are abiding by the
16 general orders so, ultimately, we wanted to make
17 sure we were being supported by the commission,
18 that they were taking appropriate enforcement
19 measures and, in turn, we were prepared to
20 support the commission in doing that.

21 We were all trying to be transparent, we all
22 supported orderly marketing and we wanted to make
23 sure that we showed some kind of support for
24 this, that we weren't a divided industry. We
25 were united in the fact that we wanted
26 enforcement to be a major proponent of what the
27 commission was doing.

28 Q And just to put this in context, sir, you'll see
29 this email is sent Friday, November 10, so this
30 is -- 2017 -- so this is about a month after the
31 cease and desist orders were issued. By this
32 point in time, everybody would have known about
33 the cease and desist orders; correct?

34 A That's correct.

35 Q So you're having this meeting with Mr. Meyer
36 related concerns regarding Prokam and you have
37 this meeting and then you say, would it help if
38 we were to sign -- I presume you meant to say,
39 "we were to sign a joint letter of some kind to
40 show industry support."

41 Did anyone prompt you to suggest that a
42 joint letter to be sent? How did you come up
43 with that idea?

44 A The actual decision to send a joint letter of
45 support was made at the meeting, and at the
46 meeting, it was asked whether I would do the
47 first draft and it was a couple of days after

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Murray Driediger (a witness)
In chief by Cnsl R.McDonell

1 back in 2018 in front of her. I've said it, you
2 know, in the antidumping hearings as well. The
3 fact of the matter is this. We were having a
4 debate about orderly marketing. Mr. Dhillon
5 wanted to grow 380 acres without delivery
6 allocation. He was questioning the need for
7 orderly marketing in the first place. I
8 explained to him, at the time, I said, look it,
9 Bob, I said, we are the smallest player in all of
10 the Pacific northwest and western Canada.
11 Alberta grows 55,000 acres, Washington grows
12 160,000 acres, Idaho grows 300-plus thousand
13 acres, Oregon grows 55,000 acres. There's almost
14 600,000 acres of potatoes grown within a day's
15 drive. We, being the BC industry, have survived,
16 despite being in the highest cost-producing area
17 in North America, and despite being surrounded by
18 these behemoths all around us. We've survived
19 because of orderly marketing, and if you get rid
20 of orderly marketing, the smaller growers or the
21 smaller agencies will be gone by Tuesday and
22 that's just a fact of life, so we need orderly
23 marketing; it's supported by the industry and
24 it's supported by the growers and, quite frankly,
25 it's supported by the agencies. And that is what
26 I said.

27 Q In -- I want to attempt with great trepidation to
28 share screen. If not, we'll perhaps -- no, I
29 think it's best we don't. Okay.

30 There's a couple of letters, Mr. Chair, I
31 wanted to take Mr. Driediger to and have
32 introduced in evidence, but I'll enlist some
33 wiser technological support over lunch to deal
34 with that and I don't think there will be a
35 delay.

36 The chair, this morning, in describing terms
37 of reference here in the context of
38 Nupinder Bajwa's complaint, used words to the
39 effect of this hearing looking into whether or
40 not there was unfairness in delivery allocation
41 for -- to Bajwa Farms due to Ms. Bajwa,
42 Nupinder Bajwa, being related to Mr. Dhillon, and
43 my question to you is did you, at any time, take
44 any steps or set out to prejudice Nupinder Bajwa
45 in regard to delivery allocation or anything else
46 in the marketing of produce?

47 A No. They -- you know, this is -- I'll go back

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Murray Driediger (a witness)

Cross-exam by Cnsl D. Dalke

- 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?

32

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

1 A No.

2 Q So getting back to that telephone call. Getting
3 back to that telephone call, do you agree with me
4 that nowhere in your response to our particulars
5 given on July 19, 2021, do you mention reference to
6 this telephone call and the demeanour?

7 A No.

8 CNSL R. HIRA: If I may just have a moment,
9 Mr. Chairman.

10 Q One last thing, sir. In applying to become an
11 agency, you understand that you're becoming an
12 agency of the Commission; correct?

13 A Yes.

14 Q And you have a duty as an agency to assist the
15 Commission with respect to the orderly marketing of
16 product?

17 A Okay.

18 Q You agree with that proposition?

19 A Yes.

20 Q Thank you. And there are things that at MPL that
21 you, sir, as the CEO have a responsibility to
22 assist with information?

23 A Yes.

24 Q And I gather your evidence is that despite the fact
25 that this is apparently an old boys club with I
26 scratch your back/you scratch my back, you are
27 comfortable with assisting that type of Commission?

28 A Yes, we are. Yes.

29 CNSL R. HIRA: Those are my questions. Thank you,
30 sir.

31 PAUL MASTRONARDI: Thank you.

32 THE CHAIRPERSON: Thank you, Mr. Hira. Ms. Basham,
33 re-exam?

34 CNSL R. BASHAM: Mr. Donkers, I would like to take the
35 break now. I want to consider my legal position
36 and what has occurred this morning.

37 THE CHAIRPERSON: You want to take a lunch break now?

38 CNSL R. BASHAM: If we may because I would like to
39 consider my position and what I am doing in direct
40 given what has occurred.

41 CNSL R. HRABINSKY: Mr. Chair. It's Robert Hrabinsky
42 here. I just want to alert you that I do intend to
43 ask a few questions of Mr. Mastronardi. I expect
44 that my questioning will be brief.

45 CNSL R. BASHAM: Maybe my friend should carry on.

46 THE CHAIRPERSON: Yes, thank you. My apologies,
47 Mr. Hrabinsky, for not checking with you first.

23

Terrence Michell (a witness)
Cross-exam by Cnsl R. Hira

1 claims on practically every load of -- yeah,
2 there was claims made on the loads, yeah. So it
3 would have been a quality problem also, yes.
4 Q So here you are, an agency of the commission, and
5 you're not able to keep track of your sales, your
6 price, or your quality; correct?
7 A That -- it came to light. That was the case.
8 Q All right. And on top of that, Mr. Gill and
9 Mr. Dhillon were bullying your staff. Is that a
10 fair statement by me?
11 A That is a fair statement. Yes, sir.
12 Q And you've seen many emails in 2017 where
13 Mr. Gill -- I'm sorry -- Mr. Dhillon is bullying
14 Ms. Solotski; correct?
15 A Yes.
16 Q Take you to some of those emails, if I may.
17 A Yes.
18 Q Go to document 3208. This is an email chain.
19 You'll see at the top is an email dated
20 July 30th, 2017, from Mr. Gill to Janice. You
21 and Mr. Meyer and Bob Dhillon are copied on the
22 email. Do you see that?
23 A I see that, yes.
24 Q And let's go down to the email just below. That
25 is an email from Janice to Bob Dhillon. Do you
26 see that?
27 A I'm not clear which Bob that was sent to. It
28 just says, Bob -- okay. I'm reading through it.
29 Sorry. Yeah.
30 Q All right. And she writes:
31
32 I know you have no use for me, but I'm due
33 some respect from you. I've made it clear
34 that you are the most difficult individual
35 I've ever worked with.
36
37 You see that?
38 A Sorry, which paragraph is that?
39 Q First paragraph.
40 A Oh, sorry, first paragraph. Yes. I see that,
41 yes. There we are. Yes, it's highlighted, yeah.
42 Yes.
43 Q And you agree with that, do you not, that he was
44 a very difficult individual to work with?
45 A Yes, we've never had that experience before.
46 Q Now, let's go to document 3223. This is an
47 email from -- just scroll down to the email

25

Terrence Michell (a witness)
Cross-exam by Cnsl R. Hira

1 a July 27th, 2017, email from Ms. Solotski to
2 you. Do you see that, sir?

3 A I do see it, yes.

4 Q And the subject is "office important." Do you
5 see that?

6 A Yes.

7 Q And she writes in the second paragraph that she
8 was concerned about giving Bob Gill or
9 Bob Dhillon bank access as well as executive
10 rights to the computers:

11
12 -- is like letting the fox guard the hen
13 house.

14
15 Do you see that, sir?

16 A Oh, yeah. I see that, yes. I'm just not clear
17 whether -- I don't think they had access to our
18 bank accounts. Does that say that in the letter
19 somewhere?

20 Q Well, they wanted access --

21 A Bank access as well as executive -- yes, I see
22 that now, yes.

23 Q They wanted bank access and computer access;
24 correct?

25 A Correct.

26 Q And you made sure that they did not get the bank
27 access; correct?

28 A That's correct, yes.

29 Q And they created havoc in your computer system
30 because you were just not getting the purchase
31 orders; correct?

32 A Correct. And once they were accessed, we had
33 computer problems with operation, yes, with
34 system going down. I remember Ryan and Janice
35 talking about that. Sorry, go ahead.

36 Q And the bullying got progressively worse through
37 September 2017, I would suggest. Would you agree
38 with that?

39 A It seemed to, yes.

40 Q I'm going to take you to document 3300. This
41 is -- let's go to the second email in that chain.
42 An email from Janice to Barb Dhillon. You note
43 in the third line, she writes:

44
45 He can be such a bully, and his words are
46 hash and not called for.
47

26

Terrence Michell (a witness)
Cross-exam by Cnsl R. Hira

1 I think she means "harsh." Do you see that?
2 A I see that, yes.
3 Q The behaviour was worsening, wasn't it, through
4 September? Do you agree with that? Sorry, did
5 you hear me, sir?
6 CNSL N. MITHA: I think his screen is frozen.
7 THE WITNESS: There we are. I can hear you, yeah.
8 CNSL R. HIRA:
9 Q Mr. Dhillon's behaviour was getting worse through
10 September 2017; correct?
11 A Yes.
12 Q He was intimidating Ms. Solotski and Mr. Meyer;
13 correct?
14 A Yes.
15 Q And the shipments of potatoes below the minimum
16 price were increasing through September; correct?
17 A I would think so just because that's when the
18 bulk of potatoes are harvested and shipped, so I
19 don't have any tonnage or anything for you, but I
20 would assume that.
21 Q Thank you. And Mr. Meyer came to you and said,
22 "listen, Mr. Michell, we've lost control of this
23 agency," didn't he?
24 A Yes, he did.
25 Q And the two of you -- you suggested that he get a
26 hold of Mr. Solymosi and explain the situation to
27 him?
28 A Yes.
29 Q And that Mr. Solymosi and Mr. Krause came to
30 visit you on the island; correct?
31 A Yes.
32 Q Mr. Meyer and you took them through the
33 accounting records to show the conduct of
34 Mr. Dhillon, Mr. Gill, and Prokam?
35 A Yes, I recall that.
36 Q And the sales below the minimum price; correct?
37 A Correct.
38 Q The sale of Kennebec potatoes without any quota;
39 correct?
40 A I would say, potatoes. I can't say whether it
41 was Kennebecs. It was general potatoes, yes. It
42 could have been Kennebecs.
43 Q Thank you. And, in essence, you wanted the
44 commission to help you get control back of your
45 agency; correct?
46 A Correct.
47 Q And you received cease and desist orders on or

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Terrence Michell (a witness)
Exam by Cnsl N. Mitha

1 Q Any conversations with Mr. Gill?
2 A Not entirely with Mr. Gill, no.
3 Q And as a result of those conversations, what was
4 your -- what was your feeling or conclusion as a
5 result of those conversations?
6 A That he'd made a huge investment, and one thing
7 and another. And it wasn't really to do with the
8 export. It was the, you know, the paper trails
9 and things, basically, on this paragraph anyways.
10 That's what I would recall.
11 Q Okay. And is it fair to say, sir, that what you
12 were feeling was that they weren't complying with
13 what IVCA was requesting?
14 A Yes.
15 Q The next paragraph, sir, says:
16
17 Eventually, through Brian Meyer, IVCA
18 contacted the commission to seek assistance.
19 The commission asks for various information
20 and Mr. Michell instructed his staff to
21 provide any and all information requested by
22 the commission.
23
24 Do you recall that, sir?
25 A Yes.
26 Q All right. So Mr. Meyer told you that he was
27 contacting the commission; is that right?
28 A Yes.
29 Q And you knew the commission had asked for some
30 information?
31 A Yes.
32 Q And you instructed Mr. Meyer to provide it?
33 A I said, just provide it. We're a co-op, and
34 we're not a private identity or anything. We're
35 a co-op regulated under the vegetable commission,
36 yes.
37 Q And you don't recall all the information was
38 provided, but you do recall that Mr. Meyer
39 provided the commission with information about
40 Prokam?
41 A Yes, and I don't know exactly what they were
42 asking for and actually what was sent, but I just
43 said, whatever they were looking for, then,
44 supply the information.
45 Q Sir, did the commission or anyone at the
46 commission ever promise you that if you provided
47 information, you would be protected, or IVCA

26

Terrence Michell (a witness)
Cross-exam by Cnsl R. Hira

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Terrence Michell (a witness)
Cross-exam by Cnsl R. Hira

1 about October 10th, 2017; correct?
2 A I would assume so.
3 Q Well, let's not work on assumptions.
4 A No.
5 Q Let's go to a cease and desist order. Now, of
6 course, the test for me is to find it in these
7 thousands of documents. I'm told it's
8 document 1166. I'm showing a document 1162, a
9 document dated October 10th, 2017. Do you have
10 that, sir?
11 A I see that, yes.
12 Q And let's just scroll down that document, and on
13 page 2, we have violation details. Do you see
14 that, sir?
15 A Yes.
16 Q And the first one is, in essence, Prokam and
17 Dhillon have knowingly supported the actions of
18 Gill in marketing and selling potatoes without
19 commission authorization and below the authorized
20 minimum price. Do you see that?
21 A See that.
22 Q And from your perspective, that was true;
23 correct?
24 A Correct.
25 Q And when I say, "from your perspective," I mean
26 from the perspective of Island Vegetable
27 Co-operative Association.
28 A Yes.
29 Q The second allegation is that:
30
31 Prokam and Dhillon have knowingly permitted
32 Gill --
33
34 Sorry.
35
36 -- knowingly permitted through the actions
37 of Gill for IVCA to be put in a position of
38 noncompliance with the general order thus
39 risking IVCA's license.
40
41 Do you see that?
42 A I see that.
43 Q And you agree with that. That's what happened;
44 correct?
45 A That's what happened, yes.
46 Q The next allegation is that:
47

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28

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Cross-exam by Cnsl R. Hira

- 1 Prokam and Dhillon do not have the authority
2 to represent IVCA in the marketing of sales
3 of regulated products and that customers of
4 regulated products and agency customers that
5 have been managed and accounts that have
6 been managed by IVCA's general manager.
7
8 Do you see that?
9 A Yes, I see that.
10 Q And that's what was happening before the cease
11 and desist order. Prokam and Dhillon were
12 selling, as you said, directly off the farm,
13 regulated product without telling the general
14 manager; correct?
15 A Correct.
16 Q And they were selling to Thomas Fresh; correct?
17 A I'm sure that was one of the customers, yes, and
18 maybe it was the only customer. I'm not sure,
19 yes.
20 Q And they were selling below the minimum price to
21 Thomas Fresh; correct?
22 A Yes. On the export market, I guess. That's --
23 yes, that's what was going on, yes.
24 Q So the fourth allegation is, on this document, is
25 also true from your perspective?
26 A That was correct.
27 Q And, lastly, Prokam suggests to you:
28
29 Shipped Kennebec potatoes in September 2017
30 without any delivery allocation for those
31 potatoes.
32
33 Would you agree with that?
34 A That did come to light, yes. That's correct.
35 Q So the fifth allegation is true too; correct?
36 A Yes.
37 Q And this was a very stressful time for you,
38 September/October of 2017; correct?
39 A Not only for myself.
40 Q It was a stressful time for IVCA; correct?
41 A Correct.
42 Q Your license was at risk?
43 A Correct.
44 Q In any event, you cooperated with the commission
45 and provided additional evidence to the
46 commission, did you not?
47 A Yes. The IVCA did -- supplied anything that they

27

Terrence Michell (a witness)
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2 A I would assume so.
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23 correct?
24 A Correct.
25 Q And when I say, "from your perspective," I mean
26 from the perspective of Island Vegetable
27 Co-operative Association.
28 A Yes.
29 Q The second allegation is that:
30
31 Prokam and Dhillon have knowingly permitted
32 Gill --
33
34 Sorry.
35
36 -- knowingly permitted through the actions
37 of Gill for IVCA to be put in a position of
38 noncompliance with the general order thus
39 risking IVCA's license.
40
41 Do you see that?
42 A I see that.
43 Q And you agree with that. That's what happened;
44 correct?
45 A That's what happened, yes.
46 Q The next allegation is that:
47

28

Terrence Michell (a witness)
Cross-exam by Cnsl R. Hira

1 Prokam and Dhillon do not have the authority
2 to represent IVCA in the marketing of sales
3 of regulated products and that customers of
4 regulated products and agency customers that
5 have been managed and accounts that have
6 been managed by IVCA's general manager.
7

8 Do you see that?

9 A Yes, I see that.

10 Q And that's what was happening before the cease
11 and desist order. Prokam and Dhillon were
12 selling, as you said, directly off the farm,
13 regulated product without telling the general
14 manager; correct?

15 A Correct.

16 Q And they were selling to Thomas Fresh; correct?

17 A I'm sure that was one of the customers, yes, and
18 maybe it was the only customer. I'm not sure,
19 yes.

20 Q And they were selling below the minimum price to
21 Thomas Fresh; correct?

22 A Yes. On the export market, I guess. That's --
23 yes, that's what was going on, yes.

24 Q So the fourth allegation is, on this document, is
25 also true from your perspective?

26 A That was correct.

27 Q And, lastly, Prokam suggests to you:

28
29 Shipped Kennebec potatoes in September 2017
30 without any delivery allocation for those
31 potatoes.
32

33 Would you agree with that?

34 A That did come to light, yes. That's correct.

35 Q So the fifth allegation is true too; correct?

36 A Yes.

37 Q And this was a very stressful time for you,
38 September/October of 2017; correct?

39 A Not only for myself.

40 Q It was a stressful time for IVCA; correct?

41 A Correct.

42 Q Your license was at risk?

43 A Correct.

44 Q In any event, you cooperated with the commission
45 and provided additional evidence to the
46 commission, did you not?

47 A Yes. The IVCA did -- supplied anything that they

28

Terrence Michell (a witness)
Cross-exam by Cnsl R. Hira

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2 to represent IVCA in the marketing of sales
3 of regulated products and that customers of
4 regulated products and agency customers that
5 have been managed and accounts that have
6 been managed by IVCA's general manager.
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8 Do you see that?
9 A Yes, I see that.
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11 and desist order. Prokam and Dhillon were
12 selling, as you said, directly off the farm,
13 regulated product without telling the general
14 manager; correct?
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45 and provided additional evidence to the
46 commission, did you not?
47 A Yes. The IVCA did -- supplied anything that they

7
George Leroux (a witness)
Exam by Cnsl N. Mitha

1 back to -- all right. So, sir, as a starting
2 point, you know Mr. Guichon, of course. He was a
3 member of the commission at the time that you're
4 the chair?

5 A Yes, I've known Peter for a number of years.

6 Q But you've never worked with Mr. Solymosi; is
7 that correct?

8 A Mr. Solymosi was at the commission when I was
9 there originally. He left at some point during
10 the time I was there. I seem to recall it would
11 be more to the end, but he was a data analyst
12 with us at that time.

13 Q So, sir, can you speak to, generally, are you
14 aware of or can you speak to Mr. Guichon or
15 Mr. Solymosi's knowledge of whether the
16 commission could set export minimum pricing
17 orders for interprovincial trade and the
18 requirements to do so? Can you speak to their
19 knowledge about that?

20 A Well, you're asking me to speculate on what they
21 knew and didn't know so that's a little bit hazy.
22 Maybe you could help me a little bit because
23 maybe it's my naivety or the passage. I have
24 never understood that the commission could
25 actually set prices for export shipments.

26 Q Well, as I understand, sir, the issue is whether
27 they could do so by the proper -- if they
28 properly gazette the orders, then they can
29 potentially set a minimum pricing orders for
30 export, but if they don't gazette it, that's the
31 key issue.

32 A Okay.

33 Q All right. So, sir, what I'm gathering from what
34 you're saying is you don't have, as you sit here
35 today, any direct knowledge of whether
36 Mr. Solymosi or Mr. Guichon were aware of the
37 requirements of how to set minimum pricing
38 orders?

39 A I can't speak what they knew and didn't know,
40 frankly.

41 Q Okay.

42 A What I do know, and it shows from the records,
43 that during that period of time -- and I believe
44 it started at some point around 2006 --

45 Q Yes.

46 A -- the commission was made aware that there were
47 some issues that Agriculture Canada and National

8

George Leroux (a witness)
Exam by Cnsl N. Mitha

1 Farm Products Marketing Council were having with
2 the orders of the vegetable commission. And it
3 had to do with some wording about by order and
4 that meant it had to harmonize with some federal
5 thing, so that was understood. To the extent to
6 which individuals understood the seriousness of
7 it, I don't know, but I do know that it was taken
8 very seriously within the commission. I took it
9 very seriously, the chair did -- or the general
10 manager did, and Jim Collins did, and those were
11 the three people working with Rob Hrabinsky, with
12 the general manager -- and I was not directly
13 involved in all the different positions -- but
14 this issue of harmonizing or coordinating the
15 provincial orders with the federal orders was an
16 important issue that the commission was trying to
17 get resolved. That's what I know at the time.

18 Q Thank you.

19 A That Andre would have known anything about it at
20 the time that would be a real stretch because it
21 wasn't really his area within the commission. To
22 the extent with which any of the commissioners,
23 including Peter Guichon, would have understood
24 it, I couldn't really speak to that. The
25 information was made available to them and it was
26 understood that there was a -- there was a
27 potential issue with our orders being in
28 compliance with the federal orders. That's what
29 I can say.

30 Q All right. Thank you. That's helpful. I'm
31 going to take you to the first volume of the
32 common book of documents and share with you some
33 part of -- all right. So, sir, you have in front
34 of you the opening remarks for the standing joint
35 committee for the regulations, Thursday,
36 March 13, 2008?

37 A Yeah.

38 Q And these were comments, I believe, sir, made by
39 you at the time as chair of the commission. And
40 you can see in paragraph 1, stand before you
41 today representing the commission, one of the
42 nine regulated commodity boards and commissions
43 in BC, and you go on to discuss these things and
44 I believe the summary of this was provided to you
45 as part of your interview report. So you had a
46 chance to look at this before?

47 A Yes.

6

Peter Guichoin (a witness)
Cross-exam by Cnsl C. Hunter

1 A Yes.
2 Q And you aren't aware of any errors transcribing
3 your evidence in the 2018 hearing?
4 A I didn't see any, but maybe you'll take me to
5 something that I don't disagree with, but what
6 I've seen so far, it's okay.
7 Q Now, you gave evidence on Wednesday that your
8 main concern in the cease and desist orders was
9 orderly marketing; correct?
10 A Yes.
11 Q And the relationship between the grower and the
12 agency, Prokam, and IVCA, was totally broken and
13 that was a threat to orderly marketing?
14 A Yes.
15 Q You were concerned that Prokam had planted far in
16 excess of its delivery allocation and that was a
17 threat to orderly marketing; correct?
18 A No.
19 Q No?
20 A Not planting -- not planting that many. What was
21 the threat was that they didn't come forward to
22 the commission with a marketing plan.
23 Q And that was IVCA that didn't come forward to the
24 commission with the marketing plan; correct?
25 A IVCA and their board, yes.
26 Q Yes. It's the agency's responsibility to come to
27 the board, to the commission with a marketing
28 plan; correct?
29 A Providing they have the information from the
30 grower, yes.
31 Q I'm going to suggest to you that Prokam was not
32 violating any rule in planting in excess of your
33 delivery allocation. Do you agree with me?
34 A Yes.
35 Q I'm going to take you to the transcript,
36 page 2151 of Exhibit 1, line 44.
37 A Can you make it bigger, please, Ms. Hunter.
38 Q I can try. Mr. Androsoff actually will be able
39 to do that, I think. There we go. Is that okay,
40 Mr. Guichon?
41 A It's not bigger here.
42 Q Oh, it's not? Oh, okay. How about that. Is
43 that bigger?
44 A That's starting to work.
45 Q Okay.
46 A Yeah. That's big enough. I can see that, I
47 think. There we go.

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Peter Guichon (a witness)

Exam by Cnsl N. Mitha

1 there to it but about the cease and desist
2 orders, probably one of the biggest things was
3 the non-compliance part aside from the 22 cent
4 thing. The way the cease and desist orders read
5 is that what it was doing was getting three
6 parties back into compliance, putting the orders
7 through IVCA's desk rather than selling direct to
8 a wholesaler. So that was as big a concern but
9 that wasn't really known until after, so.

10 Q And, sir, at the time, the cease and desist
11 orders were presented to you in that email from
12 Mr. Solymosi and your subsequent discussion with
13 Mr. Krause. They informed you of their
14 investigation learning of the non-compliance, I
15 take it?

16 A Yes, it was more the non-compliance than the
17 22 cent contracts that I believe they saw. I
18 didn't -- I didn't realize that -- until they
19 told me that virtually the agency and the grower
20 weren't even together anymore and the
21 relationship between the grower and the agency
22 was totally broken.

23 Q All right. And that's --

24 A My big concern was about the orderly marketing.

25 Q That's what was communicated to you at the time
26 and that's the basis on which you made your
27 decision; is that correct?

28 A Yes.

29 Q All right. Sir, the next -- the next thing I'd
30 like to discuss with you apart from the cease and
31 desist orders that were issued on October 2017,
32 is the suggestion that your involvement
33 constituted a conflict of interest, and there's a
34 bunch of different times when you're involved.
35 So let's deal with them separately, although
36 there's an overall allegation of conflict of
37 interest, let's break it down. So the first
38 allegation is that your approval of the cease and
39 desist orders was to protect your own economic
40 interest and was therefore a conflict of
41 interest. What is your response to that
42 allegation, sir?

43 A First of all, as I mentioned earlier, I did not
44 approve them.

45 Q Right.

46 A I consented on them being sent out and that would
47 be sent out to the commission and they would have

6

Peter Guichoin (a witness)
Cross-exam by Cnsl C. Hunter

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43 that bigger?
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- 46 A Yeah. That's big enough. I can see that, I
47 think. There we go.

162

Alfred Krause (a witness)
Cross-exam by Cnsl R. Hira

- 1 desist order, document 1165, you see at 1165 --
2 the top of 1165, there's a cease and desist order
3 dated October 10th, 2017, addressed to
4 Bob Dhillon and Prokam; correct?
5 A Correct.
6 Q All right. Let's go to the second page, 1166,
7 see there 1166. Let's go to "violation details."
8 And if you just read the four bullets, you'll
9 agree with me that that's what you learned,
10 essentially what I put to you a few moments ago?
11 A That's correct.
12 Q All right. So this is a very serious situation
13 from your perspective; correct?
14 A Yes.
15 Q And in the three years that you've been the chair
16 of this commission, I would -- I suggest to you
17 that you had not encountered such a serious
18 situation?
19 A Correct.
20 Q In essence, this was a rogue producer trying to
21 undermine the entire system; correct?
22 A To our eyes, it was totally trying to undermine
23 it, 100 percent.
24 Q And you directed Mr. Solymosi to put together
25 cease and desist orders; correct?
26 A Correct.
27 Q He drafted them, as we have seen; correct?
28 A Yes.
29 Q You reviewed the draft; correct?
30 A Yes.
31 Q And you brought Mr. Guichon into it after
32 reviewing the draft because you wanted the vice
33 chair involved in the matter as well; correct?
34 A Correct.
35 Q And then you authorized Mr. Solymosi to sign off
36 on the cease and desist orders and send them;
37 correct?
38 A That is correct.
39 Q And as you said quite fairly to Mr. Stransky,
40 what you were trying to do was to bring Prokam
41 and IVCA under control so that potatoes could be
42 marketed in an orderly fashion; correct?
43 A That is right.
44 Q And this was an ongoing investigation even after
45 the cease and desist orders; correct?
46 A Yes.
47 Q And all the parties would have a chance to come

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Alfred Krause (a witness)
Cross-exam by Cnsl R. Hira

- 1 A It's a supply and demand so if we're over
2 producing, the price is going to be crappy.
- 3 Q Right. And what the commission does -- and it
4 regulates BC growers and BC agencies; correct?
- 5 A Correct.
- 6 Q And in terms of this export minimum price, what
7 was happening there was that the commission was
8 trying to set a minimum price for BC potatoes
9 being marketed by BC agencies in another market;
10 correct?
- 11 A Potentially another market. We weren't sure.
12 They could have circled right back and come back
13 into BC, so therefore it was really important
14 that the prices were maintained.
- 15 Q And from your perspective, the commission was
16 acting within it's authority; correct?
- 17 A Correct.
- 18 Q There was no intention on your part or any member
19 of the commission to act outside of its
20 authority?
- 21 A Correct.
- 22 Q And in terms of its authority -- you talked about
23 consulting BCFIRB, you learned about something
24 called the I5 Corridor cases -- case that allowed
25 the commission to set prices outside of -- for
26 product destined outside of British Columbia?
- 27 A Yes.
- 28 Q Mr. Solymosi told you about the I5 Corridor case;
29 correct?
- 30 A Correct.
- 31 Q So that's topic one dealt with. Well, let's end
32 with one more question on topic one. Put simply,
33 your belief was that by setting a minimum
34 price -- export minimum price, you were doing it
35 in furtherance of the aims of the commission and
36 not acting illegally; correct?
- 37 A Correct.
- 38 Q Okay. Let's go to topic number 2, Prokam and
39 IVCA. You learned in late September 2017 that
40 there was a problem at IVCA; correct?
- 41 A We knew there was some issues; now we knew there
42 was a real problem.
- 43 Q Right. On October 3rd, you fly over to the
44 Island to the offices of IVCA; correct?
- 45 A Correct.
- 46 Q And you meet with Mr. Michell, Mr. -- I'm sorry
47 I'm having a senior's moment.

161

Alfred Krause (a witness)
Cross-exam by Cnsl R. Hira

- 1 A Meyer.
- 2 Q Meyer. And you learn about what's happening with
3 Bob Gill and Bob Dhillon; correct?
- 4 A Correct.
- 5 Q You show documents; correct?
- 6 A Correct.
- 7 Q It's an intense and -- it's an intense meeting;
8 correct?
- 9 A That is correct.
- 10 Q It's a lot of information that's coming your way;
11 correct?
- 12 A Yes.
- 13 Q And what you learn, essentially, is as follows:
14 First, it appears that Prokam and Dhillon have
15 been using Gill, who's part of IVCA, to sell
16 potatoes below the minimum price; correct?
- 17 A Yes.
- 18 Q Second, you learn that Prokam and Dhillon, a
19 director of IVCA, has permitted the actions of
20 Gill and put IVCA into a position of
21 noncompliance with the general order; correct?
- 22 A Yes. And he was vice president of the agency.
- 23 Q Yes. And you also learned that they seem to be
24 representing -- that is, Prokam and Dhillon seem
25 to be representing IVCA in marketing and the
26 sales of regulated product, namely potatoes;
27 correct?
- 28 A Correct.
- 29 Q And they have no authority to do so; correct?
- 30 A That was my full understanding, yes.
- 31 Q And you want to ensure that the customers and all
32 accounts of IVCA are managed by Meyer, the
33 general manager; correct?
- 34 A However they were going to do it, but it was not
35 working with Bob Gill, so yes, that was our
36 ultimatum then.
- 37 Q Yeah, generally, your ultimatum is, look, the
38 general manager manages the accounts and
39 customers; right?
- 40 A Correct.
- 41 Q And you also learned that Prokam has been
42 shipping Kennebec potatoes in 2017 but has no
43 delivery allocation; correct?
- 44 A Correct.
- 45 Q For Kennebec potatoes?
- 46 A For Kennebec. That's right.
- 47 Q So putting up, if I may, Ms. Hall, the cease and

162

Alfred Krause (a witness)
Cross-exam by Cnsl R. Hira

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18 situation?
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21 undermine the entire system; correct?
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23 it, 100 percent.
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25 cease and desist orders; correct?
26 A Correct.
27 Q He drafted them, as we have seen; correct?
28 A Yes.
29 Q You reviewed the draft; correct?
30 A Yes.
31 Q And you brought Mr. Guichon into it after
32 reviewing the draft because you wanted the vice
33 chair involved in the matter as well; correct?
34 A Correct.
35 Q And then you authorized Mr. Solymosi to sign off
36 on the cease and desist orders and send them;
37 correct?
38 A That is correct.
39 Q And as you said quite fairly to Mr. Stransky,
40 what you were trying to do was to bring Prokam
41 and IVCA under control so that potatoes could be
42 marketed in an orderly fashion; correct?
43 A That is right.
44 Q And this was an ongoing investigation even after
45 the cease and desist orders; correct?
46 A Yes.
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Terrence Michell (a witness)
Cross-exam by Cnsl R. Androsoff

1 IVCA, that's all. That's the way I read that.
2 Q Okay. I'm going to go up the email chain here.
3 A Okay.
4 Q It's another email from Mr. Solymosi to
5 Mr. Meyer. It's the same date, September 27th,
6 1:40 P.M. Do you see that?
7 A Okay. So this would be the same day then, yes.
8 Q Yes, and again, you're not copied on it but you
9 are copied further up the chain.
10 A Okay.
11 Q On page 1096. So this email on page 1097, you
12 would have received at that time; right?
13 A I don't know when I would have received these
14 because I don't check my emails. We're farming,
15 we're on tractors, we're planting, we're
16 irrigating, so some of these emails I may not
17 have read for a week or the next day or whatever.
18 I don't, every time I get an email, I'm not
19 sitting watching my computer to alert me, right,
20 so.
21 Q I understand. I understand. And this is
22 September. In fairness to you, it's a very busy
23 time for you?
24 A Yeah. Okay. That's right. Like I say, I don't
25 read my emails daily but I acknowledge that I
26 probably would have got this one, okay.
27 Q Okay. And as we went through the previous email,
28 it sort of refreshed your recollection as to
29 having received it and seen it earlier at another
30 time. So I'm wondering if you're going to have
31 the same phenomenon occur with respect to this
32 email. Mr. Solymosi says:
33
34 Brian, further to my request, I want to
35 reiterate that selling below minimum price
36 is a serious matter that puts the agency in
37 non-compliance and your class 1 agency
38 licence at risk of being revoked.
39
40 Do you see that?
41 A I see that, yeah.
42 Q So Mr. Solymosi starts out by raising the spectre
43 of IVCA's licence being revoked; right?
44 A It's first paragraph.
45 Q Right. I'm going to skip ahead in the interest
46 of time to the paragraph that begins at the
47 bottom of page 1097 of Exhibit 1, he says:

97

Terrence Michell (a witness)
Cross-exam by Cnsl R. Androsoff

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I am requesting the letter and documents from the actions being taken by a rogue producer.

I'm just pausing for a moment. When you read this, you understood that to be a reference to Prokam; correct?

A Yes. That was our -- that was the problem that we're having, a rogue producer, yeah.

Q And the reason that --

A That's who your referring to there.

Q And the reason that Mr. Solymosi is referring to Prokam as a rogue producer is -- is that that's what you told him was going on, not you, but Mr. Meyer?

A That would have been -- yeah. We used that word kind of between us and our directors at the co-op, yeah.

Q Okay.

A Rogue producer. I know who that is when you mentioned that. Sorry, didn't mean to ramble on.

Q That's all right. I'm going to skip ahead in this paragraph to 1098 to the last sentence here, begins with as:

As long as we are honest and upfront and work together in support of the orderly marketing system and request assistance when needed, your agency licence is protected.

Do you see that?

A Yeah, I see that.

Q Okay. So at the start of this email, Mr. Solymosi is raising the spectre of the licence being revoked, which -- which I believe you -- you -- you essentially testified in response to Mr. Hira's questions, scared the living daylights out of you, if I can paraphrase your evidence, stressed you out?

A Yeah, yeah.

Q Right. Down here he's saying:

As long as we are honest --

Well, first he's saying:

161

Alfred Krause (a witness)
Cross-exam by Cnsl R. Hira

- 1 A Meyer.
- 2 Q Meyer. And you learn about what's happening with
3 Bob Gill and Bob Dhillon; correct?
- 4 A Correct.
- 5 Q You show documents; correct?
- 6 A Correct.
- 7 Q It's an intense and -- it's an intense meeting;
8 correct?
- 9 A That is correct.
- 10 Q It's a lot of information that's coming your way;
11 correct?
- 12 A Yes.
- 13 Q And what you learn, essentially, is as follows:
14 First, it appears that Prokam and Dhillon have
15 been using Gill, who's part of IVCA, to sell
16 potatoes below the minimum price; correct?
- 17 A Yes.
- 18 Q Second, you learn that Prokam and Dhillon, a
19 director of IVCA, has permitted the actions of
20 Gill and put IVCA into a position of
21 noncompliance with the general order; correct?
- 22 A Yes. And he was vice president of the agency.
- 23 Q Yes. And you also learned that they seem to be
24 representing -- that is, Prokam and Dhillon seem
25 to be representing IVCA in marketing and the
26 sales of regulated product, namely potatoes;
27 correct?
- 28 A Correct.
- 29 Q And they have no authority to do so; correct?
- 30 A That was my full understanding, yes.
- 31 Q And you want to ensure that the customers and all
32 accounts of IVCA are managed by Meyer, the
33 general manager; correct?
- 34 A However they were going to do it, but it was not
35 working with Bob Gill, so yes, that was our
36 ultimatum then.
- 37 Q Yeah, generally, your ultimatum is, look, the
38 general manager manages the accounts and
39 customers; right?
- 40 A Correct.
- 41 Q And you also learned that Prokam has been
42 shipping Kennebec potatoes in 2017 but has no
43 delivery allocation; correct?
- 44 A Correct.
- 45 Q For Kennebec potatoes?
- 46 A For Kennebec. That's right.
- 47 Q So putting up, if I may, Ms. Hall, the cease and

162

Alfred Krause (a witness)
Cross-exam by Cnsl R. Hira

- 1 desist order, document 1165, you see at 1165 --
2 the top of 1165, there's a cease and desist order
3 dated October 10th, 2017, addressed to
4 Bob Dhillon and Prokam; correct?
- 5 A Correct.
- 6 Q All right. Let's go to the second page, 1166,
7 see there 1166. Let's go to "violation details."
8 And if you just read the four bullets, you'll
9 agree with me that that's what you learned,
10 essentially what I put to you a few moments ago?
- 11 A That's correct.
- 12 Q All right. So this is a very serious situation
13 from your perspective; correct?
- 14 A Yes.
- 15 Q And in the three years that you've been the chair
16 of this commission, I would -- I suggest to you
17 that you had not encountered such a serious
18 situation?
- 19 A Correct.
- 20 Q In essence, this was a rogue producer trying to
21 undermine the entire system; correct?
- 22 A To our eyes, it was totally trying to undermine
23 it, 100 percent.
- 24 Q And you directed Mr. Solymosi to put together
25 cease and desist orders; correct?
- 26 A Correct.
- 27 Q He drafted them, as we have seen; correct?
- 28 A Yes.
- 29 Q You reviewed the draft; correct?
- 30 A Yes.
- 31 Q And you brought Mr. Guichon into it after
32 reviewing the draft because you wanted the vice
33 chair involved in the matter as well; correct?
- 34 A Correct.
- 35 Q And then you authorized Mr. Solymosi to sign off
36 on the cease and desist orders and send them;
37 correct?
- 38 A That is correct.
- 39 Q And as you said quite fairly to Mr. Stransky,
40 what you were trying to do was to bring Prokam
41 and IVCA under control so that potatoes could be
42 marketed in an orderly fashion; correct?
- 43 A That is right.
- 44 Q And this was an ongoing investigation even after
45 the cease and desist orders; correct?
- 46 A Yes.
- 47 Q And all the parties would have a chance to come

49

Jaymie Collins (a witness)
Cross-exam by Cnsl R. Androsoff

- 1 Is that fair to say you would have done that?
2 A There could have been further discussions here.
3 I really don't know. I prefer to pick up the
4 phone and talk things through, so I don't know
5 what I did with this information before me.
6 Q Okay. Do you have a recollection here today of
7 sending an email in response to this email
8 disagreeing with Mr. Driediger's statement that
9 you were all on the same page?
10 A No recollection of that.
11 Q Okay. And, in fact, a letter was drafted and you
12 did sign it; correct?
13 A Correct.
14 Q And I'll just quickly take you to that letter.
15 I'll take you to page 1307 of Exhibit 1. You
16 recall this letter; right? Is the text large
17 enough for you to read it on your screen there?
18 A Yeah.
19 Q You see here in the second-to-last paragraph it
20 says:
21
22 Bad actors seeking to destroy the system for
23 their own personal benefit must not be
24 allowed to profit from making end runs on
25 the regulated system under the guise of new
26 market and prices below that established by
27 the VMC while the rest of the industry
28 follows the rules.
29
30 Do you see that?
31 A Yes.
32 Q And you understood at the time that the reference
33 in this letter to bad actors was a reference to
34 Prokam and Thomas Fresh; correct?
35 A Yeah, it's quite possible there were others, but
36 that seems to be the issue at hand here, yes.
37 Q I'm going to move, now, to a different topic.
38 Mr. Collins, you gave evidence during Mr. Mitha's
39 questioning about the process that VIFP would go
40 through to add a new grower, and I think your
41 evidence was that it would certainly be more
42 extensive than just one meeting; correct?
43 A Yes.
44 Q If you as VIFP's GM were serious about adding a
45 potential grower, you would want to meet with
46 representatives from that grower on more than one
47 occasion?

127

Murray Driediger (a witness)
Cross-exam by Cnsl C. Hunter

- 1 Q Now, you were asked some questions by Mr. Hira
2 about the use of the term "bad actors" in the
3 November 2017 agency manager's letter. And I'm
4 going to suggest to you that "bad actors" in that
5 letter is a reference to Thomas Fresh and Prokam,
6 at least in part. Do you agree with me?
- 7 A Well, you know, in part, it's possible. I'm not
8 going to argue that aspect of it, but the word
9 "bad actors" has been out there for a long time.
10 There have been numerous infractions over the
11 years and the industry has become frustrated that
12 nobody has done anything about it and it's
13 just -- you know, it comes down to the fact that
14 if you're going to have a system, we have to
15 defend this system to retailers because it's the
16 only system that they're faced with like this in
17 western Canada with the exception of Manitoba, so
18 they are always questioning the need for it. So
19 we try to explain what orderly marketing is all
20 about and it's in the best interest of our
21 growers and keeping our growers financially
22 whole. So it's very hard for us to defend the
23 system when there's people out there trying to do
24 end runs are circumvented and it's frustrating.
25 And I think that at the meeting, the Prokam
26 quote, or the Prokam-Thomas Fresh situation, IVCA
27 situation was just the latest of a long line of
28 allegations of wrongdoing and we wanted to see
29 something done and some integrity put back in the
30 system.
- 31 Q When did you learn that the commission was
32 considering directing Prokam to BCfresh?
- 33 A After I got the note or the decision. I got a
34 phone call, I think, the day the decision was
35 coming out within an hour or two of the decision
36 coming out just to give me a heads up that a
37 decision had been made and was being released.
- 38 Q And this is the December decision; is that right?
- 39 A I can't remember the date but whenever the
40 decision was to direct Prokam to BCfresh, that
41 was the same day.
- 42 Q And so no one asked you prior to the decision
43 whether BCfresh would be prepared to accept
44 Prokam as a grower?
- 45 A We don't have a choice in the matter.
- 46 Q You had, just a few months before, terminated
47 Grewal Farms as a grower; correct?

3

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

1 order, had Mr. Solymosi come to you, Prokam might
2 have tried to correct the concerns that the
3 commission had?

4 A Yes, yes.

5 Q But you will acknowledge that Prokam was acting
6 contrary to the commission's rules at that time
7 or it had acted contrary to commission rules, at
8 least you appreciate, with respect to delivery
9 allocation; right?

10 A That we were abiding by the rules?

11 Q That you had not abided by the rules, you
12 acknowledged you had sent -- shipped potatoes
13 significantly in excess of your delivery
14 allocation.

15 CNSL C. HUNTER: Mr. Mitha, that last question I don't
16 object to but I do object to asking whether
17 Prokam had violated the rules because that is a
18 question that calls for a legal conclusion.

19 CNSL N. MITHA: All right. Fair enough. I'll just
20 ask the factual question.

21 Q You do acknowledge that as a result of the June
22 14th letter you were aware that the commission
23 was of the view that you had shipped
24 significantly in excess of the delivery
25 allocation?

26 A Yes, and I left it to my agency.

27 Q Now, the next topic I want to go to is your
28 concern about -- that's been expressed about a
29 November 10, 2017 letter, and let's go to that
30 letter which is at document 1261. Just going to
31 screen share that with you. Just give me a
32 moment. Do you have that there, sir, on your
33 screen?

34 A Yes, I do.

35 Q And this is the November 10, 2017 letter which
36 was written to Mr. Solymosi and it was signed --
37 now, this one is only signed by Ms. Shelly Harris
38 but there's a letter that's signed by -- and
39 Jaymie Collins, but there's a letter that's
40 signed by all of these people who are agency
41 managers; correct?

42 A Correct.

43 Q And your concern is that you weren't made aware
44 of this letter before the commission's December
45 22nd, 2017 meeting -- or decision?

46 A That I wasn't aware of it, yeah.

47 Q Right. Okay. And what this letter says is:

4
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 Dear, Mr. Solymosi. On behalf of the root
2 vegetable agencies we would like to thank
3 you for the effort you are making to bring
4 orderly marketing back to our industry.
5

6 It goes on to talk about various things. And the
7 last paragraph I think is what you take
8 particular issue with which says:
9

10 Bad actors seeking to destroy the system for
11 their own personal benefit. Must not be
12 allowed to profit from making end runs on
13 the regulated system under the guise of new
14 market and prices below that established by
15 the VMC while the rest of the industry
16 follows the rules. The future of orderly
17 marketing is at risk. This illegal activity
18 must stop and the support of the industry is
19 there to see that orderly marketing is
20 maintained.
21

22 And your concern is that that is aimed at Prokam?
23

23 A Yes.

24 Q I want to take you to document 1250. Just give
25 me a moment. Yes, 1250. This is an email from
26 Mr. Solymosi on November 9, 2017, to the various
27 agency managers. And it talks about the storage
28 crop agency managers meeting and then it attaches
29 another email below that is from November 7th
30 which sets out the agents -- the agenda for the
31 meeting that took place, and this is the agenda.
32 And I think you've seen this before because it
33 was at the BCFIRB appeal hearing; right?

34 A I don't recall it, but I'll take your word.

35 Q In any event, this is the agenda, and of course
36 one of the items on the agenda, number 7, is "How
37 to deal with problem growers. Why are they a
38 problem?" Do you see that?

39 A Yes.

40 Q Turn to document 1263. This is an email from
41 Mr. Brian Meyer on November 10. This is after
42 the agency managers meeting and it's written to
43 Mr. Solymosi and the other participants of the
44 meeting. It says:

45
46 Thank you, Andre, for putting the managers
47 meeting together. It was very nice to meet

103

Marcel Andre Solymosi

Cross-exam by Cnsl R. Basham

1 Q Go ahead.

2 A Yeah. Well, you know, I -- I always -- wouldn't
3 -- yeah, I -- I -- I guess that's -- yeah, that's
4 it. Yeah.

5 Q So using your definition -- I just want to be
6 clear. If someone is not your friend and is
7 opposed to your belief that if he said -- if you
8 called someone an enemy that denotes that kind of
9 meaning, you would be speaking ill of someone.
10 Is that your evidence?

11 A I guess so, yeah.

12 Q Well, don't say "guess so." Yes or no?

13 A Yes.

14 Q Okay. How about rogue. How about the word
15 "rogue"? What is -- what's your definition of
16 rogue?

17 A Rogue is related to -- we have a system in place
18 here, and someone acting in an independent way
19 that's not in compliance with the authority of
20 the regulatory -- regulatory system.

21 Q I asked you what your definition of rogue was.
22 Can you tell me what that is?

23 A So acting in an independent way without
24 authority.

25 Q Does rogue connote dishonesty?

26 A In my mind, no.

27 Q Not your definition?

28 A No. Yes, not in -- not in my definition.

29 Q Does it connote a principle?

30 A Sorry?

31 Q Does it connote a principle?

32 A No.

33 Q So you were quite happy to call Dhillon's group
34 rouge producer, but that's not speaking ill of
35 them. Is that your evidence?

36 A Acting in an independent way, without authority
37 is how I -- that's how I defined the use of that
38 term.

39 Q Without authority would be in contravention of
40 the rules?

41 A In contravention of the authority of the agency.

42 Q So you don't consider that to be speaking ill of
43 someone, do you?

44 A No.

45 Q So calling someone a rogue producer in the
46 context of a cease and desist order that you said
47 was very, very important, that you had to act

103

Marcel Andre Solymosi

Cross-exam by Cnsl R. Basham

1 Q Go ahead.
2 A Yeah. Well, you know, I -- I always -- wouldn't
3 -- yeah, I -- I -- I guess that's -- yeah, that's
4 it. Yeah.
5 Q So using your definition -- I just want to be
6 clear. If someone is not your friend and is
7 opposed to your belief that if he said -- if you
8 called someone an enemy that denotes that kind of
9 meaning, you would be speaking ill of someone.
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15 "rogue"? What is -- what's your definition of
16 rogue?
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18 here, and someone acting in an independent way
19 that's not in compliance with the authority of
20 the regulatory -- regulatory system.
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35 them. Is that your evidence?
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38 term.
39 Q Without authority would be in contravention of
40 the rules?
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42 Q So you don't consider that to be speaking ill of
43 someone, do you?
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46 context of a cease and desist order that you said
47 was very, very important, that you had to act

103

Marcel Andre Solymosi

Cross-exam by Cnsl R. Basham

1 Q Go ahead.

2 A Yeah. Well, you know, I -- I always -- wouldn't
3 -- yeah, I -- I -- I guess that's -- yeah, that's
4 it. Yeah.

5 Q So using your definition -- I just want to be
6 clear. If someone is not your friend and is
7 opposed to your belief that if he said -- if you
8 called someone an enemy that denotes that kind of
9 meaning, you would be speaking ill of someone.
10 Is that your evidence?

11 A I guess so, yeah.

12 Q Well, don't say "guess so." Yes or no?

13 A Yes.

14 Q Okay. How about rogue. How about the word
15 "rogue"? What is -- what's your definition of
16 rogue?

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18 here, and someone acting in an independent way
19 that's not in compliance with the authority of
20 the regulatory -- regulatory system.

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22 Can you tell me what that is?

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24 authority.

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34 rouge producer, but that's not speaking ill of
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38 term.

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40 the rules?

41 A In contravention of the authority of the agency.

42 Q So you don't consider that to be speaking ill of
43 someone, do you?

44 A No.

45 Q So calling someone a rogue producer in the
46 context of a cease and desist order that you said
47 was very, very important, that you had to act

104

Marcel Andre Solymosi

Cross-exam by Cnsl R. Basham

1 right away, is not speaking ill of someone, but
2 referring to someone as an enemy is. Is that
3 your evidence?
4 A Correct.
5 Q So I'd be interested in hearing what Ms. Delli
6 Santi has to say, of course. She's the only one
7 that you said it to, if you did. I suppose she
8 can say that, too.
9 Jeff Madu. Do you know who he is?
10 A Yes.
11 Q He's Newell's brother-in-law?
12 A Correct.
13 Q And he knows Delli Santi?
14 A He would know Delli Santi, correct.
15 Q And he would know her because they're both in the
16 industry? What is the relation to Newell?
17 A Well, they're -- they're both in the industry, so
18 he works for Windset Farms. Linda Delli Santi is
19 executive director.
20 Q Of the Growers --
21 A Of the BC --
22 Q -- Association?
23 A -- Greenhouse Growers Association, so they --
24 they would know of each other. And Linda used to
25 be a producer of greenhouse vegetables, so there
26 is a connection.
27 Q And they would know each other fairly well in the
28 industry?
29 A I don't know how well they know each other.
30 Q Well, they would have a lot of dealings together,
31 in the context of the industry?
32 A If they attend the same functions, or -- or the
33 same meetings.
34 Q Would he be part of the Growers Association? The
35 Greenhouse --
36 A Pardon me?
37 Q Would Jeff Madu be part of the BC Growers
38 Association?
39 A The entity he works for would be part of the
40 Greenhouse Growers Association.
41 Q Jeff Madu is a high-level sales employee at
42 Windset, correct?
43 A Correct.
44 Q He works closely with the Newells?
45 A I would assume so.
46 Q Do you have any idea why Jeff Madu would say
47 something about Delli Santi referring to MPL --

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Marcel Andre Solymosi

Exam by Cnsl N. Mitha

1 is to regulate B.C. production being marketed by
2 B.C. agencies to get the best returns for B.C.
3 producers.

4 Q Were you aware of any of this information prior
5 to this issue being raised? In other words, at
6 the time the pricing was being set in August,
7 were you aware of any of this information?

8 A No.

9 Q I'm going to come back to this area again in a
10 bit more detail, but -- I'm coming at it in
11 different pieces, but I'll come back to it again.
12 I want to move to the November 10th, 2017
13 letter that was provided by the various --
14 provided by you to the Commission, written by
15 various agency managers. Do you recall that
16 letter?

17 A What was the date on that letter?

18 Q November 10, 2017. I'll take you to the letter.

19 A If you take me to it, that'd be appreciated.

20 Q I'm referring to this letter here of November
21 10th, 2017. Do you see that?

22 A Correct.

23 Q You're familiar with this letter?

24 A I am.

25 Q All right. And you provided a copy of this to
26 the Commission, right?

27 A Yes.

28 Q And that was before the Commission's decision
29 which was handed down on December 22nd of 2017?

30 A Correct.

31 Q And you didn't provide a copy to Prokam?

32 A No.

33 Q All right. I want to talk about how this letter
34 came about, first of all, and then we'll come
35 back to it. So I -- I'm showing you an email
36 from yourself on September 26th, 2017 to various
37 Commission managers, setting a meeting for
38 November 7th. Do you see that?

39 A Correct, yes.

40 Q All right. And in fact, that meeting was set?

41 A The -- yes.

42 Q Okay. And I'm taking you to an email you sent on
43 November 9th -- oh, that's after the 8th, so let
44 me take you first of all to the agenda. 5625 is
45 the document number I'm taking you to, and that's
46 an email on November the 7th, and you say:
47

59

Marcel Andre Solymosi

Exam by Cnsl N. Mitha

1 The agenda below and attached
2 [indiscernible] changed.

3
4 So you set out the agenda there, correct?

5 A Yes, correct.

6 Q Okay. And I take it the meeting in fact took
7 place, right?

8 A Yes.

9 Q Okay. And then at -- I'll take you to document
10 5624, which is an email from yourself on November
11 9th, after the meeting, and you sent an email to
12 various people -- various other managers after
13 the meeting, talking about the fact that you had
14 a meeting, correct?

15 A Yes.

16 Q And you talk about some of the things in the
17 meeting, correct?

18 A Yes.

19 Q All right. And I'm going to take you to document
20 number 5623, where there's an email from Mr.
21 Driediger responding to your email -- actually,
22 I'll take you first of all to an email from Mr.
23 Meyer, sorry. The one at 5623 from Mr. Meyer,
24 dated November 10th, saying:

25
26 Thank you, Andre, for putting the managers
27 meeting together. It was nice to meet
28 everyone face to face. It definitely helped
29 me see the bigger picture of what is
30 happening in the marketplace. Looking
31 forward to the [indiscernible].

32
33 Right? That's the reply you got from Mr. Meyer?

34 A Yes.

35 Q And then you got an email response from Mr.
36 Driediger to your email, saying:

37
38 Yes, thanks, Andre, and this was long
39 overdue.

40
41 And then he said:

42
43 I think we were all on the same page with
44 our support of the VMC to bring the Prokam
45 and Thomas Fresh infractions to a
46 satisfactory conclusion. Would it help if
47 we're to sign a joint letter of some kind to

60

Marcel Andre Solymosi

Exam by Cnsl N. Mitha

1 show industry support?
2
3 Right?
4 A Correct.
5 Q And you received that email?
6 A Yes.
7 Q And you respond by saying:
8
9 I think a letter would be great to provide
10 the Commission at the next meeting, November
11 22nd.
12
13 And that is at the bottom of page document number
14 5622 and the top of 5623, right?
15 A Correct.
16 Q Okay. And then Mr. Driediger responds not
17 everybody, saying:
18
19 We have all kind of discussed this, and I
20 talked to Brian as well. He's agreed to add
21 his name to the letter and for that I
22 congratulate him. I've taken the time to
23 draft a general letter of support for
24 orderly marketing and have signed it. I
25 will leave it up to the rest to sign.
26
27 Do you see that?
28 A Yes.
29 Q All right. And then there's various emails where
30 various people are saying I will sign it and send
31 it to you, et cetera, and eventually the whole
32 thing gets signed, right?
33 A Correct.
34 Q I'm not going to take you through all the emails,
35 but did you have any hand in preparing the
36 letter?
37 A No, I did not.
38 Q And did you make any amendments, changes,
39 suggestions of the wording?
40 A No, I did not.
41 Q Okay. After you got it, did you send it to the
42 Commission?
43 A Probably not -- not immediately. It was -- it
44 was sent as part of the I guess package put
45 before them at the next Commission meeting, which
46 -- to address the -- the -- the matters at hand.
47 Q And why didn't you send it to Prokam?

61

Marcel Andre Solymosi

Exam by Cnsl N. Mitha

1 A I never -- to be honest, I never thought about
2 it.

3 Q All right. I want to take you to document number
4 1336, 1-3-3-6. So this is a document that shows
5 there's a pre-hearing conference on November --
6 the conference date was November 20th, and the
7 report date is November 21st, 2017. Do you see
8 that?

9 A Yes.

10 Q All right. And does -- it shows who was in
11 attendance at this meeting and the various
12 counsel, et cetera, and the principals of Prokam
13 and Thomas Fresh, right?

14 A Correct.

15 Q And counsel for IVCA, and then Mr. Hrabinsky was
16 there, and yourself, right?

17 A Correct.

18 Q And the issue is:

19
20 Did the British Columbia Vegetable Marketing
21 Commission err in its October 10th, 2017
22 decision to issue a cease and desist order
23 denying the appellants, Thomas Fresh Inc.,
24 Prokam Enterprises Ltd. and Island Vegetable
25 Co-Operative Association the ability to
26 market and sell potatoes at pricing below
27 the authorized minimum price?

28
29 That's the issue that's being considered?

30 A Correct.

31 Q All right. Each party got an opportunity to make
32 written submissions, as you indicated earlier,
33 right?

34 A As part of this appeal process, correct.

35 Q All right. And I'm just showing you a -- page
36 1241, the written submission made on behalf of
37 Prokam and Thomas Fresh by the offices of Hunter
38 Litigation Chambers? You can see it says here:

39
40 We write in response to the Commission's
41 invitation to make submissions in light of
42 the cease and desist orders and to show
43 cause why the Commission should not take
44 action.

45
46 Do you see that?

47 A Correct. Yeah.

29

Terrence Michell (a witness)
 Cross-exam by Cnsl R. Androsoff

1 requested, yes.

2 Q And there are no promises made to IVCA. Do you
 3 agree with me?

4 A I agree, yeah. No promises, no.

5 Q Thank you. If I may just have a moment.

6 Mr. Donkers, if I could just have a moment?

7 THE CHAIR: Sorry, Mr. Hira. Yes, of course. We're
 8 off the record for a moment.

9 CNSL R. HIRA: Thank you, Chair Donkers. And thank
 10 you, Mr. Michell. Those are all my questions.

11 THE CHAIR: Thank you, Mr. Hira. We're at 10:15. I'm
 12 thinking Mr. Androsoff is next, Mr. Mitha?

13 CNSL N. MITHA: That's correct.

14 THE CHAIR: Let's take a break now. We'll take
 15 15 minutes. We'll come back at 10:30 and
 16 Mr. Androsoff can continue. Mr. Michell, we're
 17 just going to take a 15-minute break.

18 THE WITNESS: Okay.

19 THE CHAIR: Stick around.

20 THE WITNESS: Yeah. I'll stay right where I am.

21 THE CHAIR: Go get a coffee or something. All right.
 22 Off the record, please.

23

24

(WITNESS STOOD DOWN)

25

(PROCEEDINGS RECESSED AT 10:16 A.M.)

26

(PROCEEDINGS RECONVENED AT 10:29 A.M.)

27

28 THE CHAIR: Mr. Androsoff.

29 CNSL R. ANDROSOFF: Mr. Michell, I just note that
 30 you're on mute right now.

31

**TERRENCE MICHELL, a
 witness, recalled.**

32

33

34 **CROSS-EXAMINATION BY CNSL R. ANDROSOFF:**

35 Q There we go. Mr. Michell, thank you very much
 36 for being with us this morning. So I understand
 37 that you've been the president of IVCA since, I
 38 think your evidence was 2015; is that right?

39 A Correct.

40 Q And it's possible that you've been president even
 41 longer, since 2014; is that accurate?

42 A It's possible.

43 Q Okay. And you're also a director of IVCA?

44 A President of IVCA.

45 Q And are you also a director?

46 A Let's see -- yes, I am.

47 Q And you've been a director for decades? Is that

27

Paul Mastronardi (for MPL)
Exam for BCFIRB by Cnsl N. Mitha

- 1 places from where Mastronardi got its
2 information, the four that you just mentioned?
- 3 A Yeah. And also the fact, like I said, that the
4 moratorium was put in place. It takes a majority
5 to put the moratorium in place. There's only
6 four greenhouse guys. So you need some of the
7 storage contracts to vote to keep them -- to put
8 the moratorium in place. And then the moratorium
9 didn't get lifted. So again, it takes a majority
10 to probably lift the moratorium.
- 11 Q I understand that. I guess what I'm trying to
12 get at is, I mean, that's an inference one could
13 draw. But in terms of what was the actual intent
14 of the parties or what was the actual intent of
15 the Commission, the information that MPL was
16 getting was from the four sources that you just
17 mentioned, which were Steve Newell himself -- I
18 forget the name of his -- Jeff?
- 19 A Shirvan. Yeah, Shirvan and Jeff Madu.
- 20 Q Shirvan and Ravi Cheema. Those are the four; is
21 that correct?
- 22 A Yes.
- 23 Q And that's the extent of it?
- 24 A Yes.
- 25 Q Now, MPL commenced a notice of civil claim and of
26 course responses were filed to the notice of
27 civil claim; right? You're aware of that?
- 28 A I don't know what that means? What do you mean
29 by notice, file?
- 30 Q Sorry. Let me -- you're right. I'm speaking
31 legalese. I'll try to speak English.
- 32 MPL filed a claim in court against specific
33 commissioners?
- 34 A Correct.
- 35 Q And also against Mr. Solymosi who is not a
36 commissioner but the executive director of the
37 Commission; correct?
- 38 A Correct.
- 39 Q Okay. Do you know how MPL decided to file the
40 claim against those specific commissioners as
41 opposed to other commissioners? Because, of
42 course, just to be clear, MPL did not file its
43 claim against all the commissioners. It kept
44 one, two, three, four -- it picked five
45 commissioners and one executive director.
- 46 A Yeah.
- 47 Q So just with the commissioners for a second. Why

20

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 meeting?
2 A He said some of the other agencies and growers.
3 Q Sorry, other agencies and growers. Can you tell
4 me which agencies and which growers?
5 A No. You would have to ask Ravi Cheema.
6 Q Can you tell me when these meetings took place or
7 where?
8 A In the summer roughly I think of 2020 and October
9 2020. And there was discussions before that too.
10 That he always said there was discussions out
11 west about keeping MPL out.
12 Q All right. The question I'm asking you, though,
13 is more specific which is you said MPL had been
14 advised and I wanted to know by whom was MPL
15 advised. And you're telling me it's Ravi Cheema?
16 A Yes.
17 Q Okay. And is it limited to Ravi Cheema or is
18 there anybody else?
19 A I've also have had discussions with Shirvan
20 Bakhtiyari.
21 Q And who is he?
22 A He's from Millennium.
23 Q And sorry, what is Millennium? Can you help me?
24 A Millennium is a producer in BC.
25 Q Of regulated crop?
26 A Greenhouse, yeah.
27 Q All right. And what did Mr. Shirvan say to you?
28 A He said something that -- yeah, the Windset boys
29 will try to keep me out.
30 Q So he -- he just mentioned the Windset boys,
31 meaning Paul and John?
32 A John and Steve. I'm Paul.
33 Q Sorry, yes. Sorry. Thank you. My apologies.
34 So Mr. Bakhtiyari mentioned to you just the
35 Newell brothers? He didn't mention any other
36 commissioners?
37 A No.
38 Q All right. And Mr. Cheema did not mention any
39 commissioner by name to you? Just told you that
40 there were discussions by growers and agencies
41 but never actually told you which commission
42 members; is that fair?
43 A Yes.
44 Q Then the next question I have is he told you that
45 these were your competitors. That's the next
46 part in paragraph (b). First of all, you were
47 advised by I guess Mr. Bakhtiyari and Mr. Ravi

27

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

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16 getting was from the four sources that you just
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42 course, just to be clear, MPL did not file its
43 claim against all the commissioners. It kept
44 one, two, three, four -- it picked five
45 commissioners and one executive director.
- 46 A Yeah.
- 47 Q So just with the commissioners for a second. Why

28

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 those five and not any others?

2 A Well, obviously John Newell.

3 Q Yes.

4 A And then Mike Reed. Mike Reed's a direct
5 competitor and at the same time he was causing
6 Ravi some problems as well with transferring some
7 of his allocations with Houweling and Country
8 Fresh. So Mike was, you know, in -- again, you'd
9 have to ask Ravi. So Ravi told me that he was
10 trying to make their life hard. And so Mike Reed
11 was definitely trying to injure Mastronardi's
12 relationship with Ravi.

13 Q All right.

14 A And then the three storage crop gentlemen as they
15 are connected to marketing companies which would
16 have a vested interest in blocking other storage
17 crop marketing licences if John Newell and Mike
18 Reed were scratching their back and vice versa.
19 And then Andre because he kept on delaying stuff,
20 you know. I talked to Andre a couple times on
21 the phone and he wasn't really -- you could tell
22 that he wasn't really forthcoming and when I --
23 numerous times when we asked for answers, he'd
24 say he'd get back to me in four weeks. It turns
25 out to be, you know, 12 weeks later or 13 weeks
26 later. Sometimes he wouldn't respond to my
27 emails. There was no sense of urgency coming
28 from him whatsoever.

29 CNSL N. MITHA: Mr. Chair, could you just remind me,
30 what was the time that the afternoon break was
31 going to be taken? I'm just trying to time my

32 ...

33 THE CHAIRPERSON: 2:30.

34 CNSL N. MITHA: 2:30, thank you.

35 Q I put the notice of civil claim, which is what
36 it's called. This is the -- essentially the
37 document that starts the claim in court against
38 these -- by MPL against these various
39 commissioners and Mr. Solymosi. Can you see
40 that?

41 A Yes.

42 Q And you can see from the date on the top-left
43 hand corner it was filed April 23, 2021?

44 A Yes.

45 Q All right. I'm going to turn to paragraph 23 of
46 this notice of civil claim. And that's headed --
47 just above that is headed "The defendants"

19

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 Q Sorry, which three are those that you --

2 A So that would be Corey, Peter, and Blair.

3 Q Okay. So that's Corey Gerrard, Peter Lodder
4 and -- sorry, Peter Guichon and Blair Lodder?

5 A Yes.

6 Q Can you explain to me why you considered Corey,
7 Peter and Blair to be --

8 A Yes. Because in the discussions especially with
9 Ravi Cheema talking about all of this over the
10 course of that year, you know, he's saying that
11 there's an old boys' club that was happening.
12 It's more of an I scratch my back -- sorry, you
13 scratch my back, I scratch your back type of
14 situation. And that's the commissioners are
15 basically helping each other. And then we looked
16 at the view of the fact that the moratorium was
17 put in place. It takes a majority to put the
18 moratorium in place. And it also would take a
19 majority to take the moratorium down. And
20 really the commissioners didn't take the
21 moratorium down. It was really FIRB that took
22 the moratorium down.

23 Q Okay. All right. Now, this -- I'll come to it
24 in a minute. This you scratch my back, I scratch
25 your back, I'll come to that in moment. But
26 let's go to paragraph -- subparagraph (b):
27

28 MPL BC has been advised that commission
29 members who are competitors have engaged
30 in a campaign against its agency
31 application at meetings with growers.
32

33 A Okay.

34 Q Let me start with this, what information do you
35 have to -- to make the statement MPL has been
36 advised? MPL has been advised by whom that
37 commission members have engaged in a campaign?

38 A So that was Ravi Cheema telling me that there was
39 kind of like meetings taking place between the
40 summer and October talking about trying to keep
41 MPL out of BC.

42 Q And what meetings were these?

43 A I'm not sure of the exact meetings, if they were
44 sanctioned meetings or they were side meetings.

45 Q Do you know who was at these meetings?

46 A You would have to ask Ravi Cheema that.

47 Q Did he tell you -- did he tell MPL who was at the

20

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 meeting?
2 A He said some of the other agencies and growers.
3 Q Sorry, other agencies and growers. Can you tell
4 me which agencies and which growers?
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7 where?
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9 2020. And there was discussions before that too.
10 That he always said there was discussions out
11 west about keeping MPL out.
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13 is more specific which is you said MPL had been
14 advised and I wanted to know by whom was MPL
15 advised. And you're telling me it's Ravi Cheema?
16 A Yes.
17 Q Okay. And is it limited to Ravi Cheema or is
18 there anybody else?
19 A I've also have had discussions with Shirvan
20 Bakhtiyari.
21 Q And who is he?
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23 Q And sorry, what is Millennium? Can you help me?
24 A Millennium is a producer in BC.
25 Q Of regulated crop?
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29 will try to keep me out.
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31 meaning Paul and John?
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35 Newell brothers? He didn't mention any other
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39 commissioner by name to you? Just told you that
40 there were discussions by growers and agencies
41 but never actually told you which commission
42 members; is that fair?
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45 these were your competitors. That's the next
46 part in paragraph (b). First of all, you were
47 advised by I guess Mr. Bakhtiyari and Mr. Ravi

28

Paul Mastronardi (for MPL)
Exam for BCFIRB by Cnsl N. Mitha

1 those five and not any others?
2 A Well, obviously John Newell.
3 Q Yes.
4 A And then Mike Reed. Mike Reed's a direct
5 competitor and at the same time he was causing
6 Ravi some problems as well with transferring some
7 of his allocations with Houweling and Country
8 Fresh. So Mike was, you know, in -- again, you'd
9 have to ask Ravi. So Ravi told me that he was
10 trying to make their life hard. And so Mike Reed
11 was definitely trying to injure Mastronardi's
12 relationship with Ravi.
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15 are connected to marketing companies which would
16 have a vested interest in blocking other storage
17 crop marketing licences if John Newell and Mike
18 Reed were scratching their back and vice versa.
19 And then Andre because he kept on delaying stuff,
20 you know. I talked to Andre a couple times on
21 the phone and he wasn't really -- you could tell
22 that he wasn't really forthcoming and when I --
23 numerous times when we asked for answers, he'd
24 say he'd get back to me in four weeks. It turns
25 out to be, you know, 12 weeks later or 13 weeks
26 later. Sometimes he wouldn't respond to my
27 emails. There was no sense of urgency coming
28 from him whatsoever.
29 CNSL N. MITHA: Mr. Chair, could you just remind me,
30 what was the time that the afternoon break was
31 going to be taken? I'm just trying to time my
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33 THE CHAIRPERSON: 2:30.
34 CNSL N. MITHA: 2:30, thank you.
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36 it's called. This is the -- essentially the
37 document that starts the claim in court against
38 these -- by MPL against these various
39 commissioners and Mr. Solymosi. Can you see
40 that?
41 A Yes.
42 Q And you can see from the date on the top-left
43 hand corner it was filed April 23, 2021?
44 A Yes.
45 Q All right. I'm going to turn to paragraph 23 of
46 this notice of civil claim. And that's headed --
47 just above that is headed "The defendants"

73

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

- 1 tell you that he communicated his views to
2 Mr. Newell?
- 3 A Yes, he had -- well, he's told me that he said it
4 to the Commission, yes. In meetings he's said
5 that -- he said that Mastronardi should be
6 allowed to come into BC.
- 7 Q And he's told you -- Mr. Cheema has told you that
8 he has said this to the Commission, but he hasn't
9 told you who he said it to at the Commission;
10 correct?
- 11 A He said it at the -- at the hearings or whatever
12 they're called there that Mastronardi should be
13 allowed to have a licence and come to BC.
- 14 Q But you don't know which Commission members were
15 there to hear that, do you?
- 16 A Not directly, no.
- 17 Q Well, not even indirectly?
- 18 A You have to ask Ravi. You have to ask Ravi.
- 19 Q No, but I'm not asking Ravi at the moment. I'm
20 asking you. Directly or indirectly, you don't
21 know which Commission members that was
22 communicated to?
- 23 A No. But if he told the Commission, shouldn't
24 that be in the notes of the Commission?
- 25 Q It may or may not be. I'm just asking whether
26 you know that at the moment?
- 27 A Okay.
- 28 Q He says that -- at paragraph 11, it is put to him
29 that Mike Reed was a member and Mr. Reed worked
30 for a competitor, being Houweling. He said:
31
32 Yes, Mike Reed worked for Houwelings,
33 which is now called Long Vine. May not
34 have relation to regulated marketing now.
35 He recused himself immediately after I
36 did.
37
- 38 So he confirms that Mr. Reed recused himself.
39 You have no knowledge otherwise; correct?
- 40 A Correct.
- 41 Q He's asked whether Mr. Reed ever communicated his
42 views and he says, "I don't believe so." And you
43 have no knowledge otherwise; right?
- 44 A Again, that's a vague answer, so I don't know.
- 45 Q All right. He was asked whether he was ever
46 assigned to any panel concerning MPL application,
47 he says no. And I gather your answer is but he

101

Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 CNSL R. HIRA: I haven't made that request. I've
2 asked the question. He's provided the answer. As
3 you made note, I'm moving on.
- 4 Q So continuing, sir, you also claim in paragraph
5 34(b) special damages. Do you see that, sir?
- 6 A Yes.
- 7 Q And you were asked at paragraph 15 of the demand
8 for particulars for details of your special
9 damages claim. Do you see that?
- 10 A Yes.
- 11 Q And if we go to paragraph 11 of your response, you
12 would in essence state that during the process of
13 calculating them and will provide them in due
14 course. Do you see that?
- 15 A Yes.
- 16 Q Have you calculated them?
- 17 A It's ongoing, like I said, and it hasn't been
18 complete yet.
- 19 Q So six months later you still don't have that
20 number; correct?
- 21 A Correct.
- 22 Q You -- as I understood your evidence yesterday,
23 Mr. Cheema told you about some vote swapping
24 regarding the moratorium?
- 25 A Correct.
- 26 Q And he says that he got this information in July
27 of 2020; correct?
- 28 A It's around that time, I believe, yes.
- 29 Q And again, I assume that this was information that
30 you were given in the first quarter of 2021?
- 31 A No. It was talked about all through 2020.
- 32 Q I see. You talked about it from July of 2020 to
33 the end of 2020?
- 34 A Sure, it would have been talked about through all
35 that time, yeah.
- 36 Q Were these in-person talks that you had with
37 Mr. Cheema?
- 38 A Had some in person. Had some over the phone.
- 39 Q I see. And of course you have no notes?
- 40 A No.
- 41 Q No documents corroborating what was said?
- 42 A Like I said, if you ask Mr. Cheema, I'm sure he'll
43 confirm what I'm saying.
- 44 Q Well, let's go back to my question. You have no
45 notes and no documents corroborating what was
46 said; correct?
- 47 A Between myself and Ravi, no. It's all verbal

25

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

- 1 delay to try to keep us out.
- 2 Q Can I ask you, these conversations you were
- 3 having with Mr. Cheema, was it one conversation
- 4 or was it a series of conversation?
- 5 A Oh, a couple.
- 6 Q You mean like as in two?
- 7 A No. More than that.
- 8 Q Okay. When were these conversations taking
- 9 place?
- 10 A It would have took place, like, in the summer of
- 11 2020 to the fall, end of the year 2020.
- 12 Q What do you mean, by telephone or --
- 13 A Yeah, telephone. Yeah, telephone.
- 14 Q Did you have a business working relationship with
- 15 Mr. Cheema or was it a friendship? What was the
- 16 reason for these calls?
- 17 A Because Mr. Cheema wanted to actually come to
- 18 Mastronardi Produce as a grower.
- 19 Q Okay. So he was a grower. And so who initiated
- 20 the call? Was it he initiating the calls or were
- 21 you initiating them?
- 22 A Are you talking about originally how we were
- 23 introduced to each other, you mean?
- 24 Q Well, let's go back. How do you know Mr. Cheema
- 25 originally?
- 26 A Well, I had met him in the past years ago. But
- 27 then one of our employees which formally worked
- 28 out in BC made another connection because he
- 29 heard that Ravi was interested in coming and
- 30 becoming an MPL grower. So he introduced us
- 31 again and we had started talking -- conversations
- 32 about becoming an MPL grower.
- 33 Q And what -- when was that? When were these
- 34 series of conversations you just referred to?
- 35 A Yeah, that would have been probably in early
- 36 2020.
- 37 Q So in January or February, is that what you mean
- 38 by early?
- 39 A I don't know exact month.
- 40 Q And then after that, did you ever meet Mr. Cheema
- 41 in person?
- 42 A Yes.
- 43 Q When was that?
- 44 A He came to Leamington multiple times in 2020.
- 45 Q Okay. And that's where the office of MPL is?
- 46 A Yes. Kingsville, Ontario, which is adjacent to
- 47 Leamington, yes.

82

Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 CNSL R. HIRA: Thank you, Mr. Chairman.

2 Q So with respect to paragraph 23(b), what are the
3 names of the growers that were supposedly aligned
4 with MPL?

5 A So hold on. Where are you saying exactly in here?

6 Q Well, if you look at paragraph 23(b), "growers
7 thought to be aligned with MPL BC." Do you see
8 that?

9 A Yeah. So that would be Creekside and Fresh4U.

10 Q Thank you. And you knew their names at the time
11 that you filed this claim on April 23, 2021?

12 A Correct.

13 Q With respect to paragraph 23(c), do you have that?

14 A I see part of it.

15 Q Let's give you the whole of it. Do you have it?

16 A Yes, I do.

17 Q The allegation here is:

18
19 The defendants have failed to act in
20 accordance with the regulatory scheme in
21 exercising the authority delegated to
22 them as members of the Commission. In
23 particular the defendants have:

24
25 Roman numeral 1, I'm just going to read
26 the first three words:

27
28 Failed to recuse themselves.

29
30 Roman number 2, I'm going to read the
31 first few words:

32
33 Ignored and failed to apply clear
34 criteria outlined in the general orders.

35
36 And Roman numeral 3:

37
38 Names of various defendants.

39
40 Do you see that sir?

41 A Yes, I do.

42 Q Do you agree with me that none of these
43 allegations are made against Mr. Solymosi?

44 A He's not specifically named like the rest of them
45 are here, but I think that two would apply to him.

46 Q He's not a voting member of the Commission. How
47 is he supposed to apply to the clear criteria in

32

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

- 1 A Yeah. I believe because we got involved at one
2 point because Mike Reed believed he had full
3 marketing power over everything that went through
4 Country Fresh, and that wasn't the case and that
5 Casey Houweling had to clarify that -- that he
6 only had rights over Houweling's product, not
7 everything that went through Country Fresh. So
8 we were involved during that process and Casey
9 had to straighten that out with Mike Reed.
- 10 Q So let me just take a step back. Creekside and
11 Fresh4U, did they actually make application and
12 were denied production allocations that you're
13 aware of?
- 14 A They were delayed, I believe, and then it was
15 longer than usual process of about shifting
16 quotas around. An allocation -- Fresh4U would be
17 new allocation.
- 18 Q So did those two companies get the allocation
19 they were looking for and they were just delayed,
20 or they just didn't get them? I'm just not
21 clear.
- 22 A I believe -- let me think. I think finally after
23 they did. Yeah. At this point, I don't think it
24 happened yet. I'm not sure exactly when the
25 final timing was.
- 26 Q When you say "at this point," what point is that?
- 27 A I think [indiscernible] was put in here.
- 28 Q As of April 23rd, they hadn't yet received it?
- 29 A I can't fully recall exactly. Sorry.
- 30 CNSL R. BASHAM: Excuse me, Mr. Mitha. Shouldn't
31 you be asking these questions of Mr. Cheema?
32 That's why we asked you to call him as a witness.
33 Why are you asking my witness what we knows about
34 what Cheema did or did not do?
- 35 CNSL N. MITHA: Well, with respect --
- 36 CNSL R. BASHAM: How can he tell you -- let's put it
37 this way. You're asking him for information he
38 can only have got either indirectly or otherwise,
39 but he wasn't involved in the Cheema application.
40 Surely the most direct evidence is from
41 Mr. Cheema, and you're choosing not to call him.
42 Why are you asking this witness to tell you
43 whether or not they got their application?
- 44 CNSL N. MITHA: Ms. Basham, there's a specific and
45 detailed particular pled in paragraph 23(b) that
46 Mr. Reed and Mr. Solymosi acted to prevent the
47 granting of production allocation to certain

33

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 growers. So your client before making that
2 allegation presumably knew that, and I'm just
3 exploring what he knew. I think I'm entitled to
4 explore that because that's an allegation that's
5 also been made in the process of this review.
6 It's been part of this review. So it may be
7 Mr. Cheema is knowledgeable about it, but your
8 client before pleading that presumably also knew
9 that. And I'm trying explore what it is he knew.

10 CNSL R. BASHAM: Well, you can ask him what knew,
11 but surely the facts behind it all, the most
12 direct evidence is -- is -- has got to be coming
13 from Mr. Cheema, which you have refused to call.
14 That's why I don't understand why we're doing
15 this. If you really want to find out, why don't
16 you just call Mr. Cheema and put him on the
17 stand.

18 CNSL N. MITHA: I'm not going to argue about whether
19 I need to call Mr. Cheema or not. At the moment
20 I'm questioning your client and I think it's a
21 fair question to ask him specifically what his
22 knowledge and factual basis of this allegation
23 is. That's a fair question, I think.

24 CNSL R. BASHAM: I agree --

25 CNSL N. MITHA: And I'm wondering whether you're
26 objecting to that question or whether you're
27 saying in addition I can get it from elsewhere,
28 which I'm not going to address at the moment. At
29 the moment I'm just asking your client. Is there
30 an objection to me asking your client that
31 question?

32 CNSL R. BASHAM: Well, you can ask him what he knew,
33 but surely the validity of what he understood or
34 heard must come from the source.

35 THE CHAIRPERSON: I believe hearing counsel is
36 permitted to explore this area of questioning as
37 it's part of the notice of civil claim.

38 CNSL R. BASHAM: I understood that. But what I'm
39 saying is if we're going to have a full, fair
40 hearing, let's hear it from the horse's mouth. I
41 said what I have to say.

42 CNSL N. MITHA: All right. Let me just continue the
43 questions, then.

44 Q And I just want to be clear about a few things
45 you said, and I want to unpack that a bit,
46 Mr. Mastronardi. So first of all, we have
47 identified the two growers referred to in

55

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 A He wasn't at the PMA function that Steve and I
2 were at and we're sitting talking with us. So I
3 don't know how he'd know that.

4 Q He says he doesn't know about it. So you agree
5 with me that you're not aware of any other way he
6 would now about it; is that correct? In other
7 words, you don't know if there's an email or
8 somebody else told him or otherwise?

9 A I'm not aware if anybody has told him.

10 Q All right. He was asked at paragraph 33 whether
11 Mr. Cheema had ever expressed any views about MPL
12 to the Commission or to him personally. He says
13 he knows Ravi Cheema and he had not heard,
14 expressed any views about MPL to the Commission
15 or personally. Do you know if Mr. Cheema ever
16 spoke to Mr. Solymosi?

17 A I don't.

18 CNSL R. BASHAM: That's why you need to put
19 Mr. Cheema on.

20 CNSL N. MITHA:

21 Q Mr. Reed was a member of the Commission and
22 Mr. Reed does work for a competitor. And the
23 question to him was did Mr. Reed ever communicate
24 to you or others your knowledge or any views
25 about MPL that he had? And Mr. Solymosi's
26 evidence, and I anticipate will be, yes, Mr. Reed
27 worked for a competitor. He does not recall
28 Mr. Reed ever communicating any views about MPL
29 and that he was not on the panel. So first of
30 all, do you know if Mr. Reed communicated any
31 views to Mr. Solymosi?

32 A I'm not aware.

33 Q And he wasn't on the panel? You're aware -- you
34 agree with that?

35 A I don't recall that.

36 Q You don't know?

37 A I said I don't recall that.

38 Q So you're not saying it's incorrect. You just
39 don't recall; is that fair?

40 A Yes.

41 Q Paragraph 38, Mr. Solymosi sets out the panel of
42 five that was struck for the MPL application. Do
43 you agree with him that this was the panel of
44 five that was struck?

45 A This -- I don't know if this is the panel of five
46 that you're saying that interviewed me.

47 Q This is the panel of five that eventually

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Ravinder Cheema (a witness)
Cross-exam by Cnsl R. Hira

1 take notes.

2 Q Well, my question is pretty straightforward.
3 Sir, sitting here today under affirmation, you
4 will agree with me that you have no notes of your
5 meeting with Ms. Glykherr?

6 A Yes.

7 Q Thank you. Now, you also have no notes of any of
8 your conversations with Mr. Mastronardi; correct?

9 A Yes, that's correct.

10 Q And did Ms. -- and you'll agree with me that
11 Ms. Glykherr provided no names of farmers that
12 were crying or unhappy or alleging racism?

13 A No.

14 Q However, you were concerned about -- let me put
15 it to you this way. You said in your evidence to
16 Mr. Mitha that other growers were saying that the
17 MPL matter took a long time before the
18 commission. Do you recall giving that evidence?

19 A Yes.

20 Q Who were the other growers?

21 A I'm not going to say.

22 Q Why not? You're under affirmation. You're here
23 to tell the truth. What are their names?

24 A Listen. At the end of this, I might not be able
25 to go to any other agency. I might jeopardize my
26 whole farm. Why would I take another farmer down
27 with me?

28 Q I see. So despite being under affirmation,
29 you're refusing to answer my question; is that
30 correct?

31 A If it means for me to give other farmers who are
32 really respected in the community or part of a
33 lot of boards, yes. I won't say their name. I
34 refuse to do that.

35 Q All right. Now, yet you have no difficulty in
36 coming here and making these allegations with no
37 notes, and you refuse to reveal people that can
38 corroborate your evidence. Is that a fair
39 statement by me?

40 A It is a fair statement by you, yes.

41 Q Thank you. Now, one of the attendees --

42 CNSL R. BASHAM: Please excuse me. I may have missed
43 something. I want to clarify. Did you just say,
44 Mr. Hira, that he came here voluntarily?

45 CNSL R. HIRA: My question is clear. He's answered
46 it. If you want to deal with it in
47 re-examination, go ahead.

19

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 Q Sorry, which three are those that you --

2 A So that would be Corey, Peter, and Blair.

3 Q Okay. So that's Corey Gerrard, Peter Lodder
4 and -- sorry, Peter Guichon and Blair Lodder?

5 A Yes.

6 Q Can you explain to me why you considered Corey,
7 Peter and Blair to be --

8 A Yes. Because in the discussions especially with
9 Ravi Cheema talking about all of this over the
10 course of that year, you know, he's saying that
11 there's an old boys' club that was happening.
12 It's more of an I scratch my back -- sorry, you
13 scratch my back, I scratch your back type of
14 situation. And that's the commissioners are
15 basically helping each other. And then we looked
16 at the view of the fact that the moratorium was
17 put in place. It takes a majority to put the
18 moratorium in place. And it also would take a
19 majority to take the moratorium down. And
20 really the commissioners didn't take the
21 moratorium down. It was really FIRB that took
22 the moratorium down.

23 Q Okay. All right. Now, this -- I'll come to it
24 in a minute. This you scratch my back, I scratch
25 your back, I'll come to that in moment. But
26 let's go to paragraph -- subparagraph (b):

27

28 MPL BC has been advised that commission
29 members who are competitors have engaged
30 in a campaign against its agency
31 application at meetings with growers.

32

33 A Okay.

34 Q Let me start with this, what information do you
35 have to -- to make the statement MPL has been
36 advised? MPL has been advised by whom that
37 commission members have engaged in a campaign?

38 A So that was Ravi Cheema telling me that there was
39 kind of like meetings taking place between the
40 summer and October talking about trying to keep
41 MPL out of BC.

42 Q And what meetings were these?

43 A I'm not sure of the exact meetings, if they were
44 sanctioned meetings or they were side meetings.

45 Q Do you know who was at these meetings?

46 A You would have to ask Ravi Cheema that.

47 Q Did he tell you -- did he tell MPL who was at the

20

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 meeting?
2 A He said some of the other agencies and growers.
3 Q Sorry, other agencies and growers. Can you tell
4 me which agencies and which growers?
5 A No. You would have to ask Ravi Cheema.
6 Q Can you tell me when these meetings took place or
7 where?
8 A In the summer roughly I think of 2020 and October
9 2020. And there was discussions before that too.
10 That he always said there was discussions out
11 west about keeping MPL out.
12 Q All right. The question I'm asking you, though,
13 is more specific which is you said MPL had been
14 advised and I wanted to know by whom was MPL
15 advised. And you're telling me it's Ravi Cheema?
16 A Yes.
17 Q Okay. And is it limited to Ravi Cheema or is
18 there anybody else?
19 A I've also have had discussions with Shirvan
20 Bakhtiyari.
21 Q And who is he?
22 A He's from Millennium.
23 Q And sorry, what is Millennium? Can you help me?
24 A Millennium is a producer in BC.
25 Q Of regulated crop?
26 A Greenhouse, yeah.
27 Q All right. And what did Mr. Shirvan say to you?
28 A He said something that -- yeah, the Windset boys
29 will try to keep me out.
30 Q So he -- he just mentioned the Windset boys,
31 meaning Paul and John?
32 A John and Steve. I'm Paul.
33 Q Sorry, yes. Sorry. Thank you. My apologies.
34 So Mr. Bakhtiyari mentioned to you just the
35 Newell brothers? He didn't mention any other
36 commissioners?
37 A No.
38 Q All right. And Mr. Cheema did not mention any
39 commissioner by name to you? Just told you that
40 there were discussions by growers and agencies
41 but never actually told you which commission
42 members; is that fair?
43 A Yes.
44 Q Then the next question I have is he told you that
45 these were your competitors. That's the next
46 part in paragraph (b). First of all, you were
47 advised by I guess Mr. Bakhtiyari and Mr. Ravi

22

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

- 1 A Well, we inquired. You know, we've asked and he
2 is just like, listen, there's been meetings. You
3 know, the guys on the Commission are trying to
4 keep you out. They are other agencies that are
5 your competitors.
- 6 Q Okay. Mr. Mastronardi, is it fair to say that
7 that was essentially the essence of what he said
8 to you, what you just stated, and it was no more
9 specific than that; is that accurate?
- 10 A Yes.
- 11 Q So when you talk about multiple meetings and
12 members expressing their view, all of that is
13 encompassed in the statement you made about that
14 and that's about as specific as you got?
- 15 A And multiple times. Like I said, it was in the
16 summary talk and he said there was some meetings
17 that happen, and I think he said there was
18 another meeting in October. So it was multiple
19 times. It wasn't once.
- 20 Q Right. But he didn't identify any persons in
21 particular, and you didn't identify any specific
22 meetings?
- 23 A Well, specific about the one that happened in
24 October.
- 25 Q And which meeting was this in October, sir?
- 26 A He said that there was a meeting amongst, you
27 know, growers and I guess the commissioners, the
28 agency guys.
- 29 Q So but there's a difference between agency and
30 commissioners. I'm not sure what -- I'm not sure
31 what it is you were told, whether this was a
32 meeting of growers and agencies or --
- 33 A I believe he -- I'm not saying -- there was a
34 meeting around -- I believe it was around
35 October 19 period.
- 36 Q October -- so he gave you a specific day?
- 37 A Yeah.
- 38 Q October 19th?
- 39 A That one for sure. And I think there was another
40 one in July. I don't remember the exact date in
41 July.
- 42 Q Right. All right. So let's just start with the
43 October 19, 2020 meeting. So first of all, I'm
44 correct in saying it was October 19, 2020?
- 45 A Yes.
- 46 Q All right. And who was at this meeting?
- 47 A I told you. I believe -- I believe in my opinion

23

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

- 1 in the way he was telling it to me was it was
2 like commissioners, agencies and some producers.
3 Q And do you know where this meeting took place?
4 A British Columbia.
5 Q That's the best you can do, all right. Did you
6 take notes of anything that Mr. Cheema was
7 telling you?
8 A No. Just mentally.
9 Q Was there any emails exchanged between yourself
10 and Mr. Cheema about these allegations being
11 made?
12 A No, not to me.
13 Q Or to anyone at MPL that you're aware of?
14 A Not that I'm aware of.
15 Q And then you said there was a meeting in July.
16 Again, was that 2020?
17 A Yes.
18 Q All right and who did he say was at this meeting?
19 A Again, it was competitors.
20 Q Did he say any commissioners were at the meeting?
21 A I don't remember about the July one if he was
22 specific about that it was commissioner or not,
23 but it was for the October one.
24 Q All right. So October some commissioners were
25 there, but you don't know which ones?
26 A Right.
27 Q Okay. Then let's move onto paragraph (d) where
28 you say:
29
30 MPL BC has been advised that the Storage
31 Crop Commission members have reached an
32 agreement with curt greenhouse crop
33 Commission members to deny MPL's
34 application, which has the effect of
35 [indiscernible] conventional steps the
36 Commission might take to ensure conflicts
37 of interest.
38
39 Now, this is what you meant earlier when you
40 said, I scratch your back, you scratch mine;
41 right?
42 A Yes.
43 Q In other words, what you're really saying here is
44 repeated in your notice of civil claim -- and
45 we'll go to that in a minute. But just for
46 reference I believe in your notice of civil claim
47 it says something to the effect of the storage

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Ravinder Cheema (a witness)
Cross-exam by Cnsl R. Hira

1 A Mucci, Gare Sun [phonetic], Red Sun. There's
2 quite a few.

3 Q I see. But these aren't BC agencies. These are
4 Ontario agencies; correct?

5 A That is correct, yes.

6 Q All right. So you wanted more agencies from
7 outside of British Columbia to be considered in
8 British Columbia as BC agencies; is that a fair
9 statement by me?

10 A Yes and no. So I want strong, reputable agencies
11 in BC to help growers out. Not just anybody
12 coming in and trying to start an agency.

13 Q All right. Now, I'm going to take you to another
14 part of this recording.

15 CNSL R. HIRA: And that is what time stamp, Ms. Hall?
16 2:13:32, if you can go there. We're at 2:13:18.
17 And we're going to play for a little bit until
18 what time stamp approximately.

19 CNSL A. HALL: 2:14.

20

21

(RECORDING PLAYED)

22

23

CNSL R. HIRA:

24

Q So we've stopped the recording at 2:14:02.

25

You'll agree with me, Mr. Cheema, that that is
26 Mr. Randhawa speaking?

26

27

A That is Mr. Randhawa, yes.

28

CNSL R. HIRA: Thank you. We're going to start the
29 recording and play for another ten seconds or 20
30 seconds if you would.

29

30

31

32

(RECORDING PLAYED)

33

34

I'm sorry, but we seem to be debating
35 Mastronardi's agency application here --
36 like, sorry, I just wanted to bring this
37 thing back to where we're supposed to be.
38 We're supposed to be here talking about
39 agency governance and structure. That's the
40 first thing. So maybe let's bite off a
41 smaller chunk. Let's talk about the
42 existing agencies right now. What their
43 governance models supports. I'll make a
44 start from our perspective because I don't
45 know about the other agencies. From our
46 perspective, we have a board of directors,
47 okay. There's a company -- we meet twice a

Interview Report

February 23, 2022

Date: February 18, 2022

Location: Phone Conference

Attendees:

Linda Delli Santi

BC Farm Industry Review Board
Nazeer Mitha, Q.C.

Ms. Delli Santi is currently the Executive Director of the BC Greenhouse Growers' Association and has been so since about 2010.

She is also the Chair of the Canadian Horticultural Council, Greenhouse Committee. Ms. Delli Santi has had significant experience in the greenhouse industry in BC. She has been involved in the industry for many years including at one time as a grower.

In or about the Fall of 2021, Mr. Trevor Jones contacted Ms. Delli Santi to have lunch. She knew Mr. Jones. She believes that in the past he had been on the board of the Ontario Greenhouse Vegetable Growers. She met him in that capacity at Canadian Horticultural Council Annual General Meetings and Greenhouse Vegetable Working Group meetings. She decided to google Mr. Jones to see what he was doing now and learned that he worked for Mastronardi.

At the time Mr. Jones contacted Ms. Delli Santi, she was peripherally aware that MPL had an agency application pending and that MPL had commenced litigation against certain members of the Commission. However, Ms. Delli Santi was not at all aware of the details of the claims advanced or any of the details about the litigation. She had not seen the Claim which was filed or any of the Responses.

At the time (Fall 2021) Ms. Delli Santi worked in an office in the same vicinity as Mr. Solymosi. After receiving the lunch invitation and finding out that Mr. Jones worked for MPL, Ms. Delli Santi spoke with Mr. Solymosi and mentioned she was planning a lunch with Trevor Jones and commented to Mr. Solymosi, off the cuff, in her words: "Trevor Jones invited me to lunch, are we friends or enemies " - meaning did he think there were any issues to have lunch. Mr. Solymosi's response was to enjoy lunch.

Ms. Delli Santi had lunch with Mr. Jones in October 2021. During the lunch she advised Mr. Jones that she was aware generally that MPL was involved in issues with the BC Vegetable Marketing Commission but was not aware of any details. Ms. Delli Santi advised Mr. Jones of the conversation she had with Mr. Solymosi and then discussed other matters unrelated to the litigation or the Commission.

Ms. Delli Santi confirmed that at no time did Mr. Solymosi state to her that MPL was the enemy or any words to that effect and at no time did she communicate to Mr. Jones that Mr. Solymosi made any such statement to her.

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Marcel Andre Solymosi

Re-exam by Cnsl R. Hira

1 CNSL R. BASHAM: -- by Mr. --
2 CNSL R. HIRA: -- with respect, you didn't take him to
3 this document. I asked you to do so. I'd like
4 to finish.
5 CNSL R. BASHAM: Well, this is not re -- proper re-
6 direct, but go ahead.
7 CNSL R. HIRA: Thank you.
8 Q You asked for particulars regarding the facts, is
9 that correct?
10 A That is correct.
11 Q Why did you do that?
12 A I was doing my due diligence to follow up and ask
13 for the facts.
14 Q Did you receive the facts from Dentons?
15 A I did not.
16 Q Thank you. Now, you spoke about a meeting after
17 the MPL package had been sent out, the meeting
18 with counsel, the chair and yourself --
19 A Correct.
20 Q -- do you recall that?
21 A Correct.
22 Q And after that, the email was sent to the
23 commissioners and phone calls were made to not
24 open the package, is that correct?
25 A That is correct.
26 Q Now, this is a very specific question. Who made
27 that decision?
28 A It would be Debbie Etsell, the Chair of the
29 Commission.
30 Q Thank you. And with respect to this October 2020
31 meeting of growers and agency managers where MPL
32 was discussed, including Walmart, do you recall
33 that meeting?
34 A Correct.
35 Q I understand that in the material, in fact, early
36 in the material, that is the early documents,
37 there's an actual Zoom recording of the meeting,
38 is that correct?
39 A That is correct.
40 Q So you can identify, if anybody wishes, who said
41 what at the meeting?
42 A Correct.
43 CNSL R. HIRA: Those are my questions. Hopefully you
44 didn't get a parking ticket, Mr. Chairman.
45 THE CHAIRPERSON: Thank you, Mr. Hira. Mr. Mitha,
46 anything else, to conclude?
47 CNSL N. MITHA: No, Chair Donkers. I think that

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Marcel Andre Solymosi

Cross-exam by Cnsl D. Dalke

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.

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Murray Driediger (a witness)
Exam by Cnsl N. Mitha

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

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Murray Driediger (a witness)
Exam by Cnsl N. Mitha

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

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Murray Driediger (a witness)
Exam by Cnsl N. Mitha

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

161

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

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;

87

John Newell (a witness)

Cross-exam by Cnsl R. Androsoff

1 situation in the co-op, being IVCA. And then the
2 commission then deliberated on what should be
3 done and that's when I was suggesting some type
4 of compromise to cool the situation down and then
5 move forward with the plan that would work for
6 everybody and that was decided -- that was
7 obviously decided by the commission not to occur,
8 not to happen, not to go down that path,
9 unfortunately.

10 But certainly we were relying on the
11 information gathered by Andre, the general
12 manager, and we weren't relying on his
13 recommendation because he just presented
14 information to us that the commission made
15 decisions on after reviewing it themselves.

16 Q All right. You gave evidence about marketing
17 versus the production and that there's nothing
18 wrong with Prokam producing more than its DA.
19 And you also gave that evidence in 2018. You
20 recall that?

21 A I recall talking about DA and Prokam. I can't
22 remember exactly what the exact subject was,
23 though, Mr. Androsoff. Do you have a transcript
24 that I can recall or look at?

25 Q I do, but my time, I think, is running short and
26 in the interest of time, I just want to ask you
27 questions about -- the transcript speaks for
28 itself, but you recall giving evidence in 2018
29 that you questioned whether the outcome whereby
30 Prokam was sanctioned and IVCA wasn't was fair;
31 right? You questioned the fairness of that
32 outcome?

33 A Yes, I did.

34 Q And, in fact, your evidence was that you didn't
35 think it was -- having heard all of the evidence,
36 you didn't think that outcome was entirely fair;
37 correct?

38 A Certainly looking back on it, I don't think it
39 was fair. And at that point I did -- I do recall
40 saying that I questioned the fairness of that
41 particular call because I was very much of the
42 stance of trying to figure out a compromise and
43 bringing the groups together and/or find a
44 solution for everybody, which didn't happen.

45 CNSL R. ANDROSOFF: Mr. Chair, I made the mistake,
46 again, of not noting the time at which I began
47 questioning. I probably have about two more

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Marcel Andre Solymosi

In chief by Cnsl R. Hira

Cross-exam by Cnsl W. Stransky

1 Q And finally, I understand, it's common ground,
2 the MPL application has been approved by the
3 Commission and is before the BCFIRB, is that
4 correct?

5 A Correct.

6 CNSL R. HIRA: If I may have one minute, Mr. Chairman,
7 as I've done before, just to make sure I haven't
8 -- maybe two minutes, in case I'm not efficient,
9 to just make sure that I've covered all the
10 matters I want to cover?

11 THE CHAIRPERSON: Yes, take two.

12 CNSL R. HIRA: I'll just go on mute. Back on the
13 record, Mr. Chairman.

14 THE CHAIRPERSON: Yes.

15 CNSL R. HIRA: I have one more question.

16 Q Sir --

17 CNSL R. HIRA: Actually, I have two more questions.

18 Q Did you have -- are any of your decisions -- any
19 of the decisions that you've made, or any of the
20 actions that you've taken, based on any anger or
21 animosity that you had against Prokam and/or Mr.
22 Dhillon?

23 A No.

24 Q Do you have any such animosity, sir?

25 A I do not.

26 CNSL R. HIRA: Thank you, Mr. Chairman. Those are my
27 questions.

28 THE CHAIRPERSON: Thank you, Mr. Mitha (sic). I
29 believe, Mr. Stransky, you're next?

30 CNSL W. STRANSKY: Yes, thank you, Mr. Chair.

31
32 **CROSS-EXAMINATION BY CNSL W. STRANSKY:**

33
34 Q Mr. Solymosi, can you hear me okay?

35 A Yes.

36 Q Great. So I don't have many questions for you.
37 You've already been on the stand quite a bit
38 today, but I wanted first to ask you a couple
39 questions on your preliminary investigation of
40 IVCA and Prokam. So if I understand right, it
41 was you and Alf Krause who started that
42 investigation after Brian Meyer reached out to
43 you, correct?

44 A Correct.

45 Q And it was at the end of that preliminary
46 investigation that you drafted the cease and

38

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 A I mean, that's all at agency's level. I wouldn't
2 even know.
3 Q And your potatoes were in the ground at
4 October/November; correct?
5 A Yeah.
6 Q It was open to you to harvest them?
7 A In October/November?
8 Q Yes.
9 A No, we weren't. After that, IVCA stopped sending
10 purchase orders and we lost a bunch of potatoes
11 in the fields.
12 Q Sir, it was open to you to harvest them; correct?
13 A It might have been open for us to harvest them
14 but we weren't getting any cooperation from IVCA
15 I believe.
16 Q You'll agree with me it was open to you to
17 harvest them?
18 A It wasn't. If my agency is not giving me
19 purchase orders or direction, why would I harvest
20 them?
21 Q Okay. In 2018, '19 and '20, the lands that you
22 used for your potatoes you used for other crops;
23 correct?
24 A Yes.
25 Q You had a dispute with IVCA in early 2018
26 regarding some monies being held back from
27 Prokam; correct?
28 A Correct.
29 Q And you'll agree with me that my client
30 intervened and made sure that those monies were
31 not held back from Prokam; correct?
32 A Correct, because it was done illegally, very
33 illegally.
34 Q Put simply, he assisted Prokam; correct?
35 A Correct.
36 Q You're not aware of any animosity that my client
37 has against you, are you?
38 A Not aware of anything like that. I just believe
39 that if he would have reached out to me like he
40 did in 2015 all this could have been avoidable.
41 Q Now, do I understand your evidence that you
42 had -- you, yourself, Mr. Dhillon, had no issues
43 with Mr. Meyer and then Janice. Is that fair to
44 say?
45 A I had no issue as long as their jobs got done.
46 CNSL R. HIRA: Let's go to IVCA document 2924.
47 Ms. Hall will tell us the real number. If you

14

Blair Lodder (a witness)
Cross-exam by Cnsl C. Hunter

1 Q And despite having no knowledge of MPL, no
2 dealings with MPL -- just a moment -- and you
3 never saw the MPL application for agency;
4 correct?

5 A Correct.

6 Q So despite having no knowledge of MPL, never
7 having met anybody from MPL, not being on any
8 panel for MPL, not seeing their agency
9 application, do I have it correctly that you're
10 being sued by MPL?

11 A Yes.

12 Q Thank you. Next, you've worked with my client
13 for seven years; is that fair to say?

14 A Yeah, probably longer.

15 Q And in that time, looking at the allegations
16 here, you'll agree with me that at no time has he
17 shown any personal animosity towards Prokam or
18 Mr. Dhillon?

19 A No.

20 Q And you'll also agree with me that at no time has
21 he shown any dislike for MPL?

22 A Not that I know of, no.

23 Q And you don't know of him acting improperly or
24 delaying MPL's application in any way, do you,
25 sir?

26 A No.

27 CNSL R. HIRA: Thank you. Those are my questions.

28 THE CHAIR: Thank you, Mr. Hira. Mr. McDonell.

29 CNSL R. MCDONELL: Thank you, Mr. Chair. I have no
30 questions for Mr. Lodder.

31 THE CHAIR: Thank you, Mr. McDonell. Mr. Hrabinsky.

32 CNSL R. HRABINSKY: Thank you, Mr. Chair, I have no
33 questions.

34 THE CHAIR: Thank you, Mr. Hrabinsky. Ms. Hunter.

35 CNSL C. HUNTER: Thank you, Mr. Chair.

36

37 **CROSS-EXAMINATION BY CNSL C. HUNTER:**

38 Q Mr. Lodder, I'm Claire Hunter, and I'm one of the
39 lawyers for Prokam. I think we've met before.
40 I'm going to ask you a few questions.

41 Mr. Lodder, you've been a commission member
42 for -- since at least 2013; is that right?

43 A Something -- yeah, in that area.

44 Q And you signed a conflict of interest disclosure
45 in April 2013. I'm going to put that up on the
46 screen. It's Exhibit 40 -- sorry Exhibit 30,
47 page 4. Do you have that, Mr. Lodder?

129

Cory Gerrard (a witness)
Cross-exam by Cnsl R. Hira

1 A No.

2 Q Have you ever done any business with him?

3 A No.

4 CNSL N. MITHA: Those are my questions.

5 THE CHAIR: Thank you, Mr. Mitha. And can you just
6 remind me who we're going to next.

7 CNSL N. MITHA: Yes, I think it will be either
8 Mr. Stransky or Mr. McEwan.

9 THE CHAIR: I'm looking at Stransky.

10 CNSL K. MCEWAN: Chair Donkers, it's Ken McEwan.

11 Mr. Stransky will be asking any questions.

12 THE CHAIR: All right. Thank you very much.

13 CNSL W. STRANSKY: And on that, I have no questions at
14 this time.

15 THE CHAIR: All right.

16 CNSL N. MITHA: Then we'll move on to Mr. Hira, I
17 guess.

18 THE CHAIR: Mr. Hira.

19

20 **CROSS-EXAMINATION BY CNSL R. HIRA:**

21 Q Sir, my name is Ravi Hira. I am counsel for
22 Mr. Andre Solymosi. You have working with
23 Mr. Solymosi, now, since 2015. Is that a fair
24 statement?

25 A Yes.

26 Q And during that time period, you'll agree with me
27 that at no time has he shown any personal bias or
28 improper -- or any animosity towards Prokam or
29 Bob Dhillon?

30 A No.

31 Q He's always treated their matters professionally?

32 A Yes.

33 Q And with respect to the MPL application, you'll
34 agree with me that he hasn't shown any desire to
35 delay that application in any way?

36 A No.

37 Q He's shown no animosity towards Prokam or any of
38 its principals?

39 A No.

40 Q And from your knowledge, it has come forward and
41 been dealt with in the normal way?

42 A Yes.

43 Q And I suppose there's a bit of an issue with
44 respect to that in the sense that you've had
45 absolutely nothing to do with Prokam and yet you
46 find yourself as a defendant -- sorry. You've
47 had absolutely nothing to do with MPL, yet you

4

Peter Guichoin (a witness)
 Cross-exam by Cnsl C. Hunter

1 A Yes.

2 Q And in terms of the minimum price for export
 3 potatoes sent in August of 2017, as you told
 4 Mr. Mitha, you believed that the commission was
 5 acting pursuant to its provincial powers;
 6 correct?

7 A That's correct.

8 Q In essence, it was setting a minimum price for BC
 9 agencies and BC growers; correct?

10 A Yes.

11 Q And you had no reason to believe that there was
 12 anything improper or illegal in doing so?

13 A Absolutely not.

14 Q And you, of course, believed it could do so based
 15 on Mr. Justice Drost's decision in the I5
 16 corridor case; is that correct?

17 A That's right. Yes, it is.

18 Q All right. Lastly, sir, as vice-chair, you
 19 observed the actions of Mr. Solymosi; is that
 20 fair to say?

21 A Yes, it is.

22 Q And you will agree with me that you saw no, in
 23 the course of that, you saw no personal animosity
 24 on the part of Mr. Solymosi to Prokam,
 25 Bob Dhillon, Bob Gill, or anyone else for that
 26 matter?

27 A Yeah. None whatsoever.

28 Q You're not aware of him in any way exercising any
 29 powers over them for any improper purpose; is
 30 that a fair statement?

31 A Yes, it is.

32 Q All right. If I may have just one moment,
 33 Mr. Chairman. I'm just going to mute my mic.

34 THE CHAIR: Yes.

35 CNSL R. HIRA: Mr. Guichon, thank you. Those are my
 36 questions.

37 THE CHAIR: Thank you. Mr. Hira, Mr. Hrabinsky.

38 CNSL R. HRABINSKY: Thank you, Mr. Chair. I have no
 39 questions.

40 THE CHAIR: Thank you very much. Ms. Hunter.

41

42 **CROSS-EXAMINATION BY CNSL C. HUNTER:**

43 Q Thank you, Mr. Chair. Mr. Guichon, we've met
 44 before. I'm Claire Hunter, and I cross-examined
 45 you in 2018 in an appeal brought by Prokam and
 46 Thomas Fresh. Do you recall that?

47 A Yes.

163

Alfred Krause (a witness)
Cross-exam by Cnsl R. Hira

1 before the commission and present their evidence
2 for a final decision by the commission; correct?
3 A That is correct.
4 Q And that is exactly what happened by
5 December 22nd, 2017; isn't that correct?
6 A Yes.
7 Q Now, I want to go to the terms of reference.
8 Let's get rid of the shared screen so that you
9 and I can spend some quality time together. I
10 want to go to the terms of reference. Is there
11 anything that you saw -- let's put it this way.
12 I'm suggesting to you that you saw nothing in
13 your three years as the chair of this
14 commission -- let's back up. Mr. Solymosi became
15 the general manager in June of 2015; correct?
16 A That's the -- I wasn't sure which month.
17 Perfect. June 15th.
18 Q Fair enough. So you spent two and a half years
19 with Mr. Solymosi as your general manager and you
20 as the chair; correct?
21 A Yeah.
22 Q And I'm going to suggest to you that you saw
23 nothing; there were no actions that you're aware
24 of that showed that Mr. Solymosi had any personal
25 animosity to Prokam, Bob Dhillon, or Bob Gill.
26 A That's correct.
27 Q And I'm also going to suggest to you that the
28 things that were done with respect to Prokam were
29 done using the procedures of the commission
30 without any personal animosity. Would you agree
31 with me?
32 A I'd agree with you. I never -- we never talked
33 about Dhillon personally or Gill, so I've never
34 ever had any inclination that there was any
35 animosity other than we were frustrated because
36 he wasn't following the rules of the commission.
37 Q Right. And certainly there was nothing that you
38 saw with respect to Mr. Solymosi that
39 demonstrated any personal animosity on his part
40 towards Prokam, Dhillon, or Gill?
41 A I did not.
42 Q In fact, I would suggest to you that he was the
43 consummate professional at all times?
44 A I'd agree with you. I mean, that was the reason
45 I respect him so much. I think Andre did a great
46 job of trying to make it work.
47 CNSL R. HIRA: Thank you. If I may just have one

73

John Newell (a witness)
Cross-exam by Cnsl R. Hira

1 See that?

2 A Yes.

3 Q And you understand Peter would be Peter Guichon?

4 A Yes.

5 Q And do you recall whether Mr. Guichon, in fact,
6 recused himself?

7 A He did.

8 Q And do you recall, prior to this, him having any
9 participation in the review or discussion that
10 occurred up until the formal recusal?

11 A There was -- there was general discussion of the
12 issues, but we weren't getting into any
13 decision-making or opinion on anything. It was
14 just general discussion around the issue.

15 Q And do you recall whether Mr. Guichon had any
16 active participation in that discussion at all?

17 A I don't recall. The BCfresh commissioners were
18 acutely aware of getting involved in any of these
19 discussions regarding root crop growers, much
20 like I would with the greenhouse grower or
21 agency.

22 Q And, Mr. Newell, of course, if there was any
23 decision and a reconsideration -- and I'm just
24 going to ask you this general question. You
25 recall Mr. Guichon recusing himself. Was his
26 practice in that regard consistent with regard to
27 Prokam matters?

28 A Yes, yes.

29 Q Yes?

30 A Yes.

31 Q And you have no recollection of him ever
32 participating in a decision regarding Prokam;
33 correct?

34 A Correct.

35 CNSL K. MCEWAN: Thank you. Those are my questions.

36 THE CHAIR: Thank you, Mr. McEwan. I believe, now,
37 we're going to Ms. Hunter or Mr. Androsoff.

38 CNSL N. MITHA: I believe we're going to have Mr. Hira
39 go first and then move over to ...

40 THE CHAIR: Appreciate the clarity. Mr. Hira.

41 CNSL R. HIRA: Thank you, Chair Donkers.

42

43 **CROSS-EXAMINATION BY CNSL R. HIRA:**

44 Q Mr. Newell, my name a Ravi Hira, and I'm counsel
45 for Mr. Solymosi. First, you've worked with
46 Mr. Solymosi for the last seven years since 2015;
47 is that correct?

74

John Newell (a witness)
 Cross-exam by Cnsl R. Androsoff

1 A Correct.
 2 Q In his capacity as a general manager?
 3 A Yes.
 4 Q And would you agree with me that at no time have
 5 you seen him act improperly with respect to
 6 Prokam or Bob Dhillon?
 7 A That's true.
 8 Q At no time has he let his personal views infuse
 9 themselves or inject themselves into any
 10 discussions regarding Prokam or Bob Dhillon?
 11 A That's true.
 12 Q Second, you will agree with me that Mr. Solymosi
 13 has at no time acted improperly with respect to
 14 MPL's application for an agency licence; is that
 15 correct?
 16 A I agree.
 17 Q In other words, at no time has he infused the
 18 discussion with any of his personal views?
 19 A That's true.
 20 Q And he has not tried to delay the application in
 21 any way?
 22 A No.

23 CNSL R. HIRA: Thank you. Those are my questions.

24 THE CHAIR: Thank you, Mr. Hira. I think I'm
 25 straight, now, on the order. Mr. McDonell?
 26 Mr. McDonell, are you ...

27 CNSL R. MCDONELL: My apologies, Mr. Chair. I had
 28 difficulty getting that cursor out of the right
 29 spot. I have no questions. Thank you very much.

30 THE CHAIR: Yeah. Thank you. Mr. Hrabinsky?

31 CNSL R. HRABINSKY: No questions. Thank you.

32 THE CHAIR: Thank you. Now, Mr. Androsoff.

33 CNSL R. ANDROSOFF: Thank you, Mr. Chair.

34
 35 **CROSS-EXAMINATION BY CNSL R. ANDROSOFF:**

36 Q Good morning, Mr. Newell.

37 A Morning.

38 Q You probably remember that I'm one of the lawyers
 39 for Prokam Enterprises.

40 A You bet.

41 Q And you recall testifying at Prokam's and
 42 Thomas Fresh's appeal at --

43 A I do.

44 Q -- the cease and desist orders in May of 2018;
 45 right.

46 A Yes.

47 Q You recall solemnly affirming to tell the truth,

15
Michael Reed (a witness)
Cross-exam by Cnsl H. Hira
Cross-exam by Cnsl R. Androsoff

1 CNSL R. HIRA: Thank you.

2

3

CROSS-EXAMINATION BY CNSL R. HIRA:

4

Q Mr. Reed, I'm Ravi Hira. I'm Andre Solymosi's
5 counsel.

6

7

You've worked with Mr. Solymosi for four
8 years; is that correct?

9

10

A That's correct.

11

12

Q And you will agree with me that, to your
13 knowledge, he has not in any way acted improperly
14 with respect to MPL or its application?

15

16

A Correct.

17

18

Q He has not tried to influence any commission
19 members regarding MPL or its application?

20

21

A He has not.

22

CNSL R. HIRA: Thank you. Those are my questions.

23

THE CHAIR: Thank you, Mr. Hira.

24

CNSL N. MITHA: Then I guess we'll move it over to see
25 if any of the others, Mr. McDonell or
26 Mr. Hrabinsky, have any questions.

27

28

CNSL R. MCDONELL: Mr. McDonell here. I have no
29 questions. Thank you, Mr. Chair.

30

THE CHAIR: Thank you, Mr. McDonell. Mr. Hrabinsky?

31

CNSL R. HRABINSKY: I have no questions. Thank you.

32

THE CHAIR: Thank you, Mr. Hrabinsky. Ms. Basham?

33

CNSL N. MITHA: I think the idea was to do Ms. Hunter
34 first and then Ms. Basham, but I don't have a
35 strong view about that.

36

THE CHAIR: Thank you. I just didn't see any time
37 allocated to her.

38

CNSL R. ANDROSOFF: Mr. Chair, it's Mr. Androsoff. I
39 was planning to do the examination of Mr. Reed,
40 and I'm happy to go before Ms. Basham if that's
41 acceptable to her.

42

CNSL N. MITHA: Yes, I think we'd allocated
43 15 minutes, so ...

44

THE CHAIR: I'm happy to let Mr. Androsoff go first.
45 Mr. Androsoff.

46

47

CROSS-EXAMINATION BY CNSL R. ANDROSOFF:

48

Q Mr. Reed, good morning. I'm counsel for Prokam
49 Enterprises Limited, and I'm going to be asking
50 you some questions related to the events of 2017
51 and 2018.

52

A Okay.

53

Q Now, when did you say that you first became a
54 commissioner?

55

55

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 A He wasn't at the PMA function that Steve and I
2 were at and we're sitting talking with us. So I
3 don't know how he'd know that.

4 Q He says he doesn't know about it. So you agree
5 with me that you're not aware of any other way he
6 would now about it; is that correct? In other
7 words, you don't know if there's an email or
8 somebody else told him or otherwise?

9 A I'm not aware if anybody has told him.

10 Q All right. He was asked at paragraph 33 whether
11 Mr. Cheema had ever expressed any views about MPL
12 to the Commission or to him personally. He says
13 he knows Ravi Cheema and he had not heard,
14 expressed any views about MPL to the Commission
15 or personally. Do you know if Mr. Cheema ever
16 spoke to Mr. Solymosi?

17 A I don't.

18 CNSL R. BASHAM: That's why you need to put
19 Mr. Cheema on.

20 CNSL N. MITHA:

21 Q Mr. Reed was a member of the Commission and
22 Mr. Reed does work for a competitor. And the
23 question to him was did Mr. Reed ever communicate
24 to you or others your knowledge or any views
25 about MPL that he had? And Mr. Solymosi's
26 evidence, and I anticipate will be, yes, Mr. Reed
27 worked for a competitor. He does not recall
28 Mr. Reed ever communicating any views about MPL
29 and that he was not on the panel. So first of
30 all, do you know if Mr. Reed communicated any
31 views to Mr. Solymosi?

32 A I'm not aware.

33 Q And he wasn't on the panel? You're aware -- you
34 agree with that?

35 A I don't recall that.

36 Q You don't know?

37 A I said I don't recall that.

38 Q So you're not saying it's incorrect. You just
39 don't recall; is that fair?

40 A Yes.

41 Q Paragraph 38, Mr. Solymosi sets out the panel of
42 five that was struck for the MPL application. Do
43 you agree with him that this was the panel of
44 five that was struck?

45 A This -- I don't know if this is the panel of five
46 that you're saying that interviewed me.

47 Q This is the panel of five that eventually

56

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

- 1 adjudicated MPL's application. You're aware of
2 that?
- 3 A I don't believe Peter -- I don't believe Peter
4 was on it. Like, when I had the interview with
5 Debbie.
- 6 Q Right.
- 7 A And Arman and all that. So I'm not sure if there
8 was a change.
- 9 Q Okay. And then at paragraph 39, Mr. Solymosi
10 says John Newell was not a panel member. That's
11 correct, isn't it?
- 12 A He was not on the interview with me.
- 13 Q And he says I believe Mr. John Newell never saw
14 the application. Do you know if Mr. Newell saw
15 the applications?
- 16 A I have no idea.
- 17 Q Mr. Mike Reed never saw the applications. Do you
18 know if that's true or not?
- 19 A I have no idea.
- 20 Q Mr. Corey Gerrard never saw the applications. Do
21 you know if that's true or not?
- 22 A I have no idea.
- 23 Q And do you know if Mr. Guichon saw the
24 application?
- 25 A I have no idea.
- 26 Q And do you know if Mr. Lodder saw the
27 application?
- 28 A I have no idea.
- 29 Q All right. Concerning the number of agency
30 applications that have been put forward in the
31 last 10 years, you saw the letter that Mr. Ravi
32 Hira provided. We can go back to that letter if
33 you'd like. Do you have any evidence to
34 contradict what he says in that letter? Do you
35 agree or disagree or have any other information?
- 36 A I'd have a question about the -- why the agency
37 licences had said it was approved. Is that an
38 Island licence?
- 39 Q Well, let me turn back to the letter and then you
40 can -- all right. So what was your question
41 again, sir?
- 42 A The one licence that was approved, was that an
43 Island licence?
- 44 Q He says here from June 2015 onwards there were
45 three applications received by the Commission as
46 part of the Vancouver Island Supervisory Review,
47 the three applicants were -- yes, so you got

66

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 He said, "that it's false." Any comment on that?

2 A I don't know exactly what I'm supposed to comment
3 on it.

4 Q Fair enough. He was asked why the application
5 wasn't dealt with when it was put forward on
6 September 10th. He says:

7
8 He recalls the application being put
9 forward but was not provided the
10 application details. It was sent to the
11 Commission agenda items. He has no
12 recollection of any discussion among
13 Commission members.

14
15 To your knowledge did Mr. Newell -- John
16 Newell express any negative views about
17 MPL at around the time MPL was making its
18 application?

19
20 He says:

21
22 Probably did talk with John Newell about
23 the application. Normal concerns about
24 MPL based on past dealings. He's been a
25 challenging individual to work with over
26 the years, correct, Paul Mastronardi? I
27 did not have any discussions about MPL or
28 it's application with any other members
29 of the Commission.

30
31 So Mr. Reed is saying he spoke to be John Newell
32 and expressed his concerns as set out here and
33 didn't have discussions with any other members.
34 Are you aware if he had discussions with anybody
35 else?

36 A Am I aware if Mike Reed has had any other
37 discussion with anybody else about what?

38 Q About MPL or about Mastronardi?

39 A I don't know.

40 Q Okay. Question 9:

41
42 Do you believe you had a conflict of
43 interest with MPL?

44
45 He says:

46
47 Yes. And the result I recused myself at

67

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 the Commission meeting when MPL's
2 application was brought up as I thought
3 that would be bias, and typically
4 greenhouse producers recuse themselves
5 from greenhouse applications. We'd need
6 to review the meeting minutes either in
7 person or Zoom. Would have to go back
8 and see if I exited the meeting by Zoom.
9

10 So he said he recused himself from the meeting
11 when it was made, and he just doesn't recall
12 whether it was in person or via Zoom. Do you
13 have any evidence that he did not recuse himself?

14 A I have no idea.

15 Q The conversation you had with Mr. Steve Newell
16 was put to him and his answer was he knows -- he
17 knows Steve Newell but hasn't talked to him for a
18 number of years. Not aware of any conversation
19 between Steve Newell and Paul Mastronardi.
20 Again, do you know if Mr. Reed would have any
21 knowledge of your conversation with Mr. Newell?

22 A Not that I'm aware.

23 Q Okay. He was asked if he knows Mr. Cheema. He
24 says he knows Mr. Cheema. He was asked whether
25 Mr. Cheema -- or expressed any views about MPL to
26 the Commission or to him personally. He says:

27
28 Worked with Ravi Cheema. Had a couple of
29 conversations. Ravi in full support of
30 the application. He has not asked for my
31 support. Felt the way the application
32 was put forward to Country Fresh Produce
33 might also have a GMA with Mr. Cheema.
34 Seemed underhanded. Especially when MPL
35 had an application at the same time.
36 Mr. Cheema works through Country Fresh
37 agency. Has a GMA with HMSCI company.
38 Also set up GMA via Country Fresh for
39 sale via Mastronardi for 2020 and 2021
40 crop year. You represent Creekside,
41 Hothouse Ltd. New is MPL via Country
42 Fresh going through Creekside. Newall
43 [phonetic] Ravi is Fresh4U.
44

45 So I take it that Mr. Reed had some concerns
46 about the fact that Mr. Cheema who was working
47 for certain agencies was now going to work with

68

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 MPL; correct?

2 A He's saying that that's what this says?

3 Q That's right.

4 A Well, I guess I can't say, like, what his direct
5 opinion is on it.

6 Q Well --

7 A You'd have to ask him that.

8 Q Fair enough. Did Mr. Cheema ever tell you that
9 Mr. Reed had concerns about the fact that
10 Mr. Cheema was working with one agency and then
11 supporting a different agency making an
12 application?

13 A I think, like I told you, Ravi told me that Mike
14 Reed was making it difficult for the transfers
15 on -- I think it was Fresh4U and the other
16 allocation quota I think might have been through
17 Creekside.

18 Q All right. But Mr. Reed was not the panel member
19 and recused himself from your application; right?

20 A [Indiscernible].

21 Q Well, that's what he says. Do you have any
22 evidence otherwise?

23 A I do not recall.

24 Q It's not a matter of recalling. Do you have any
25 evidence otherwise that he did not recuse
26 himself? He says he did. Do you have any
27 evidence to say he did not?

28 A No.

29 Q Paragraph 13:

30
31 Did you ever communicate any views about
32 MPL like you had?

33
34 He said:

35
36 I believe I talked to John Newell briefly
37 but not to any other members of the
38 Commission.

39
40 Do you have any evidence to the contrary to
41 challenge that?

42 A I don't know what his views were. This doesn't
43 say what his views were.

44 Q All right. Whatever his views were, he only
45 communicated to John Newell and not anybody else.
46 That's what he says. Do you have any evidence
47 otherwise?

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Paul Mastronardi (for MPL)
Exam for BCFIRB by Cnsl N. Mitha

1 interest, of course?

2 A Yes.

3 Q And you don't disagree that he recused himself?

4 A I don't -- not aware.

5 Q You're not aware, okay. You have no evidence
6 otherwise; right?

7 A Correct.

8 Q Paragraph 7 was put to him the conversation you
9 had with Mr. Newell that you've previously
10 recounted. He said he's not aware of the
11 conversation. You don't have any evidence that
12 he was aware of this conversation, do you?

13 A No.

14 Q You'll see that Mr. Newell was asked to discuss
15 with Steve Newell whether he had this
16 conversation and he has written a letter saying
17 Steve Newell is not aware of the conversation.
18 But I'm not putting that to you, so I'll leave
19 that.

20 The conversation with Jeff Madu is also put to
21 him and he was asked whether he is aware of any
22 such conversation. He says he did not hear of
23 any such conversation.

24
25 The only conversation I had was when MPL
26 was coming to BC regarding the
27 application and that was only concerning
28 my recusal. I was aware via rumours that
29 MPL had shown interest in coming west
30 over several years.

31
32 Anything there that you disagree with or that's
33 incorrect?

34 A I wouldn't know.

35 Q Okay. He's asked whether he knows Mr. Cheema.
36 He says he's known him for 20 years.

37
38 Has he ever expressed any views about MPL
39 to the Commission or to you personally?

40
41 Answer:

42
43 I don't recall him expressing his views
44 about anything to the Commission or me
45 personally.

46
47 To your knowledge, did Mr. Cheema ever

47

Paul Mastronardi (for MPL)

Cross-exam for the VMC by Cnsl W. Stransky

1 out -- that an agency will stay out of the other
2 sides products.

3 Q Okay. So Ravi Cheema didn't name any specific
4 commissioners. And in explaining who you decided
5 to sue, I think you mentioned that there was --
6 there had to be a majority of commissioners to
7 impose the moratorium; is that right?

8 A I believe that it had to be a majority vote to
9 pass.

10 Q Okay. So at the time you filed this suit, there
11 were nine positions on the Commission. Is that
12 your understanding?

13 A Eight commissioners.

14 Q Okay. Sorry, eight commissioners. And you needed
15 five for a majority?

16 A Correct.

17 Q So you needed to name five people in your lawsuit;
18 correct?

19 A Well, we thought based on what Ravi was telling us
20 that -- you know, we -- the commissioners would be
21 the ones conflicted, the ones that were related
22 marketing companies.

23 Q Okay. So --

24 A Obviously we new directly that John and Mike Reed
25 were conflicted.

26 Q All right. And so you named all of the storage
27 crop members who are connected to any agencies?

28 A Correct.

29 Q And you deduced or assumed that they were all part
30 of the scheme?

31 A Correct.

32 Q And then last, if we go back to demand for
33 particulars at Tab 8. And then at paragraph 6,
34 this is a request for full particulars of when the
35 Commission members declined MPL BC's agency
36 application. Do you see that?

37 A Yes.

38 Q And then going to Tab 9 at paragraph 5, you say:

39

40 The acts described have cumulatively had
41 the effect of denying MPL's 2021 agency
42 application.

43

44 Correct?

45 A Correct.

46 Q So it's your position today that MPL's agency
47 application was declined or denied?

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Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 may have been involved in the moratorium issue?

2 A Correct.

3 Q All right. He says in question 14, your
4 [indiscernible] concern raised by MPL is that
5 there's a movement to restrict any new agencies
6 entering the market, et cetera. And his answer
7 is:

8
9 I don't recall any greenhouse agencies
10 applications since he's been on the
11 Commission. Only a moratorium in the
12 last several years because going through
13 BCFIRB review to ensure the right
14 processes ...

15
16 Et cetera. Again, you don't have any evidence to
17 say there has been any applications? We've been
18 through that; correct?

19 A Correct.

20 Q
21 To your knowledge is there assistance to
22 the approval agencies?

23
24 He says no.

25
26 Is there any reason the Commission would
27 not want to approve the application of
28 MPL to be an agency?

29
30 He says, "not that I'm aware of." Of course MPL
31 did have it's -- the Commission did approve MPL's
32 agency application in 2022 recently, and it's
33 gone to BCFIRB for approval; correct?

34 A Correct.

35 CNSL N. MITHA: Mr. Chair, I notice it's just before
36 4:00. I've got two other reports I wanted to
37 take the witness through, and that is Mr. Gerrard
38 and Mr. Lodder. I'm in your hands whether you
39 want me to finish now or I can finish tomorrow
40 morning.

41 THE CHAIRPERSON: You're talking about 10 minutes?

42 CNSL N. MITHA: I would think so. Probably not much
43 more.

44 THE CHAIRPERSON: Okay, let's go.

45 CNSL N. MITHA: Okay. I'll put on the screen the
46 interview report of Mr. Gerrard. I appreciate,
47 Ms. Basham, the same objection on the record.

56

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 adjudicated MPL's application. You're aware of
2 that?

3 A I don't believe Peter -- I don't believe Peter
4 was on it. Like, when I had the interview with
5 Debbie.

6 Q Right.

7 A And Arman and all that. So I'm not sure if there
8 was a change.

9 Q Okay. And then at paragraph 39, Mr. Solymosi
10 says John Newell was not a panel member. That's
11 correct, isn't it?

12 A He was not on the interview with me.

13 Q And he says I believe Mr. John Newell never saw
14 the application. Do you know if Mr. Newell saw
15 the applications?

16 A I have no idea.

17 Q Mr. Mike Reed never saw the applications. Do you
18 know if that's true or not?

19 A I have no idea.

20 Q Mr. Corey Gerrard never saw the applications. Do
21 you know if that's true or not?

22 A I have no idea.

23 Q And do you know if Mr. Guichon saw the
24 application?

25 A I have no idea.

26 Q And do you know if Mr. Lodder saw the
27 application?

28 A I have no idea.

29 Q All right. Concerning the number of agency
30 applications that have been put forward in the
31 last 10 years, you saw the letter that Mr. Ravi
32 Hira provided. We can go back to that letter if
33 you'd like. Do you have any evidence to
34 contradict what he says in that letter? Do you
35 agree or disagree or have any other information?

36 A I'd have a question about the -- why the agency
37 licences had said it was approved. Is that an
38 Island licence?

39 Q Well, let me turn back to the letter and then you
40 can -- all right. So what was your question
41 again, sir?

42 A The one licence that was approved, was that an
43 Island licence?

44 Q He says here from June 2015 onwards there were
45 three applications received by the Commission as
46 part of the Vancouver Island Supervisory Review,
47 the three applicants were -- yes, so you got

57

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 VIFP, IVCA, and VIP Produce. And VIFP and IVC
2 were granted a continuation of their agency
3 licence. VIP Produce Inc. was granted a producer
4 shipper licence. So I believe those are all on
5 Vancouver Island.

6 A So the one -- the two were just continuances,
7 right, those weren't new. And the other one was
8 a producer shipper, which is not an agency.

9 Q Right. So effectively, then, you -- you agree
10 with Mr. Solymosi, no agency applications have
11 been made to the Commission in the last ten
12 years? You don't have any other evidence
13 otherwise, do you?

14 A No, I'm asking -- I'm trying to figure out if
15 this is continuation or this is an actual licence
16 that was granted.

17 Q It does say VIFP and IVC were granted a
18 continuation of their agency licence.

19 A Right. So that means they already had one;
20 correct?

21 Q Correct.

22 A Yeah. And the other one was not --

23 Q It was not an agency. It was a producer shipper;
24 correct.

25 A Right. I mean, basically in line with everybody
26 believing that -- sorry, the Commission is not
27 going to grant new agencies because they control
28 the board.

29 Q But, Mr. Mastronardi, no one has applied in ten
30 years. Do you have any evidence to contradict
31 that? That's what he says.

32 A Do I have any evidence to contradict that? No,
33 not that I recall.

34 Q I'm putting to you the interview report of
35 Mr. Peter Guichon, which is on the screen now.

36 A Okay.

37 Q At paragraph 19 he's asked whether he's aware of
38 the vote swapping agreement as alleged in the
39 notice of civil claim. His answer is:

40
41 Absolutely not. There is no such
42 agreement. Members would not even think
43 of that. It was straight case agency
44 application is made. I think it would not
45 be turned down. No deals have been cut.

46
47 So Mr. Guichon denies there's any vote swapping

58

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 agreement. Do you have any response to that?

2 A Sorry, I'm just reading this right now.

3 Q Yes, certainly.

4 A Well, I think -- I don't know. If I'm reading
5 this, it says I didn't confirm or I never saw or
6 dealt with MPL's application. Did not other
7 document say that Andre said he saw the
8 application?

9 Q He said he wasn't sure if he saw. He said he may
10 have seen it. So again, I'm dealing with the
11 first question about what vote swapping
12 agreement. Mr. Guichon says there was no such
13 agreement. Do you have -- other than the
14 evidence of Mr. Cheema, do you have any other
15 evidence to contradict that?

16 A That the moratorium was put in place and it takes
17 a majority to put the moratorium in place.

18 Q No, this is the vote swapping agreement. Not the
19 moratorium, sir. Maybe I'm misunderstanding your
20 evidence. Are you saying that the vote swapping
21 was part of the moratorium agreement as well?

22 A Yes. Because you have to vote to actually put
23 the moratorium in place and you have to vote to
24 take it down.

25 Q All right. So you say that, again, you don't
26 know if that was as a result of vote swapping.
27 You just know that it happened; right? That the
28 moratorium was put in place and then it was --

29 A Why would a moratorium be put in place if there
30 hasn't been a licence granted, like we're saying,
31 in the 10-year period. What was broken with the
32 system that it needed to get fixed and a
33 moratorium put in place? Obviously Windset knew
34 we were coming out there. We've had people out
35 in BC talking to growers that they knew they were
36 coming out there and then magically a moratorium
37 gets put in place.

38 Q Sir, I'm putting to you -- there may be all sorts
39 of reasons. I'm just putting to you whether you
40 know that was a result of a vote swapping
41 agreement or not?

42 A Like I said, my belief is that it took a majority
43 to put the moratorium in place and that would
44 require them voting it.

45 Q All right. And you say that's based on your
46 belief; correct? That's correct, isn't it?

47 A Yes.

59

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 Q And it's nothing more -- you have no other
2 evidence other than your belief; isn't that
3 right?

4 A Well, my belief. And like I said, Cheema saying
5 it's the boys' club, scratch your back, scratch
6 my back.

7 Q So the two pieces of evidence which MPL has to
8 establish there's a vote swapping agreement is
9 Mr. Cheema told you that without telling you
10 which members who were involved and your belief.
11 That's it, isn't it?

12 A Well, like I said, and the fact that the
13 moratorium being put in place, yes.

14 Q Okay. Thank you. I understand. Then paragraph
15 21:

16
17 MPL provided its application for agency
18 status to the Commission on September 10,
19 2020. It was not dealt with at this
20 time. Why is that?

21
22 And Mr. Guichon's response is:

23
24 I was not aware at the time. I heard
25 about MPL's application at some point but
26 thought at the time we were dealing with
27 criteria for agency applications and
28 there was a moratorium while we dealt
29 with that.

30
31 First of all, we've already dealt with the
32 moratorium, et cetera. Let me go back to
33 question 20 because I think question 20 is also a
34 question I missed.

35
36 There's an allegation that you acted
37 separately or together with other
38 Commission members to prevent MPL from
39 entering the BC market. What is your
40 response to that allegation?

41
42 Mr. Guichon says:

43
44 There is no substance to this allegation.
45 I left the Commission before it even came
46 forward. I confirm I never saw or dealt
47 with MPL's application.

60

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 Do you have any evidence otherwise that he did
2 see or deal with MPL's application?

3 A Part of our application is whether or not it can
4 get passed through, which is the moratorium. So
5 he did because he was part of it putting the
6 moratorium in place. An application has to pass
7 through. The moratorium blocks it. So he was
8 there when the moratorium was put in place.

9 Q All right. And just to be clear, as the
10 moratorium was put in place, there was an appeal
11 of that decision to put the moratorium in place;
12 right?

13 A Sorry?

14 Q Sorry, MPL appealed -- sorry, MPL didn't appeal
15 the moratorium. MPL appealed the decision not to
16 extend the October 30th deadline for producers to
17 choose agencies; right?

18 A Correct.

19 Q And in that appeal, MPL alleged that the
20 Commission was bias; correct?

21 A Correct.

22 Q And that appeal was dismissed by BCFIRB?

23 A Correct.

24 Q All right. Paragraph 23:

25
26 To your knowledge did he ever express
27 negative views about MPL at or around the
28 time that MPL was making its application
29 and he -- means John Newell.

30
31 And the response is:

32
33 No, I have no knowledge of John Newell
34 expressing negatives about MPL. I have
35 not talked with John for seven or eight
36 months -- seven to eight months.

37
38 Do you know if Mr. Newell ever spoke with
39 Mr. Guichon or otherwise about your -- MPL's
40 application?

41 A I don't have any direct knowledge, no.

42 Q All right. Mr. Guichon was asked:

43
44 Do you believe you have any conflict of
45 interest with MPL?

46
47 And he says "no." Do you disagree with that?

61

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 A Yes.

2 Q And you say his conflict of interest is based on
3 the vote swapping arrangement?

4 A Correct.

5 Q All right. But nothing more than the vote
6 swapping arrangement; correct?

7 A Right. Because it keeps the other agency
8 licences in his sector and so that helps him.

9 Q Paragraph 25, Mr. Guichon was asked about the
10 conversation you had with Mr. Steve Newell. And
11 he says:

12
13 This is the first time I'm hearing of
14 such an allegation. I've never heard it
15 before.

16
17 Do you know if Mr. Guichon was ever aware of this
18 allegation through any other means?

19 A Not that I'm aware.

20 Q All right. He's asked whether -- in paragraph
21 29:

22
23 Did Mr. Reed ever communicate to you any
24 views about MPL that he had?

25
26 And the answer is "no." Did you have any
27 knowledge otherwise?

28 A Not that I'm aware.

29 Q He was asked whether he was ever assigned to any
30 panel concerning MPL's application for agency
31 status. He says "no." You say he was on the
32 moratorium application?

33 A Right, he was on the moratorium.

34 Q Decision?

35 A Correct.

36 Q And is that something you know or is that
37 something you're speculating?

38 A He was on the board at the time.

39 Q Right. You know that he voted yes or no for the
40 moratorium?

41 A I'm not aware of the individual votes.

42 Q So you're not aware if there was a meeting where
43 it was a vote for the moratorium or not?

44 A No.

45 Q Wasn't a moratorium in place long before
46 Mastronardi submitted its application?

47 A Before our application but not before we were out

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Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 in BC canvassing and not before I talked with
2 Steven Newell about us coming out west. And I
3 don't -- the one thing too is that I think
4 they're going to block all applications. It's
5 not just Mastronardi. Because that's the whole
6 idea of the vote swapping is not letting any
7 licences in --

8 Q I understand --

9 A -- on either side.

10 Q I understand that's what your belief is. But I
11 want to ask you some specific questions. A
12 moratorium, as I understand, it was put in place
13 on June 28, 2019. All right?

14 A Yeah.

15 Q The application by MPL was put in place -- was
16 made the first time we saw on September 10th;
17 correct?

18 A Yes.

19 Q All right. So the vote -- if there was a vote to
20 put a moratorium in place -- first of all, you
21 don't know if there was a vote to put a
22 moratorium in place, do you? Sorry?

23 A I think somebody else said something. But I'd
24 say I sure hope there was. I don't know. I
25 don't think people are writing letters just
26 putting out moratoriums without a vote, I hope.

27 Q Okay. But you -- you don't know if there was a
28 vote or not at the moment, do you?

29 A I believe the way that the directors work is that
30 they're going to have to vote.

31 Q All right. In any event, if there was a vote,
32 you don't know who was involved in that vote?

33 A It would be a majority.

34 Q All right. But you don't know which directors --
35 or which commissioners were present for that
36 meeting or otherwise, do you?

37 A Do not recall, no.

38 Q You don't know, though. It's not like you don't
39 recall. You weren't there; right?

40 A Right.

41 Q Okay.

42 A I was not there.

43 Q Paragraph 31, he says -- the question is:

44
45 You were all concerned raised by MPL is
46 that there's a ruling to restrict any new
47 agencies entering into the market. MPL

45

Paul Mastronardi (for MPL)

Cross-exam for the VMC by Cnsl W. Stransky

1 Is that right?

2 A Yes.

3 Q So when we're looking at the notice of civil claim
4 and paragraph 23(a) specifically, you agreed that
5 it didn't specify what acts were actually taken to
6 prevent MPL from entering the market?

7 A Okay.

8 Q And you're saying here that you don't have any
9 further particulars as to what those acts were?

10 A The particulars were Ravi Cheema telling us that
11 there was vote swapping going on and there was
12 scratching each other's back situation.

13 Q Okay. So it's that point you're saying what the
14 particulars are today?

15 A There's that and the moratorium being put in place
16 and not --

17 Q [Cross talk]. So it's your conversation with Ravi
18 Cheema and it's the moratorium being put in place?

19 A And not lifted, correct.

20 Q And not lifted. You agree it doesn't say that
21 here?

22 A Correct.

23 CNSL. W. STRANSKY: If you go back to Tab 8, and I'll
24 just do an apology now, Naz, for humouring me with
25 this.

26 CNSL N. MITHA: No problem.

27 CNSL. W. STRANSKY:

28 Q If you look at paragraph 6 -- or excuse me --
29 paragraph 7, it requests:

30
31 Particulars of the vote swapping scheme
32 alleged including ...

33
34 And then looking at sub (b):

35
36 What matters were allegedly voted upon in
37 furtherance of the vote swapping scheme.

38
39 Do you see that?

40 A Yes.

41 Q So this is the Commission members saying what
42 exactly are you saying was voted on under this
43 vote swapping scheme you allege?

44 A Are you asking me a question? Sorry.

45 Q That's how you understand it?

46 A Can you just say it again what you're asking me to
47 confirm?

28

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 those five and not any others?

2 A Well, obviously John Newell.

3 Q Yes.

4 A And then Mike Reed. Mike Reed's a direct
5 competitor and at the same time he was causing
6 Ravi some problems as well with transferring some
7 of his allocations with Houweling and Country
8 Fresh. So Mike was, you know, in -- again, you'd
9 have to ask Ravi. So Ravi told me that he was
10 trying to make their life hard. And so Mike Reed
11 was definitely trying to injure Mastronardi's
12 relationship with Ravi.

13 Q All right.

14 A And then the three storage crop gentlemen as they
15 are connected to marketing companies which would
16 have a vested interest in blocking other storage
17 crop marketing licences if John Newell and Mike
18 Reed were scratching their back and vice versa.
19 And then Andre because he kept on delaying stuff,
20 you know. I talked to Andre a couple times on
21 the phone and he wasn't really -- you could tell
22 that he wasn't really forthcoming and when I --
23 numerous times when we asked for answers, he'd
24 say he'd get back to me in four weeks. It turns
25 out to be, you know, 12 weeks later or 13 weeks
26 later. Sometimes he wouldn't respond to my
27 emails. There was no sense of urgency coming
28 from him whatsoever.

29 CNSL N. MITHA: Mr. Chair, could you just remind me,
30 what was the time that the afternoon break was
31 going to be taken? I'm just trying to time my
32

33 ...

34 THE CHAIRPERSON: 2:30.

35 CNSL N. MITHA: 2:30, thank you.

36 Q I put the notice of civil claim, which is what
37 it's called. This is the -- essentially the
38 document that starts the claim in court against
39 these -- by MPL against these various
40 commissioners and Mr. Solymosi. Can you see
41 that?

42 A Yes.

43 Q And you can see from the date on the top-left
44 hand corner it was filed April 23, 2021?

45 A Yes.

46 Q All right. I'm going to turn to paragraph 23 of
47 this notice of civil claim. And that's headed --
just above that is headed "The defendants"

29

Paul Mastronardi (for MPL)

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1 wrongful conduct." And it goes on to say:

2
3 The defendants --

4
5 Meaning all the people that have been sued.

6
7 -- have deliberately committed the
8 following unlawful acts while acting in
9 their capacity as public officers of the
10 Commission.

11
12 And paragraph (a) says:

13
14 In breach of their statutory obligation
15 as members of the Commission and in the
16 case of Andre Solymosi as a general
17 manager, the defendants have arbitrarily
18 separately or in concert acted to prevent
19 MPL BC from entering the BC market for
20 the specific and improper purpose of
21 maintaining their market position in BC
22 for their own financial benefit or for
23 the financial benefit of their associated
24 business entity with the specific purpose
25 of harming Mastronardi and MPL BC.

26
27 Do you see that?

28 A Yes.

29 Q Would it be fair to say that the evidence that
30 you just recounted over the last half an hour, 40
31 minutes is the evidence you're relying on to
32 establish these allegations?

33 A That plus the fact, like I said, they haven't
34 issue a licence in BC I think in over a decade.

35 Q Right.

36 A The moratorium being put in place. And then FIRB
37 actually having to enforce the moratorium to be
38 lifted.

39 Q All right. So those -- that's the factual basis
40 on which these allegations are made?

41 A That. Steven Newell telling me to my face that
42 him and his brother were going to keep me out of
43 BC. The brother-in-law telling me they're going
44 to keep me out of BC and [indiscernible] make
45 sure we don't get our licence.

46 Q Yes.

47 A Ravi Cheema, yeah, those -- you know, the guys on

30

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 the Commission are scratch your back/scratch the
2 other guys' back. And that there's all these
3 meetings taking place with specifically with
4 words we've got to keep Mastronardi out of BC.

5 Q Okay. So all of the evidence that you just did
6 recount, and I include all of that, I'm not
7 excluding that, but there's nothing more than --

8 A Well, I guess the fact -- like I said, obviously
9 that Andre calls us the enemy too. That
10 Mastronardi is the enemy. He's supposed to be
11 bias -- I mean, he's supposed to non-bias in his
12 position there, right. He shouldn't be calling
13 us the enemy.

14 Q Understood. So all of that that you recounted in
15 the interview plus what you've told us today is
16 the extent of the evidence which you rely on for
17 this allegation in paragraph -- subparagraph (a);
18 is that fair?

19 A For the most part, everything I can recall, yes.

20 Q All right. And then you say in paragraph (b):

21
22 The defendants Mike Reed and Andrew --

23
24 I guess that should be Andre, but in any event.

25
26 ... Andre Solymosi have acted to prevent
27 MPL BC from obtaining a designated
28 marketing agency by [indiscernible]
29 interfering with and acting to prevent
30 the granting of additional production
31 allocation to growers thought to be
32 aligned with MPL BC.

33
34 The defendants have done so for their own
35 economic benefit or alternatively for the
36 economic benefit of their related
37 business entities [indiscernible]
38 unrelated and in direct contradiction
39 with requisite considerations under the
40 general orders.

41
42 You see that?

43 A Yes.

44 Q So first of all, the allegations of just Mike
45 Reed and Mr. Solymosi have interfered by
46 preventing the granting of additional production
47 allocation to growers aligned with MPL BC. So

80

Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 through Country Fresh.

2 Q So --

3 A There is -- there is -- listen. There is some
4 paper trail in all this. I'm just saying that it
5 exists.

6 Q Sir, I'll go back to my question. Did you send
7 Mr. Cheema an email confirming the contents of
8 your telephone call?

9 A No.

10 Q Thank you. Did you get any of your staff -- your
11 thousand employees to go and investigate this?

12 A Some of our employees were involved because they
13 had to contact Casey Houweling and tell Casey
14 Houweling that he needed to resolve these issues.

15 Q Did you get a report from your employees?

16 A A report? No. I put a task on one of our
17 employees to talk to Casey and straighten it out.

18 Q I see. And did that employee -- what's the name
19 of that employee incidentally?

20 A It would have been Dave Einstandig.

21 Q Your lawyer?

22 A Yes.

23 Q And did he report back to you?

24 A It got worked out. Casey sent something over to
25 the Commission, I guess, stating that they didn't
26 have a right to all the product and product that
27 goes through Country Fresh can be assigned to
28 multiple companies.

29 Q Did he report back to you, sir?

30 A He said the problem was resolved.

31 Q Did he report back to you in writing, sir?

32 A Not that I'm aware.

33 Q Great. So let's go back to paragraph 23(b). The
34 illegal act by my client is somehow communicating
35 to Mr. Cheema that he had to get the permission of
36 Mr. Reed; isn't that correct?

37 A That's correct.

38 Q That's the illegal act? Have I got it right?

39 A Yeah. The way Ravi is saying is that those two
40 were working, you know, against Ravi to kind of,
41 like, intimidate him so that he couldn't think
42 that he could move product to Mastronardi Produce.

43 CNSL R. BASHAM: Just a minute. Mr. Hira, where does
44 it say "illegal act" in paragraph (b)?

45 CNSL R. HIRA: Well, I did start off with the opening
46 stanza of paragraph 23 that talks about unlawful
47 acts.

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 That was your response?

2 A Yes.

3 Q To how he allegedly failed to act in accordance
4 with the regulatory scheme and in exercising the
5 authority delegated to him as general manager of
6 the Commission; correct?

7 A Correct.

8 Q There's nothing in that response about not
9 providing information regarding the application or
10 not telling you about a change in the amending
11 orders or about a delay, is there, sir?

12 A Not in this case, no. Like I said, I'm not a
13 lawyer. This was our initial response. So I'm
14 not sure of the total processes of all these
15 things.

16 Q Well, just a moment, this response is filed on
17 behalf of MPL; correct?

18 A Correct. Like you said, we hire lawyers as well
19 too, correct.

20 Q Are you saying that if this response is -- is not
21 accurate, it's your lawyer's fault; is that your
22 evidence?

23 A I didn't say that. I said I don't know the
24 process. My point is this is our answer.

25 Q Right. An answer that doesn't provide -- or is
26 not in accordance with the evidence you've just
27 given; you'll agree with me?

28 A There's additional details; is that's what you
29 mean? Yes.

30 Q Yes. That were known to you on that July 19,
31 2021?

32 A There is more specifics of this, yes.

33 Q Thank you. Now, you were also -- sorry. Go to
34 the notice of civil claim. Would you at least
35 agree with me that paragraph 23(c)(i), that is to
36 recuse themselves from the decision-making process
37 in no way engages the acts of Mr. Solymosi?

38 A If he's not an actual decision maker or a voter,
39 then yes.

40 Q Thank you. To the extent that paragraph (c)
41 applies to the defendants, paragraph (c)(i)
42 doesn't apply to Mr. Solymosi; correct?

43 A I'm not aware of his decision-making power there.
44 So like I said, if he's not making decisions, then
45 I would agree.

46 Q Well, he can't recuse himself from the decision
47 making process in respect of MPL's BC application

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 direct financial interest in any competitor of
2 Mastronardi or MPL BC?

3 A I'm not aware that he has.

4 Q And you'll also agree with me that he does not
5 stand to benefit financially through the unlawful
6 acts?

7 A Like I said before, he's employed by the
8 Commission.

9 Q So his financial benefit is employment as a
10 general manager; correct?

11 A Correct.

12 Q Thank you. Would you at least agree with me that
13 paragraph (c) has no application to my client,
14 25(c)?

15 A Yeah, I believe that's why it says "certain of the
16 defendants."

17 Q So just so that we're clear, you're not alleging
18 anything against my client in paragraph 25(c);
19 correct?

20 A Not if the benefit financially is referring
21 directly -- sorry, up to the upper part where it's
22 talking about owning agencies, correct.

23 Q I'm sorry, I didn't understand your answer.

24 A They stand to benefit financially from the vote
25 trading. But again, I think that's talking in
26 reference above -- talking about owning actually a
27 marketing agency. So correct.

28 Q So to be clear -- I'm sorry I interrupted you. I
29 beg your pardon. To be clear, there are --
30 paragraph 25(c) contains no allegations against my
31 client; do you agree with that?

32 A Yes, I believe so. Yes.

33 Q So let's talk about paragraph 25(d):

34

The defendants acted separately or in
concert to keep MPL BC out of the market
for their direct benefit or the benefit
of their business entities.

39

40 Now, as I understand it, the acting in concert is
41 the allegation that somehow my client was acting
42 with Mr. Reed with respect to Mr. Cheema's
43 application to move product allocation; correct?

44 A Correct.

45 Q Can you tell me are you at all suggesting my
46 client acted independently of any commissioner to
47 harm MPL BC?

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

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36 concert to keep MPL BC out of the market
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39
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41 the allegation that somehow my client was acting
42 with Mr. Reed with respect to Mr. Cheema's
43 application to move product allocation; correct?

44 A Correct.

45 Q Can you tell me are you at all suggesting my
46 client acted independently of any commissioner to
47 harm MPL BC?

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 A Sorry, can you ask that question again?
2 Q Are you at all suggesting that my client acted
3 independently --
4 A Still --
5 Q -- to harm MPL BC?
6 A No, that's not what this says.
7 Q You are not making that suggestion either in (d)
8 or at any time; is that fair to say?
9 A Correct.
10 Q Thank you. So let's continue with (d).
11
12 ... out of the market for their direct
13 benefit.
14
15 Would you agree with me that there is no direct
16 benefit to my client to keep MPL out of BC?
17 A Except at his job as commissioner -- sorry, as
18 manager.
19 Q So if I have it correct, if MPL BC gets an agency
20 licence, he's at risk of losing his job as the
21 general manager?
22 A The benefit to him is that he has a job there and
23 he doesn't maybe fall in line with scratching each
24 side's back there, then he might fear that he
25 might not have a job in the future.
26 Q But there's no allegation of my client being
27 involved in any back scratching. The allegation
28 is that the commissioners are involved in back
29 scratching; correct?
30 A The commissioners are swap -- vote swapping. But,
31 yeah, like I said, Ravi said that there's
32 corruption at the top of the board which being
33 general manager is top of the board.
34 Q Just a moment. At no time did Ravi Cheema say
35 that my client was involved in vote swapping;
36 correct?
37 A Correct.
38 Q At no time did Ravi Cheema say that my client was
39 scratching the back of a commissioner to have his
40 back scratched?
41 A Well, if he helps the commissioners with their
42 goal of keeping agencies out, then his back
43 scratch is keeping his job; is it not?
44 Q Let's go back to my question. I will state it
45 again. At no time did Mr. Ravi Cheema say that my
46 client was scratching the back of a commissioner
47 to have his back scratched?

6

Paul Mastronardi (for MPL)
Exam for BCFIRB by Cnsl N. Mitha

- 1 Q Yes, I'll ask you to do that and provide any
2 documents to that effect.
- 3 A Sure.
- 4 Q But, sir, you'll agree with me that MPL didn't
5 commence any legal proceedings against some of the
6 other people who were involved in the decision,
7 which included Ms. Estell, Mr. Royal, and Eric --
8 I'm not quite sure how to pronounce his last name,
9 but it's S-C-H-L-A-C-H-T? MPL chose not to
10 commence proceedings against them. Why did it
11 choose Newell -- leave aside Newell because you've
12 got the conversation with his brother. But why
13 choose Lodder and Reed and exclude Estell and Royal
14 and Schlacht?
- 15 A Because we believed Estell, Royal and Schlacht were
16 independents. They didn't represent marketing
17 companies.
- 18 Q All right. So that was how the decision was made?
19 Because they represented marketing companies, that
20 was the reason?
- 21 A Correct.
- 22 Q All right. Because of course you hadn't been told
23 by Mr. Cheema of any particular names of Commission
24 members that were involved in any, as we say, this
25 vote swapping arrangement; correct?
- 26 A Correct.
- 27 Q So the basis on which -- I'll take a step back.
28 Sir, you appreciate that making allegations of
29 misfeasance of public office, sir, are serious
30 allegations? They're not minor allegations; right?
- 31 A Yes.
- 32 Q And MPL chose to make those serious allegations
33 based on being told in general that there's a vote
34 swapping arrangement and that was told my
35 Mr. Cheema, and then choosing to sue individuals
36 who were involved with agencies or brokers; is that
37 right?
- 38 A Yeah. Mr. Cheema told us -- Mr. Cheema told us
39 that there was a study done by Dawn Glick -- sorry,
40 I can't remember -- pronounce her last name
41 exactly. And in that study it said that it was an
42 old boys' club. There was I'll scratch your back,
43 you scratch my back. That decisions by the
44 commissioners were made not at the Commission, but
45 at coffee shops in Delta and there was corruption
46 at the top.
- 47 Q But, sir, MPL never chose to look at that report,

46

Paul Mastronardi (for MPL)

Cross-exam for the VMC by Cnsl W. Stransky

1 Q Paragraph 7 (b).

2 A Right.

3 Q Is asking for particulars of what matters were
4 voted on in furtherance of the vote swapping
5 scheme?

6 A Yes.

7 Q If you go to Tab 9 again, paragraph 6. This is
8 your response. You say:

9

10 The date and location of the formation of
11 the scheme is unknown to MPL.

12

13 And then says:

14

15 The particulars are within the knowledge
16 of the defendants.

17

18 A Right.

19 Q Is that right?

20 A Correct.

21 Q So you're saying that with respect to any vote
22 there was actually made in furtherance of the
23 scheme, it's only the defendants who have
24 knowledge of that? You don't actually know what
25 vote was cast under the vote swapping agreement?

26 A No, I do not know the particulars of the exact
27 voting.

28 Q Sorry. Is it not your evidence today that Ravi
29 Cheema told you that there was a "you scratch my
30 back I scratch yours" mentality?

31 A Yes.

32 Q And I might have misunderstood. But I understood
33 your evidence to be that your application for
34 agency was voted on in furtherance of that scheme?

35 A My application was -- for agency was basically
36 being blocked by the moratorium and the moratorium
37 not being lifted.

38 Q So it was the moratorium that was voted on in
39 furtherance of the vote swapping scheme?

40 A Correct.

41 Q But you agree that Mr. Cheema didn't name any
42 specific commissioner who he said was part of this
43 scheme?

44 A Not specifically, no. He said the commissioners.
45 The greenhouse guys and the storage crop guys
46 scratching each other's back and each side
47 basically votes to make sure that other side stays

47

Paul Mastronardi (for MPL)

Cross-exam for the VMC by Cnsl W. Stransky

1 out -- that an agency will stay out of the other
2 sides products.

3 Q Okay. So Ravi Cheema didn't name any specific
4 commissioners. And in explaining who you decided
5 to sue, I think you mentioned that there was --
6 there had to be a majority of commissioners to
7 impose the moratorium; is that right?

8 A I believe that it had to be a majority vote to
9 pass.

10 Q Okay. So at the time you filed this suit, there
11 were nine positions on the Commission. Is that
12 your understanding?

13 A Eight commissioners.

14 Q Okay. Sorry, eight commissioners. And you needed
15 five for a majority?

16 A Correct.

17 Q So you needed to name five people in your lawsuit;
18 correct?

19 A Well, we thought based on what Ravi was telling us
20 that -- you know, we -- the commissioners would be
21 the ones conflicted, the ones that were related
22 marketing companies.

23 Q Okay. So --

24 A Obviously we new directly that John and Mike Reed
25 were conflicted.

26 Q All right. And so you named all of the storage
27 crop members who are connected to any agencies?

28 A Correct.

29 Q And you deduced or assumed that they were all part
30 of the scheme?

31 A Correct.

32 Q And then last, if we go back to demand for
33 particulars at Tab 8. And then at paragraph 6,
34 this is a request for full particulars of when the
35 Commission members declined MPL BC's agency
36 application. Do you see that?

37 A Yes.

38 Q And then going to Tab 9 at paragraph 5, you say:

39
40 The acts described have cumulatively had
41 the effect of denying MPL's 2021 agency
42 application.

43
44 Correct?

45 A Correct.

46 Q So it's your position today that MPL's agency
47 application was declined or denied?

21

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

- 1 Cheema. The only commission members that you
2 were specifically advised about were essentially
3 John Newel. You were advised that they are your
4 competitors, these people who were making in
5 these -- engaging in these campaign are
6 competitors; right? You were told that by those
7 two gentlemen?
- 8 A By Cheema, is that what you're talking about?
- 9 Q Yes.
- 10 A Yes.
- 11 Q And Bakhtiyari as well?
- 12 A Well, he told me specifically that the Windset
13 boys, right.
- 14 Q All right. And then he says they had engaged in
15 a campaign. What -- did he explain to you what
16 this campaign was? Given you particulars of what
17 this campaign was?
- 18 A Yes. He said that they were talking about how do
19 we strategically try to keep Mastronardi out from
20 coming in the west and getting a licence.
- 21 Q But again, you can't -- at this point in time or
22 any point in time, Mr. Cheema never gave you the
23 specific names of any specific individuals; is
24 that fair?
- 25 A Yes.
- 26 Q In paragraph (c), it says:
- 27
- 28 MPL BC has been advised that certain
29 commission members had expressed the view
30 that its agency application should not
31 been granted before its application was
32 received by the Commission and a
33 comparable meeting of commission members
34 and with industry stakeholders.
- 35
- 36 So let me start again with who advised MPL BC
37 about what's in paragraph (c)?
- 38 A Ravi.
- 39 Q Again, he did -- he said certain commission
40 members, but he didn't give you any names; is
41 that correct?
- 42 A Yeah. I think he's scared to tell us and maybe
43 he has -- I'm not sure if there's confidentiality
44 aspects to it too.
- 45 Q All right. But in any event, for whatever his
46 reasons are, he didn't tell you any and you
47 didn't inquire?

24

Paul Mastronardi (for MPL)

Exam for BCFIRB by Cnsl N. Mitha

1 crop commissioners and the greenhouse
2 commissioners agreed with each other that they
3 would vote one way -- if storage crop people
4 [indiscernible] the other way, if the greenhouse
5 crop people asked?

6 A Correct.

7 Q So again, who advised you of this agreement?

8 A So it's Ravi telling me that it's I scratch your
9 back, you scratch my back situation amongst the
10 commissioners. And as well, you know, Ravi said
11 that there was a review that was done by someone
12 named Dawn, and it was noted in the review that
13 there was an old boys' club and there was some
14 racial discrimination and it was, like, you know,
15 basically keep us out as well too. The whole
16 boys' club thing.

17 Q Okay. I understand the boys' club, but I'm not
18 quite sure I get the racial discrimination.

19 A I think that was an internal issue that the --
20 that would be more I think along the members
21 themselves and the producers. The racial thing
22 wasn't directed to us. It was more of an
23 internal problem, I believe.

24 Q And did Mr. Cheema tell you specifically who was
25 involved in this -- in this -- in this you
26 scratch mine/I scratch your agreement?

27 A He said it was basically the commissioners.

28 Q Did he identify which ones?

29 A No. Not directly.

30 Q Then paragraph (e), it says:

31
32 MPL BC has been advised that the
33 Commission's intent was to delay
34 consideration of its agency application
35 beyond October 31, 2020 grower transfer
36 deadline so that MPL could not
37 participate in the 2021 growing season.

38
39 Again, were you advised that by Mr. Cheema?

40 A Yes.

41 Q And he told you that the Commission's intent was
42 to delay and -- did he tell you anything further
43 than that or how he knew or what he knew -- how
44 he knew that?

45 A No. He just told me, like I said, that there was
46 side meetings that were happening and they were
47 trying to keep us out, and it would delay, delay,

8
Paul Mastronardi (for MPL)
Exam for BCFIRB by Cnsl N. Mitha

1 Mr. Donkers.
2 THE CHAIRPERSON: Overruled. Overruled.
3 CNSL R. BASHAM: I would like to protect the record.
4 If there is a report that was provided by
5 Glyckherr, then I'd like Mr. Mitha to identify
6 where that is. I have not seen it. It may be my
7 mistake, but I have not seen the report. So if
8 there is one, then -- if there is one in writing,
9 then I ask Mr. Mitha to identify the report and to
10 be fair to the witness, put it to him as to whether
11 that is a report that he did read or did not read.
12 CNSL N. MITHA: Thank you. We have your -- we have
13 your submission.
14 Q Mr. Mastronardi, the concern you had about
15 Mr. Solymosi was that he delayed. That's the
16 extent of concern that you have about his conduct;
17 is that correct?
18 A Well, he delayed, yeah. And I talked to him a few
19 times on the phone. And like I said, he didn't act
20 like he cared in any way when I talked to him on
21 the phone. And also he referred to us as the
22 enemy. So he's supposed to be non-bias. Why is he
23 referring to us as the enemy?
24 Q All right. Did you ever put to him that he had
25 referred to you as the enemy? Did you ever put
26 that to him when you were speaking with him?
27 A No.
28 Q Were you aware that in January Mr. Solymosi was ill
29 with COVID and took I believe almost the entire
30 month of January off, were you aware of that?
31 A No.
32 CNSL R. BASHAM: What year, please, Mr. Mitha?
33 CNSL N. MITHA: 2021.
34 Q Sir, the last question I have for you is do you
35 have any specific evidence that the moratorium,
36 which was put in place was targeted at MPL?
37 A I think it's targeted at any new agency licence
38 that wants to come in. They want to keep it an old
39 boys' club and they want to have a monopoly there.
40 Q And that's based on your speculation? You don't
41 have any evidence to that effect; is that fair?
42 A The moratorium not being lifted until FIRB demanded
43 it be lifted.
44 Q Again, that's -- what I'm saying is that that's
45 based on what you want to draw as an inference?
46 You don't have any specific evidence that it was
47 targeted at MPL or any other agency?

9

Paul Mastronardi (for MPL)
Exam for BCFIRB by Cnsl N. Mitha

1 A My evidence is Ravi Cheema telling me about the
2 report that Dawn did. And like I said, I scratch
3 your back, you scratch my back. Decisions are made
4 at coffee shops in Delta by the commissioners.
5 There's corruption at the top and I guess that Dawn
6 girl was let go after people didn't like what the
7 report was starting to say.

8 Q All right. Just to be clear, whatever the report
9 said, you've never read it?

10 A No.

11 Q And no one at MPL has read it?

12 A Not that I'm aware.

13 Q Sorry?

14 A Not that I'm aware.

15 CNSL N. MITHA: Those are my questions. Thank you.

16 THE CHAIRPERSON: Thank you, Mr. Mitha. This actually
17 gives us a good opportunity to go back to this
18 morning's conversation amongst counsel regarding
19 documents and exhibits. So given that we have this
20 new document and we've referred to pages 269 on,
21 Mr. Mitha, let's deal with the issue of exhibits.

22 CNSL N. MITHA: Yes. Thank you. Mr. Chair, I think
23 it was -- we had a couple discussions between
24 counsel this morning. I think, I hope, that we
25 have some agreement. And my suggestion, Mr. Chair,
26 is this. As you know, we produced a common book of
27 documents, which had two volumes, and we've
28 produced -- that is hearing counsel's office
29 produced a common book that had two volumes and
30 we've produced a book of pleadings.

31 If addition to that there were documents
32 produced by Mr. Dalke's office, what I'll call the
33 Bajwa Farms documents, and there was a supplemental
34 book produced just on the Saturday or Sunday before
35 the hearing by Mr. Hrabinsky which consisted of the
36 documents arising from the privileged application.

37 So my suggestion was going to be this,
38 Mr. Chair, that we mark the two common books that
39 were produced -- the two volumes as documents -- or
40 exhibits for identification. So, for example, we
41 would mark, you know, common book number 1 as
42 volume 1 for identification. Common book number 2
43 as volume 2 for identification. Mark the pleadings
44 book as 3 for identification. Mark the Bajwa
45 documents as 4 for identification. Mark the
46 supplemental book produced by the Commission
47 regarding the privileged documents -- what am I at

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Paul Mastronardi (for MPL)

Cross-exam for the VMC by Cnsl W. Stransky

1 A Yeah. It was on purpose being denied and they
2 weren't reviewing it by means of the moratorium.

3 Q Okay. So --

4 A [Indiscernible] moratorium.

5 Q So the -- in terms of a specific decision that was
6 made, you're not liking that there was any vote
7 cast to not lift the moratorium, are you?

8 A There was -- say that again, sorry.

9 Q Are you alleging that there was a vote cast not to
10 lift the moratorium?

11 A Well, they didn't lift it.

12 Q You don't know --

13 A BC FIRB -- BC FIRB enforced the moratorium to end.

14 Q Okay. But there's no particular decision there
15 was come to? You're just saying that they should
16 have lifted the moratorium and they didn't?

17 A Sure. It was in their best interest to keep the
18 moratorium in place because no more agencies would
19 be granted.

20 Q Okay. So because they didn't lift the moratorium,
21 they denied your application?

22 A Correct.

23 Q In terms of this argument that the Commission's
24 denied the application, has MPL argued that in a
25 previous proceeding?

26 A Sorry, you're talking legal talk to me. I'm not
27 sure what you mean.

28 CNSL R. BASHAM: This is Rose-Mary Basham.

29 Mr. Stransky, I don't -- can you clarify that
30 question?

31 CNSL. W. STRANSKY: Sure.

32 Q So today -- today you're not saying that there was
33 any particular decision made to deny the
34 application?

35 A It was a decision not to lift the moratorium.

36 Q Well, if we can go to the common book at 4518.
37 That was 4518.

38 CNSL N. MITHA: Yep.

39 CNSL R. BASHAM: Is that in Exhibit 1?

40 CNSL. W. STRANSKY: It's in Exhibit 1 of the common
41 book, yes.

42 Q So this is a letter dated October 30, 2020, to
43 Dentons. And in this document, just going to the
44 bottom, it states:

45

46 The Commission intends to proceed to
47 process your client's application --

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Paul Mastronardi (for MPL)

Cross-exam for the VMC by Cnsl W. Stransky

1 allegations of improper conduct and/or
2 conduct constituting misfeasance.

3

4 And it says that you provided two specific
5 examples of improper conduct. So the first one --
6 and I'll bring you to each of these separately.
7 But the first one is this conversation you say you
8 had with Steve Newell.

9 A Yes.

10 Q And the second is the conversation you had with
11 Jeff Madu?

12 A Yes.

13 Q So just jumping to the question about Jeff Madu,
14 which I believe is just a little bit up. So -- if
15 you -- thank you, Mr. Mitha.

16 So it says another example of improper conduct
17 was that Jeff Madu told you on August 2021 to drop
18 your case as John and Steve would make sure MPL
19 did not get a licence?

20 A Yes.

21 Q And August 2021, after you filed the lawsuit; is
22 that right?

23 A Correct.

24 Q So you didn't rely on that to file your claim?

25 A Correct.

26 Q And then just going up a little bit, the question
27 about Steve Newell. So this -- this says at the
28 very bottom:

29

30 Steve informed Paul that he would make sure MPL
31 would not get a licence if they applied in BC.

32

33 That's right?

34 A That's not verbatim what I said. That's just
35 Naz's notes. Like I said, that -- say him and
36 John will make sure that we wouldn't get a
37 licence.

38 Q So you're saying that -- you're saying now it was
39 Steve said that he and John would stop you from
40 getting a licence?

41 A Yeah. What I said then too.

42 Q Do you remember saying that -- when Mr. Mitha was
43 questioning you, you didn't raise John in your
44 recount of this discussion, did you?

45 A In the recount? Sorry.

46 Q When Mr. Mitha -- when Mr. Mitha took you to this
47 part of the evidence and asked you if this is what

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 this by carefully analyzing the situation that
2 presents itself, a business opportunity; correct?
- 3 A I don't know what that means. I've grown the
4 company through relationships and partnerships
5 with growers and customers.
- 6 Q Right. And to do that, facts are important?
- 7 A Okay. Trust is important and there's other
8 qualities that are important in business too.
- 9 Q Trust. But facts are really important?
- 10 A Facts are important.
- 11 Q Thank you. Let's go to your -- start off with
12 your notice of civil claim filed April 23, 2021.
13 I'll ask Ms. Hall to put that on our screen if we
14 could. Sorry, mouse problems persist. There we
15 are. I'll just lean over and use the touch pad.
16 All right. You should have your notice of
17 civil claim up before you on the screen?
- 18 A Yes.
- 19 Q And I wonder whether you can just -- just go down
20 to paragraph 23. You've been asked a lot about
21 this so I'm sure you're now very familiar with
22 paragraph 23. You're down at paragraph 23, would
23 you not agree with me?
- 24 A Yes.
- 25 Q Before we get too deep into paragraph 23, you
26 understand that Mr. Solymosi is an employee of the
27 Commission; correct?
- 28 A Yes. He's a general manager.
- 29 Q Yes. He's not a commissioner; correct?
- 30 A Correct.
- 31 Q In other words, he does not make decisions other
32 than those that are delegated to him by the
33 Commission; you agree with that proposition?
- 34 A Yes.
- 35 Q And whether or not there's a moratorium in place
36 is not a decision that he makes; correct?
- 37 A I believe so, yes.
- 38 Q Whether or not MPL gets an agency licence is not a
39 decision that he makes; correct?
- 40 A He's not a voting entity, yes.
- 41 Q So Mr. Stransky confirmed with you that in
42 paragraph 23 you were referring to unlawful acts
43 by the defendants. You see that, don't you, right
44 in the opening stanza of paragraph 23; you see
45 that, sir?
- 46 A Yes.
- 47 Q So dealing with paragraph 23(a) -- and I'm only

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 A Correct. But not giving us timely information
2 puts us at a disadvantage as well too. And
3 obviously he didn't keep us informed of changes
4 that were happening.
- 5 Q We're going to come to timeliness in due course.
6 But the allegation here is that he interfered with
7 and prevented the granting of additional
8 production allocation; correct?
- 9 A Correct.
- 10 Q Additional production allocation is granted by the
11 Commission; correct?
- 12 A Correct.
- 13 Q He's not a member of -- a voting member -- well,
14 he's not a member of the Commission in the sense
15 that he's not a commissioner; correct?
- 16 A Sorry, can you say that last part.
- 17 Q Let's do it again. He's not a voting member of
18 the Commission?
- 19 A Correct.
- 20 Q The Commission votes on production allocation;
21 correct?
- 22 A Correct.
- 23 Q So help me, if you would, how did Mr. Solymosi
24 prevent the granting of additional production
25 allocation if he isn't a voting member of the
26 Commission?
- 27 A Because he was telling Ravi that he wasn't allowed
28 to transfer the acreage. So he was telling him
29 something I guess that's technical. Not
30 necessarily something that needed a vote.
- 31 Q Oh, I see. Tell me, when did he tell that to
32 Mr. Ravi Cheema?
- 33 A This was around the first quarter.
- 34 Q When, sir?
- 35 A 2021 I think it was.
- 36 Q When sir? January, February, March? When?
- 37 A I don't know the exact specific dates.
- 38 Q Where did he tell him this?
- 39 A This is what Ravi told me. So it would be best to
40 ask to Ravi directly on the exact time and date.
- 41 Q Well, you have made the allegation in 23(b), so
42 I'm asking you. Where were they when Mr. Solymosi
43 allegedly told him?
- 44 A I don't know if it was on the phone or in person.
45 I'm not aware.
- 46 Q Did Mr. Cheema dictate notes?
- 47 A I am not aware.

9

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 regarding Fresh4U -- controversy that January,
2 February, March, April 2021, you will agree with me
3 that my client made no decisions regarding where
4 Mr. Cheema could or couldn't sell his product?
5 Those decisions were solely made or available to be
6 made by the Commission?
- 7 A I think I answered this yesterday that -- what Ravi
8 told me at that point was that he had talks with
9 Andre and Mike Reed and they were originally
10 telling him that they -- he couldn't transfer
11 allocations over to us.
- 12 Q Sir, just to be clear, my client made no decisions.
13 He had no power to make decisions, would agree with
14 me?
- 15 A He doesn't have the power to make the decisions on
16 a vote, yes.
- 17 Q And in fact he made no decisions, would you agree
18 with me?
- 19 A On voting, yes.
- 20 Q Does such a transfer occur by way of a vote by the
21 Commission?
- 22 A The transfer does. I'm not sure if the general
23 manager can convince someone saying that they are
24 ineligible to transfer because they might have
25 other commitments via Mike Reed. So I'm not sure
26 if that's a technical aspect and a technical
27 aspect, you know -- so they don't believe they can
28 make a transfer, they can't make a transfer.
- 29 Q Sir, you are a very sophisticated businessman.
30 This is not a matter of technicality. You know
31 that the transfer requires a vote; correct?
- 32 A Yes.
- 33 Q The general manager is not involved in a vote, is
34 he?
- 35 A No.
- 36 Q Consequently you have to agree with me that he is
37 not responsible for whether or not the transfer
38 occurred?
- 39 A Okay.
- 40 Q Thank you. Now, you were interviewed by Mr. Mitha
41 on November 23, 2021; that is correct?
- 42 A Yes.
- 43 Q You have read your interview notes, that is the
44 notes made by Mr. Mitha on November 23, 2021?
- 45 A Yes.
- 46 Q You carefully considered whether they are accurate
47 or not?

18

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 Q Yes. He wrote to you that the panel had asked to
2 defer the consideration until the Commission had
3 finalized its additional criteria in consideration
4 for the agency applications; correct?
- 5 A Correct.
- 6 Q And he said this is expected to be completed within
7 four weeks?
- 8 A Yes.
- 9 Q So just to be clear, you're not alleging any delay
10 by my client between September 18 and November 13,
11 correct?
- 12 A Correct.
- 13 Q And you understood from the November 13 email that
14 the application was before a panel; correct?
- 15 A Correct.
- 16 Q And his expectation was that -- the considerations
17 for the agency application would be completed
18 within four weeks, yes?
- 19 A That's what he said, yes.
- 20 Q And you agree with me that he had -- he was not a
21 commission member; correct?
- 22 A Correct.
- 23 Q He is not a voting member; correct?
- 24 A Correct.
- 25 Q So the matter was in the hands of the panel;
26 correct?
- 27 A About issuing a new application process, correct.
- 28 Q And he had no control over the timing of that;
29 correct?
- 30 A I am not sure he was one of the participants that
31 helped design the new regulations or not. I know
32 he doesn't vote.
- 33 Q Sir, the facts that you have that he is not a
34 voting member; correct?
- 35 A Correct.
- 36 Q The matter of the additional considerations and
37 criteria was before the panel; correct?
- 38 A Correct.
- 39 Q It was up to them as to what was going to happen
40 next; correct?
- 41 A Correct.
- 42 Q And the timing of what was going to happen next was
43 also up to the panel; correct?
- 44 A Correct.
- 45 Q Put simply, timing was not something that my client
46 controlled; correct?
- 47 A He knew that we were urgently wanting to get our

9

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 regarding Fresh4U -- controversy that January,
2 February, March, April 2021, you will agree with me
3 that my client made no decisions regarding where
4 Mr. Cheema could or couldn't sell his product?
5 Those decisions were solely made or available to be
6 made by the Commission?
- 7 A I think I answered this yesterday that -- what Ravi
8 told me at that point was that he had talks with
9 Andre and Mike Reed and they were originally
10 telling him that they -- he couldn't transfer
11 allocations over to us.
- 12 Q Sir, just to be clear, my client made no decisions.
13 He had no power to make decisions, would agree with
14 me?
- 15 A He doesn't have the power to make the decisions on
16 a vote, yes.
- 17 Q And in fact he made no decisions, would you agree
18 with me?
- 19 A On voting, yes.
- 20 Q Does such a transfer occur by way of a vote by the
21 Commission?
- 22 A The transfer does. I'm not sure if the general
23 manager can convince someone saying that they are
24 ineligible to transfer because they might have
25 other commitments via Mike Reed. So I'm not sure
26 if that's a technical aspect and a technical
27 aspect, you know -- so they don't believe they can
28 make a transfer, they can't make a transfer.
- 29 Q Sir, you are a very sophisticated businessman.
30 This is not a matter of technicality. You know
31 that the transfer requires a vote; correct?
- 32 A Yes.
- 33 Q The general manager is not involved in a vote, is
34 he?
- 35 A No.
- 36 Q Consequently you have to agree with me that he is
37 not responsible for whether or not the transfer
38 occurred?
- 39 A Okay.
- 40 Q Thank you. Now, you were interviewed by Mr. Mitha
41 on November 23, 2021; that is correct?
- 42 A Yes.
- 43 Q You have read your interview notes, that is the
44 notes made by Mr. Mitha on November 23, 2021?
- 45 A Yes.
- 46 Q You carefully considered whether they are accurate
47 or not?

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 minutes. I don't know.

2 Q We're talking about --

3 A We're talking about many --

4 Q We're talking about one conversation in either
5 January, February or March 2021; correct?

6 A Yeah. In the first quarter of 2021, yes.

7 Q How long was the conversation?

8 A I'm sorry, I didn't time the conversation.

9 Q Can you give us an approximate time of it, sir?

10 A I don't think I have ever talked to Ravi less than
11 five minutes.

12 Q You're guessing, aren't you?

13 A Like I said, I didn't time the conversation. I
14 don't time all my conversations I have in life.
15 He told me, like you said -- what he said to me
16 was his facts, what was going on. So I listened
17 to what he said and I remembered what he said.

18 Q All right. So intimidating Mr. Cheema. Did he
19 use the words "I feel intimidated by
20 Mr. Solymosi"?

21 A That was the gist of the call, that they were
22 basically muscling him, making him think that he
23 couldn't transfer quota to us.

24 Q Did he use the words "I feel muscled by
25 Mr. Solymosi"?

26 A I don't remember the exact words, but I remember
27 the gist of the conversation. You can ask him.
28 So again, it would be easier to get Ravi to tell
29 you exactly what happened with Andre and Mike.

30 Q Well, no. You make -- you do not remember the
31 exact words. But what you have put on by using
32 the words "intimidate" and "muscle" is your
33 descriptors, your characterization. In other
34 words, what you want us to believe the
35 conversation was. Would you agree with that?

36 A No. That's what I believe in talking with Ravi
37 when he was telling me at the time.

38 Q So let's go to paragraph 25(b) of the notice of
39 civil claim. It reads:

40

41 The defendants have a direct financial
42 interest in the competitors of
43 Mastronardi MPL BC and/or stand to
44 benefit financially through the
45 arrangements outlined above.

46

47 First, you'll agree with me that my client has no

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 direct financial interest in any competitor of
2 Mastronardi or MPL BC?
3 A I'm not aware that he has.
4 Q And you'll also agree with me that he does not
5 stand to benefit financially through the unlawful
6 acts?
7 A Like I said before, he's employed by the
8 Commission.
9 Q So his financial benefit is employment as a
10 general manager; correct?
11 A Correct.
12 Q Thank you. Would you at least agree with me that
13 paragraph (c) has no application to my client,
14 25(c)?
15 A Yeah, I believe that's why it says "certain of the
16 defendants."
17 Q So just so that we're clear, you're not alleging
18 anything against my client in paragraph 25(c);
19 correct?
20 A Not if the benefit financially is referring
21 directly -- sorry, up to the upper part where it's
22 talking about owning agencies, correct.
23 Q I'm sorry, I didn't understand your answer.
24 A They stand to benefit financially from the vote
25 trading. But again, I think that's talking in
26 reference above -- talking about owning actually a
27 marketing agency. So correct.
28 Q So to be clear -- I'm sorry I interrupted you. I
29 beg your pardon. To be clear, there are --
30 paragraph 25(c) contains no allegations against my
31 client; do you agree with that?
32 A Yes, I believe so. Yes.
33 Q So let's talk about paragraph 25(d):
34
35 The defendants acted separately or in
36 concert to keep MPL BC out of the market
37 for their direct benefit or the benefit
38 of their business entities.
39
40 Now, as I understand it, the acting in concert is
41 the allegation that somehow my client was acting
42 with Mr. Reed with respect to Mr. Cheema's
43 application to move product allocation; correct?
44 A Correct.
45 Q Can you tell me are you at all suggesting my
46 client acted independently of any commissioner to
47 harm MPL BC?

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 A He did not use Andre's name directly, no.

2 Q He didn't use Andre's name at all?

3 A Correct.

4 Q Thank you. So would you agree with me that
5 paragraph 25(d) "for their direct benefit," that
6 is for Andre's direct -- Andre Solymosi's direct
7 benefit -- let's put it another way. That
8 paragraph 25(d), the direct benefit does not apply
9 to Mr. Solymosi?

10 A I said it did. To his job.

11 Q I see. And you're not aware of any benefit to any
12 of his business entities?

13 A No.

14 Q In fact you're not even aware whether he has any
15 business entities?

16 A No.

17 Q Thank you. Now, paragraph 25(e):

18
19 The defendants have deliberately failed
20 or refused to apply the regulatory
21 framework and process MPL BC's
22 application for their own financial
23 benefit in breach of their obligations as
24 public officers under the regulatory
25 scheme.

26
27 Have I read that correctly?

28 A Yes.

29 CNSL R. HIRA: So let's deal with this one step at a
30 time -- Mr. Chairman, I wonder whether -- I note
31 the time. I wonder whether it's okay to go a
32 little past 2:30 so that I can finish with (e)
33 before I get to (f).

34 THE CHAIRPERSON: Yes, let's do that, Mr. Hira.

35 CNSL R. HIRA: Thank you.

36 PAUL MASTRONARDI: Mr. Chair, I just have a question
37 how long we're going to go today because I do have
38 to take my daughter to a function. Any
39 anticipation how long we'll be going?

40 THE CHAIRPERSON: Well, we're scheduled to go until
41 four o'clock BC time, Pacific time. So that's the
42 schedule for the day.

43 PAUL MASTRONARDI: Okay.

44 CNSL R. HIRA:

45 Q So you've agreed with me that I've read it
46 correctly, that is 25 --

47 CNSL R. BASHAM: Excuse me for a minute, please.

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 for a 2021 agency designation despite conflicts of
2 interest if he's not a commissioner; correct?
- 3 A That is how the system works, correct.
- 4 Q And you're not alleging that he has a conflict of
5 interest, are you, sir?
- 6 A Conflict of interest, like I said, that he has,
7 that he's employed by the Commission and the
8 commissioner made up of growers and agencies.
- 9 Q So his conflict of interest is having a job as a
10 general manager?
- 11 A His conflict of interest is that he's employed by
12 some of the commissioners and, like I said, that
13 have an "I'll scratch your back, you scratch my
14 back" arrangement.
- 15 Q No, but he's employed by the Commission; correct?
- 16 A Correct.
- 17 Q He's not employed by some of the commissioners;
18 correct?
- 19 A Partly, yes. Commissioners are part of the
20 Commission, are they not?
- 21 Q Are you saying he's employed by some of the
22 commissioners; is that your evidence?
- 23 A No. I said that's the Commission is made up of
24 some of the commissioners.
- 25 Q Right. I'll deal with that in argument. So let's
26 go back to "despite conflicts of interest." Is it
27 your position that his conflict of interest is
28 having employment as the general manager of the
29 Commission?
- 30 A Yes.
- 31 Q Thank you. So you were actually asked about the
32 alleged conflict of interest of my client with
33 respect to paragraph 23(c)(i). Let's take you to
34 the demand for particulars. See item 7?
- 35 A Yes.
- 36 Q With respect to paragraph 23(c)(i) of part 1 of
37 the notice of civil claim, one of the alleged
38 conflict interest -- sorry. I always struggle
39 with English. Basically he asked you what the
40 alleged conflicts of interests are; correct?
- 41 A Yes.
- 42 Q Let's go to your response, which is in paragraph 6
43 of your response to our demand for particulars.
44 You can read that to yourself and let me know when
45 you've finished.
- 46 A Okay.
- 47 Q First, would you agree we me that nowhere is my

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 you earlier, but a few things have happened since.
2 I'll read it again:

3
4 The defendants have deliberately failed
5 or refused to apply the regulatory
6 framework and process MPL's application
7 for their own financial benefit in breach
8 of their obligations as public officers
9 under the regulatory scheme.

10
11 First, have I read it correctly?

12 A I think you missed "and process of MPL's BC
13 application."

14 Q I knew I messed it up. All right. But you
15 understand 25(e)?

16 A Yes.

17 Q First, would you agree with me that
18 Mr. Solymosi -- it was not your intent to have
19 Mr. Solymosi included in 25(e)?

20 A No. Because again -- like I said, he is part of
21 the process of application.

22 Q Right. Let's go through this. What deliberate
23 actions have been undertaken by Mr. Solymosi --

24 A So again --

25 Q -- in relation to paragraph 25(e) in relation to
26 processing MPL's application?

27 A Again, the aspect of delaying and not giving us
28 all the information about the change in filing and
29 then delaying not responding to me.

30 Q Okay. And the financial benefit is again just --
31 just continuing to have his job as a general
32 manager?

33 A Correct.

34 Q Nothing else?

35 A Correct.

36 Q And the not getting the information, not telling
37 you about the change in process and the delaying
38 you say is a breach of his obligations as a public
39 officer?

40 A Correct.

41 Q So unsurprisingly, we asked you about 25(e).
42 Let's go to paragraph 12 of our demand for
43 particulars. We asked:

44
45 With respect to paragraph 25(e) of part 1
46 of the NOCC how Mr. Solymosi allegedly
47 failed or refused to apply the regulatory

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 CNSL R. BASHAM: I object to that question.

2 Mr. Hira, whether it's leading or misleading is a
3 conclusion for the panel.

4 CNSL R. HIRA: It's not worth the time arguing.

5 PAUL MASTRONARDI: Thank you.

6 CNSL R. HIRA:

7 Q So we go to paragraph (f) -- 23(f). Sorry, I beg
8 your pardon, 25(f):
9

10 The defendants have engaged in these acts
11 for the deliberate purpose of harming MPL
12 BC and/or their own financial benefit or
13 the final benefit of their associated
14 entities.
15

16 Have I read that at least this time correctly?

17 A Yes.

18 Q Thank you. Again, the only financial benefit that
19 you're alleging against Mr. Solymosi is continuing
20 his employment as general manager?

21 A Correct.

22 Q All right. And paragraph 27, you say that:
23

24 In failing to regulate in accordance with
25 the objects and purposes of the NPMA
26 vegetable scheme and general orders and
27 in such a manner as to deliberately harm
28 MPL and -- MPL BC as set out herein, the
29 defendants have abused their power by
30 using their position to injure MPL BC and
31 have acted in bad faith, unreasonably and
32 then unlawfully discriminated against MPL
33 BC.
34

35 Have I read that correctly?

36 A Yes.

37 Q So is there anything other than the three aspects
38 that you've told us about, failing to assist with
39 the application, failing to tell you about the
40 general orders and the alleged delay that you
41 point to on behalf of Mr. Solymosi as an abuse of
42 his power?

43 A Well, again, like I said, the Ravi part about the
44 allocation of quota.

45 Q Okay. Four things. Is there anything else?

46 A No.

47 Q Is there anything else with respect to acting in

8
Paul Mastronardi (for MPL)
Exam for BCFIRB by Cnsl N. Mitha

1 Mr. Donkers.
2 THE CHAIRPERSON: Overruled. Overruled.
3 CNSL R. BASHAM: I would like to protect the record.
4 If there is a report that was provided by
5 Glyckherr, then I'd like Mr. Mitha to identify
6 where that is. I have not seen it. It may be my
7 mistake, but I have not seen the report. So if
8 there is one, then -- if there is one in writing,
9 then I ask Mr. Mitha to identify the report and to
10 be fair to the witness, put it to him as to whether
11 that is a report that he did read or did not read.
12 CNSL N. MITHA: Thank you. We have your -- we have
13 your submission.
14 Q Mr. Mastronardi, the concern you had about
15 Mr. Solymosi was that he delayed. That's the
16 extent of concern that you have about his conduct;
17 is that correct?
18 A Well, he delayed, yeah. And I talked to him a few
19 times on the phone. And like I said, he didn't act
20 like he cared in any way when I talked to him on
21 the phone. And also he referred to us as the
22 enemy. So he's supposed to be non-bias. Why is he
23 referring to us as the enemy?
24 Q All right. Did you ever put to him that he had
25 referred to you as the enemy? Did you ever put
26 that to him when you were speaking with him?
27 A No.
28 Q Were you aware that in January Mr. Solymosi was ill
29 with COVID and took I believe almost the entire
30 month of January off, were you aware of that?
31 A No.
32 CNSL R. BASHAM: What year, please, Mr. Mitha?
33 CNSL N. MITHA: 2021.
34 Q Sir, the last question I have for you is do you
35 have any specific evidence that the moratorium,
36 which was put in place was targeted at MPL?
37 A I think it's targeted at any new agency licence
38 that wants to come in. They want to keep it an old
39 boys' club and they want to have a monopoly there.
40 Q And that's based on your speculation? You don't
41 have any evidence to that effect; is that fair?
42 A The moratorium not being lifted until FIRB demanded
43 it be lifted.
44 Q Again, that's -- what I'm saying is that that's
45 based on what you want to draw as an inference?
46 You don't have any specific evidence that it was
47 targeted at MPL or any other agency?

15

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 Q Right. You were told that in October; correct?
- 2 A I think it was November.
- 3 Q Fair enough. You were told that in November --
- 4 October, November 2020; correct?
- 5 A Yeah, I think it was after FIRB forced a moratorium
- 6 to be lifted, yeah. So that would have been in
- 7 November.
- 8 Q Do you agree that your application was put on hold
- 9 while the amendments were being dealt with?
- 10 A Yes.
- 11 Q And you will agree with the following that the
- 12 amendments to your knowledge were completed in
- 13 March of 2021?
- 14 A Yes.
- 15 Q Now Trevor Jones.
- 16 A Yes.
- 17 Q He is your employee; correct?
- 18 A Correct.
- 19 Q What's his role? What's his title? What does he
- 20 do?
- 21 A He is director of board development.
- 22 Q For your -- for the whole of MPL?
- 23 A Yes.
- 24 Q Based out of Toronto?
- 25 A Based out of Kingsville.
- 26 Q Sorry. Just I thought Toronto was the whole of
- 27 Ontario. That's my provincial attitude being in
- 28 the boonies. So he's based out of Kingsville;
- 29 correct?
- 30 A Correct.
- 31 Q And he's been your employee for how many years?
- 32 A About five.
- 33 Q Okay. So he apparently had the conversation
- 34 with -- had lunch with Ms. Linda Delli Santi?
- 35 A Correct.
- 36 Q On October 15, 2021?
- 37 A Correct.
- 38 Q So to be clear, the allegations made -- the alleged
- 39 comment made by Miss Delli Santi that my client
- 40 said MPL is the enemy, those don't form part of
- 41 your civil claim; correct?
- 42 A Correct.
- 43 Q Now, please don't answer this question until your
- 44 counsel has had an opportunity to object if she
- 45 wishes to. You agree with me that you -- well,
- 46 before we get to that. First, you agree with me
- 47 that you have never spoken with Ms. Delli Santi?

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 this by carefully analyzing the situation that
2 presents itself, a business opportunity; correct?
- 3 A I don't know what that means. I've grown the
4 company through relationships and partnerships
5 with growers and customers.
- 6 Q Right. And to do that, facts are important?
- 7 A Okay. Trust is important and there's other
8 qualities that are important in business too.
- 9 Q Trust. But facts are really important?
- 10 A Facts are important.
- 11 Q Thank you. Let's go to your -- start off with
12 your notice of civil claim filed April 23, 2021.
13 I'll ask Ms. Hall to put that on our screen if we
14 could. Sorry, mouse problems persist. There we
15 are. I'll just lean over and use the touch pad.
- 16 All right. You should have your notice of
17 civil claim up before you on the screen?
- 18 A Yes.
- 19 Q And I wonder whether you can just -- just go down
20 to paragraph 23. You've been asked a lot about
21 this so I'm sure you're now very familiar with
22 paragraph 23. You're down at paragraph 23, would
23 you not agree with me?
- 24 A Yes.
- 25 Q Before we get too deep into paragraph 23, you
26 understand that Mr. Solymosi is an employee of the
27 Commission; correct?
- 28 A Yes. He's a general manager.
- 29 Q Yes. He's not a commissioner; correct?
- 30 A Correct.
- 31 Q In other words, he does not make decisions other
32 than those that are delegated to him by the
33 Commission; you agree with that proposition?
- 34 A Yes.
- 35 Q And whether or not there's a moratorium in place
36 is not a decision that he makes; correct?
- 37 A I believe so, yes.
- 38 Q Whether or not MPL gets an agency licence is not a
39 decision that he makes; correct?
- 40 A He's not a voting entity, yes.
- 41 Q So Mr. Stransky confirmed with you that in
42 paragraph 23 you were referring to unlawful acts
43 by the defendants. You see that, don't you, right
44 in the opening stanza of paragraph 23; you see
45 that, sir?
- 46 A Yes.
- 47 Q So dealing with paragraph 23(a) -- and I'm only

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 concerned about my client, Mr. Solymosi. Tell me
2 what are the unlawful acts committed by my client.
3 And remember the importance of facts as opposed to
4 beliefs.
- 5 A Yeah. So like I said, Ravi was -- told me that
6 Andre was with Mike Reed, like I said, delaying
7 the transfers and all that. Causing a problem
8 with them. Andre -- every time I talked to Andre,
9 you know, like I said, I was more of a nuisance.
10 He was not trying to be helpful when I talked to
11 him on the phone about our application. And he
12 kept on what I feel ignoring me in the process and
13 don't -- delaying our application.
- 14 Q Right. So you've identified two acts. Remind me,
15 the first one is information that you received
16 from Mr. Cheema; is that correct?
- 17 A Correct.
- 18 Q Okay. And could you tell me how Mr. Solymosi was
19 somehow working to delay your application with
20 Mr. Reed?
- 21 A My -- I didn't have an application with Mr. Reed.
22 Ravi had an application through Reed.
- 23 Q And tell me how was my client delaying that?
- 24 A Because he said that -- he was saying things like
25 the quota couldn't go I believe through Country
26 Fresh and Mastronardi. All that product had to go
27 through Houweling, which was not true. But again,
28 this is what Ravi told me.
- 29 Q So you are relying wholly upon Mr. Cheema?
- 30 A On that part, yes. On the delay and my
31 conversations personally with Andre, like I said,
32 he was what I considered to be -- did not want to
33 be helpful to me in any way. He told me -- he
34 gave me timelines on when he said he was going to
35 deliver certain things. They didn't -- they
36 weren't delivered. I emailed him again asking.
37 My emails were ignored. And so something that was
38 supposed to be four weeks, goes to 12 or 13 weeks.
- 39 Q Don't worry, we'll be coming to that email
40 exchange between November of 2020 and March of
41 2021. But let's just deal with these two things.
42 One, is it your evidence that that delay was
43 wrongful and unlawful?
- 44 A Which delay?
- 45 Q The delay. That is, not -- four weeks stretching
46 out to what you say is 13 weeks; is that your
47 evidence?

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 A It's part of it, yes.

2 Q You say that's somehow unlawful?

3 A Well, he wasn't responding. He's the general
4 manager. He's the one that's supposed to be
5 providing answers to me.

6 Q All right. And you say that asking for
7 information from Ravi Cheema is unlawful?

8 A All I said is he was working with Mike Reed in
9 trying to force Ravi to put all his product
10 through Mike Reed and not allow it to pass through
11 Country Fresh and end up at Mastronardi.

12 Q All right.

13 A And my other point would be too is that, you know,
14 obviously when we're talking about the moratorium
15 and on top of that, you know, he never once told
16 us about any amendment -- amendment 50 -- or
17 sorry, the new amendment that was going to be
18 coming down. And any time we were talking about
19 putting our application in, he's saying, well,
20 there's going to be amendments coming and it's
21 going to be different from what is there now.

22 Q Okay. So now you've got -- come up with three
23 acts of my client; correct?

24 A Correct.

25 Q And you knew all these acts at the time that you
26 filed your notice of civil claim; correct?

27 A Well, I knew of the Cheema information that was
28 given to me. I knew of the delays and the
29 non-responses from him. And I did not know that
30 there was an amending order coming -- sorry, yeah,
31 when we filed, yes.

32 Q Thank you. So and of course none of these acts
33 are listed in paragraph 23(a); correct?

34 A Correct.

35 Q Great. Ms. Hall, could you please help me and
36 take me to our demand for particulars dated
37 July 8, 2021. You have before you a letter dated
38 July 8, 2021, our demand for particulars; correct?

39 A Yes.

40 Q And you will note paragraph 1 -- well, let's start
41 at the beginning.

42

43 We demand particulars regarding the
44 following:

45 Respect to paragraph 23 and 25 and the
46 whole of part 1, the dates of the alleged
47 unlawful acts.

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

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84

Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 A Or mature agency. I don't know if you would say
2 sophisticated. But we're a mature agency.

3 Q You know what's required to get an agency licence,
4 the people in your firm?

5 A No, I wouldn't say that. I think that in filing
6 any type of application or agency, a lot of people
7 are going to ask for help on what they do. Not
8 everything's always black and white.

9 Q And are you telling me that when Mr. -- first of
10 all, are you telling me that members of your firm
11 have reached out to Mr. Solymosi to ask for help?

12 A Yeah. This goes back -- like I said, multiple
13 years back. Whereas when we started to do the
14 process, we called the Commission to find out what
15 exactly the process was and where we could find
16 the documents needed to apply.

17 Q And the documents were provided to you; correct?

18 A They were provided to us and we were told exactly
19 where to find them.

20 Q Thank you. So getting back to the question, you
21 did not rely on Mr. Solymosi. Rather, you relied
22 on your lawyers to make your application on
23 September 10, 2020; correct?

24 A Correct. But in no time did Solymosi, who was
25 well aware we were going to put in an application
26 and was told that multiple times, never told us
27 it's a moot point because we're going to be
28 changing it, so wait.

29 Q Oh, I see. So your complaint is that he failed to
30 tell you something about the moratorium; correct?

31 A Well, it has to do with the moratorium and the
32 change of what's going to happen to the
33 application process.

34 Q Well, your lawyers were aware of the moratorium?

35 A We were aware of the moratorium, yes. Not aware
36 of a change that was going to come to the process.

37 Q So when the application was made on September 10,
38 2020, you were aware of the moratorium; correct?

39 A Correct.

40 Q And no change had been voted on by the Commission
41 at that stage; correct?

42 A I don't know. I'm not sure after all the
43 documents that we've gone through the last two
44 days when that date was exactly. But we weren't
45 told. We were not told.

46 Q And you say one of the -- let me get the wording
47 right -- unlawful acts in paragraph 23(c)(ii) is

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

- 1 that Mr. Solymosi failed to tell you that there
2 was some change coming?
3 A One of them, yes.
4 Q Any other unlawful act covered by paragraph 23(c)?
5 A Nothing different than I've already told you.
6 Q So failing to tell you a change is coming is an
7 unlawful act?
8 A Is one of them, yes.
9 Q Any others, sir?
10 A Yes. He has to do things in an expedited manner
11 as well too and not delay us on purpose.
12 Q We'll be coming to that [indiscernible].
13 A Okay.
14 Q So you were actually asked in the demand for
15 particulars that -- maybe we can put that up on
16 the screen. Item 6, you were asked with respect
17 to paragraph 23(c) how Mr. Solymosi allegedly
18 failed to act in accordance with the regulatory
19 scheme in exercising the authority delegated to
20 him as general manager of the Commission. You see
21 that, sir?
22 A Yes, I do.
23 Q And that's clearly directed at paragraph 23(c);
24 you'll agree with me?
25 A Yes.
26 Q And I put it to you that you were unable to
27 provide a response to that; would you agree with
28 me?
29 A I don't know what you're saying. If we didn't
30 give specifics, is that what you're saying?
31 Q Well, you were unable to come up with how he
32 failed to act in accordance with the regulatory
33 scheme; would you agree with me?
34 A I don't understand your question. I'm not sure if
35 you're saying we did not respond to this letter.
36 Q Fair enough. That's a fair comment. Let's go to
37 paragraph 5 of your response given in July of
38 2020. In response to paragraph 6 of the demand of
39 Mr. Solymosi -- sorry, of the demand:
40
41 Mr. Solymosi is the general manager of
42 the Commission. Mr. Solymosi carried out
43 the acts outlined herein and in the
44 notice of civil claim in his capacity as
45 a public officer of the Commission.
46 These acts constitute the unlawful
47 conduct.

84

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4 the people in your firm?
- 5 A No, I wouldn't say that. I think that in filing
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7 are going to ask for help on what they do. Not
8 everything's always black and white.
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14 process, we called the Commission to find out what
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16 the documents needed to apply.
- 17 Q And the documents were provided to you; correct?
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19 where to find them.
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21 did not rely on Mr. Solymosi. Rather, you relied
22 on your lawyers to make your application on
23 September 10, 2020; correct?
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25 well aware we were going to put in an application
26 and was told that multiple times, never told us
27 it's a moot point because we're going to be
28 changing it, so wait.
- 29 Q Oh, I see. So your complaint is that he failed to
30 tell you something about the moratorium; correct?
- 31 A Well, it has to do with the moratorium and the
32 change of what's going to happen to the
33 application process.
- 34 Q Well, your lawyers were aware of the moratorium?
- 35 A We were aware of the moratorium, yes. Not aware
36 of a change that was going to come to the process.
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38 2020, you were aware of the moratorium; correct?
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41 at that stage; correct?
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43 documents that we've gone through the last two
44 days when that date was exactly. But we weren't
45 told. We were not told.
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47 right -- unlawful acts in paragraph 23(c) (ii) is

36

Paul Mastronardi (for MPL)

Re-exam by Cnsl N. Mitha

1 A Yes.

2 Q And in this letter what I wanted to point out is:

3

4 In particular, Mastronardi submits the
5 following changes which are consistent
6 with policy outcomes outlining the
7 economic policy should be implemented
8 that BCFIRB immediately end the current
9 moratorium on agency approvals.

10

11 Right?

12 A Yes.

13 Q So I guess I want to be clear that certainly
14 Mastronardi was aware at this time and even before
15 this time because it participated in the review, it
16 was aware of the moratorium; right?

17 A Correct.

18 Q So when MPL submitted its application on
19 September 10, it was aware that it was submitting
20 its application even though there was a moratorium?

21 A Correct.

22 Q And MPL didn't seek a decision from the Commission
23 to overturn the moratorium or to set it aside
24 before submitting it's application; right?

25 A I believe that's what we did with FIRB.

26 Q Okay. Well, you wrote a letter to FIRB and --
27 there was no decision. I mean there was no
28 decision made, no application sought to set aside
29 the moratorium; right?

30 A No.

31 Q Okay. Next I just want to go to the appeal
32 submission, which is page 4656 and this is MPL's
33 appeal submission, which was made -- this is to
34 appeal the October 30th decision of the Commission
35 to not change the agency -- the dates when growers
36 would sign up with agencies; you recall that?

37 A Yes.

38 Q Okay. So I just want to -- I'm sorry. I messed up
39 the pages. Just give me a moment. Sorry. So you
40 will see this was -- this was the appeal submitted
41 on November 24, 2020.

42 A Yes.

43 Q Okay. And I just want to take you to paragraph 28,
44 which I have highlighted. In your appeal
45 submission it says in subsequent [indiscernible]
46 with paragraph 27:

47

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

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27 provide a response to that; would you agree with
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30 give specifics, is that what you're saying?
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32 failed to act in accordance with the regulatory
33 scheme; would you agree with me?
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35 you're saying we did not respond to this letter.
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37 paragraph 5 of your response given in July of
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45 a public officer of the Commission.
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47 conduct.

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 Q And we have your response to question 25(a), it's
2 at paragraph 8. I'm sorry, it's at -- yes,
3 paragraph 8.

4 Do you see that?

5 A Yes, I do.

6 Q So your first sentence talks about Mr. Solymosi as
7 engaged in unlawful acts for his own financial
8 benefit. So the unlawful acts, let's be very
9 clear, are delay, not telling you about the
10 application process, not telling you about the
11 change -- anticipated change in the general
12 orders, and asking information from Ravi Cheema
13 requiring Mike Reed's consent --

14 A Right. But --

15 Q Have I got that right?

16 A Ravi Cheema saying yes, and Mike Reed and Andre
17 were trying to intimidate him making him think he
18 couldn't sell his product through Country Fresh
19 and Mastronardi, yes.

20 Q I'll come back to the word "intimidate" in a
21 moment as you just grazed that.

22 And the financial benefit is having a job as a
23 general manager; correct?

24 A Correct.

25 Q There's nothing in your response to our demand for
26 particulars that makes any mention of acting in
27 concert with Mr. Reed. Do you agree with me?

28 A It talks about in concert with other defendants.
29 One of the other defendants is Mike Reed.

30 Q Remind me where have you put down acting in
31 concert with Mike Reed?

32 CNSL R. BASHAM: What was the question again?

33 CNSL R. HIRA:

34 Q Where is it in paragraph 8 that you said acting in
35 concert with Mike Reed?

36 A Well, Mike Reed is one of the defendants.

37 Q Oh, I see. With the other defendants. Which
38 other defendants?

39 A Mike Reed.

40 Q That's it?

41 A The one that we know for sure, yes.

42 Q I see. Getting back to something you said a
43 couple, three answers ago. My client intimidating
44 Mr. Cheema. How long was this telephone
45 conversation with Mr. Cheema?

46 A I don't know. I have conversations with Ravi
47 frequently. Could have been anywhere from 5 to 30

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Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 A Sorry, can you ask that question again?

2 Q Are you at all suggesting that my client acted
3 independently --

4 A Still --

5 Q -- to harm MPL BC?

6 A No, that's not what this says.

7 Q You are not making that suggestion either in (d)
8 or at any time; is that fair to say?

9 A Correct.

10 Q Thank you. So let's continue with (d).

11
12 ... out of the market for their direct
13 benefit.

14
15 Would you agree with me that there is no direct
16 benefit to my client to keep MPL out of BC?

17 A Except at his job as commissioner -- sorry, as
18 manager.

19 Q So if I have it correct, if MPL BC gets an agency
20 licence, he's at risk of losing his job as the
21 general manager?

22 A The benefit to him is that he has a job there and
23 he doesn't maybe fall in line with scratching each
24 side's back there, then he might fear that he
25 might not have a job in the future.

26 Q But there's no allegation of my client being
27 involved in any back scratching. The allegation
28 is that the commissioners are involved in back
29 scratching; correct?

30 A The commissioners are swap -- vote swapping. But,
31 yeah, like I said, Ravi said that there's
32 corruption at the top of the board which being
33 general manager is top of the board.

34 Q Just a moment. At no time did Ravi Cheema say
35 that my client was involved in vote swapping;
36 correct?

37 A Correct.

38 Q At no time did Ravi Cheema say that my client was
39 scratching the back of a commissioner to have his
40 back scratched?

41 A Well, if he helps the commissioners with their
42 goal of keeping agencies out, then his back
43 scratch is keeping his job; is it not?

44 Q Let's go back to my question. I will state it
45 again. At no time did Mr. Ravi Cheema say that my
46 client was scratching the back of a commissioner
47 to have his back scratched?

94

Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 A He did not use Andre's name directly, no.

2 Q He didn't use Andre's name at all?

3 A Correct.

4 Q Thank you. So would you agree with me that
5 paragraph 25(d) "for their direct benefit," that
6 is for Andre's direct -- Andre Solymosi's direct
7 benefit -- let's put it another way. That
8 paragraph 25(d), the direct benefit does not apply
9 to Mr. Solymosi?

10 A I said it did. To his job.

11 Q I see. And you're not aware of any benefit to any
12 of his business entities?

13 A No.

14 Q In fact you're not even aware whether he has any
15 business entities?

16 A No.

17 Q Thank you. Now, paragraph 25(e):

18
19 The defendants have deliberately failed
20 or refused to apply the regulatory
21 framework and process MPL BC's
22 application for their own financial
23 benefit in breach of their obligations as
24 public officers under the regulatory
25 scheme.

26
27 Have I read that correctly?

28 A Yes.

29 CNSL R. HIRA: So let's deal with this one step at a
30 time -- Mr. Chairman, I wonder whether -- I note
31 the time. I wonder whether it's okay to go a
32 little past 2:30 so that I can finish with (e)
33 before I get to (f).

34 THE CHAIRPERSON: Yes, let's do that, Mr. Hira.

35 CNSL R. HIRA: Thank you.

36 PAUL MASTRONARDI: Mr. Chair, I just have a question
37 how long we're going to go today because I do have
38 to take my daughter to a function. Any
39 anticipation how long we'll be going?

40 THE CHAIRPERSON: Well, we're scheduled to go until
41 four o'clock BC time, Pacific time. So that's the
42 schedule for the day.

43 PAUL MASTRONARDI: Okay.

44 CNSL R. HIRA:

45 Q So you've agreed with me that I've read it
46 correctly, that is 25 --

47 CNSL R. BASHAM: Excuse me for a minute, please.

96

Paul Mastronardi (for MPL)

Cross-exam for Mr. Solymosi by Cnsl R. Hira

1 you earlier, but a few things have happened since.
2 I'll read it again:

3
4 The defendants have deliberately failed
5 or refused to apply the regulatory
6 framework and process MPL's application
7 for their own financial benefit in breach
8 of their obligations as public officers
9 under the regulatory scheme.

10
11 First, have I read it correctly?

12 A I think you missed "and process of MPL's BC
13 application."

14 Q I knew I messed it up. All right. But you
15 understand 25(e)?

16 A Yes.

17 Q First, would you agree with me that
18 Mr. Solymosi -- it was not your intent to have
19 Mr. Solymosi included in 25(e)?

20 A No. Because again -- like I said, he is part of
21 the process of application.

22 Q Right. Let's go through this. What deliberate
23 actions have been undertaken by Mr. Solymosi --

24 A So again --

25 Q -- in relation to paragraph 25(e) in relation to
26 processing MPL's application?

27 A Again, the aspect of delaying and not giving us
28 all the information about the change in filing and
29 then delaying not responding to me.

30 Q Okay. And the financial benefit is again just --
31 just continuing to have his job as a general
32 manager?

33 A Correct.

34 Q Nothing else?

35 A Correct.

36 Q And the not getting the information, not telling
37 you about the change in process and the delaying
38 you say is a breach of his obligations as a public
39 officer?

40 A Correct.

41 Q So unsurprisingly, we asked you about 25(e).
42 Let's go to paragraph 12 of our demand for
43 particulars. We asked:

44
45 With respect to paragraph 25(e) of part 1
46 of the NOCC how Mr. Solymosi allegedly
47 failed or refused to apply the regulatory

10

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 A They are not verbatim of what I said, no.
- 2 Q I understand that. But you considered whether the
- 3 comments -- his notes are generally accurate;
- 4 correct?
- 5 A I think generally accurate. I think except for the
- 6 point like I said yesterday about when I sat down
- 7 with Steve and Steve told me at that meeting in
- 8 October of 2018 that it was him and Johnny.
- 9 Q Fair enough. Is there anything else that isn't
- 10 accurate in those notes?
- 11 A In a substantial way, no.
- 12 Q No, no, no. We're not here to give you these
- 13 little outs. Is there anything else -- I'm not
- 14 interested in substantial. Is there anything else
- 15 that's inaccurate, sir?
- 16 A Not that I'm aware.
- 17 Q Thank you. You will agree with me that the only
- 18 allegations made against my client at that
- 19 interview was that he was not honouring his time
- 20 line commitments to you? In other words, delaying
- 21 matters regarding your application; correct?
- 22 A Okay, yes.
- 23 Q And something about an MPL employee having lunch
- 24 with Linda Delli Santi who mentioned that my client
- 25 stated that MPL is the enemy; correct?
- 26 A Correct.
- 27 Q There are no other allegations made against my
- 28 client; correct?
- 29 A Correct.
- 30 Q So to be very, very clear the allegations that he
- 31 didn't tell you about the application process,
- 32 those weren't raised in front of Mr. Mitha, were
- 33 they?
- 34 A No. Like I said because at that point Ravi didn't
- 35 want us disclosing him.
- 36 Q I see. Did you tell Mr. Mitha that we have got
- 37 this information -- we've got additional
- 38 information from a source?
- 39 A I believe he was told at that point that there was
- 40 privileged information.
- 41 Q I see. We'll come back to that. So just dealing
- 42 with that -- let's deal with it head on. The
- 43 privileged information is this source of privilege;
- 44 is that correct?
- 45 A Correct.
- 46 Q That was the only privileged information?
- 47 CNSL R. BASHAM: Just a minute. I didn't catch that.

29

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

1 Q Okay.

2 A I asked if we were first in the queue.

3 Q Okay. So he gave you information that you were

4 first in the queue; correct?

5 A That's what he said, yes.

6 Q Gave you information that it was before --

7 A I asked for it. He did not give that information,

8 sorry. I requested that information.

9 Q And you received a clear and direct answer;

10 correct?

11 A Yes.

12 Q He also give you information that it was before a

13 panel of the Commission; correct?

14 A Yes.

15 Q He also gave you information that he didn't have

16 control over when the decision would be made? It

17 was before the panel?

18 A He didn't say those words and he didn't say I'm not

19 in control of this.

20 Q But that's the information you got from him;

21 correct?

22 A He said it was in front of the panel, correct.

23 Q And you also understood from that that he couldn't

24 control the timing; correct?

25 A Like I said, I didn't know if he was part of the

26 panel or anything like that. I wouldn't have a

27 clue if he was a contributor to the panel in any

28 way.

29 Q Well, sir, you're a sophisticated businessman. You

30 were applying for an agency. You know he is not a

31 voting member of the panel; correct?

32 A Correct.

33 Q You know as a general manager you can't control the

34 panel; correct?

35 A Correct.

36 Q So you received information in the phone call that

37 it was before the panel and that he had no control

38 over the timing; correct?

39 A Well, he had give me: I have no control over the

40 timing. He says basically it is what is it and

41 there is a panel.

42 Q Yes. And you understood that he couldn't control

43 the timing of when the panel would make it's

44 decision; correct?

45 A You talking about at that time?

46 Q The phone call?

47 A I wouldn't know whether or not he had control at

30

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 that time, sorry.
- 2 Q Sir, let's go back, then. You are a sophisticated
3 businessman with an agency licence in Ontario;
4 correct?
- 5 A Correct.
- 6 Q You are applying for an agency licence in British
7 Columbia; correct?
- 8 A Correct.
- 9 Q And as part of your due diligence, do you
10 understand how the Vegetable Marketing Commission
11 works in British Columbia?
- 12 A Yes.
- 13 Q And as you told me earlier you knew the general
14 manager was not a voting member of the Commission;
15 correct?
- 16 A Correct.
- 17 Q And you agreed with me that the general manager
18 couldn't control the timing of the decision of the
19 panel?
- 20 A Again I'm going to go back since you have alluded
21 to it. In Ontario what I know is that if there is
22 some type of panel, there are contributors that
23 will give information to the panel to vote on. I
24 am not sure if Mr. Solymosi is a contributor of
25 information to the panel for them to make a
26 decision on. As general manager, I am sure he is
27 responsible for collecting data and stuff like that
28 as well too.
- 29 Q You understood that he couldn't control the timing
30 of the panel's decision; correct?
- 31 A Not unless he delayed information to them that they
32 were requesting to make decisions on.
- 33 Q And there is no-- you have no facts suggesting
34 that he delayed getting them information, do you?
- 35 A No.
- 36 Q Thank you. So I'm still trying to understand this
37 phone call. What was improper about this phone --
38 that is improper about my client?
- 39 A I told you. His demeanour -- smart aleck
40 demeanour.
- 41 Q Sir, you are relying on the smart -- the alleged --
42 your view that he has a smart aleck demeanour, it
43 is what it is, said that he has committed
44 misfeasance in office and unlawful in fact?
- 45 A Yes. You could tell that he did not want to deal
46 with me or talk with me when I was talking with him
47 and obviously it's clear when he calls us the

18

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 Q Yes. He wrote to you that the panel had asked to
2 defer the consideration until the Commission had
3 finalized its additional criteria in consideration
4 for the agency applications; correct?
- 5 A Correct.
- 6 Q And he said this is expected to be completed within
7 four weeks?
- 8 A Yes.
- 9 Q So just to be clear, you're not alleging any delay
10 by my client between September 18 and November 13,
11 correct?
- 12 A Correct.
- 13 Q And you understood from the November 13 email that
14 the application was before a panel; correct?
- 15 A Correct.
- 16 Q And his expectation was that -- the considerations
17 for the agency application would be completed
18 within four weeks, yes?
- 19 A That's what he said, yes.
- 20 Q And you agree with me that he had -- he was not a
21 commission member; correct?
- 22 A Correct.
- 23 Q He is not a voting member; correct?
- 24 A Correct.
- 25 Q So the matter was in the hands of the panel;
26 correct?
- 27 A About issuing a new application process, correct.
- 28 Q And he had no control over the timing of that;
29 correct?
- 30 A I am not sure he was one of the participants that
31 helped design the new regulations or not. I know
32 he doesn't vote.
- 33 Q Sir, the facts that you have that he is not a
34 voting member; correct?
- 35 A Correct.
- 36 Q The matter of the additional considerations and
37 criteria was before the panel; correct?
- 38 A Correct.
- 39 Q It was up to them as to what was going to happen
40 next; correct?
- 41 A Correct.
- 42 Q And the timing of what was going to happen next was
43 also up to the panel; correct?
- 44 A Correct.
- 45 Q Put simply, timing was not something that my client
46 controlled; correct?
- 47 A He knew that we were urgently wanting to get our

19

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 licence and he knew that -- I talked to him on the
2 phone as well. And he told me that we were first
3 in queue. And I said, you know, that we wanted to
4 be updated. And you would think that if he told me
5 four weeks and it wasn't, it was past four weeks,
6 that he would get back to me and tell me that there
7 was delays or something. He did not inform us. I
8 sent him emails asking about it. He did not
9 respond to my emails. So I just sent another
10 email.
- 11 Q I'm going to get to your phone call and we're going
12 to get to the emails. Right now we are stuck on
13 November 13th.
- 14 A Okay.
- 15 Q You knew that the matter was before a panel;
16 correct?
- 17 A Correct.
- 18 Q And you also knew that he did not control the
19 timing of when the panel would release its
20 decision?
- 21 A Are you talking about this point? Because I
22 wouldn't know -- I don't know if -- I can't
23 remember if the letter said there was a panel of
24 commissioners or not. Okay, you are correct.
- 25 Q Thank you. This phone call, when did you have it?
- 26 A I don't know. I didn't actually log it. It was
27 after I submitted the application.
- 28 Q Great. So we know you submitted the application on
29 September 10, 2020; correct?
- 30 A Correct.
- 31 Q So help me, when after September 10, 2020 did you
32 have this call?
- 33 A I don't specifically remember.
- 34 Q Well, was it after the September 18th email and
35 letter?
- 36 A Yes.
- 37 Q Or was it before?
- 38 A I believe it was after.
- 39 Q Why do you believe it was after since you don't
40 specifically recall?
- 41 A Because I think I submitted it and I asked -- I
42 called up and asked where we were in the process
43 and if we had any other applications in the queue.
44 And he said that we were first in the queue and
45 that there would be -- yeah, they would look at it.
- 46 Q First in the queue. You must have been very happy
47 to hear that?

40

Paul Mastronardi (for MPL)

Re-exam by Cnsl N. Mitha

1 correct?

2 A I believe so, yes.

3 Q Just give me one moment. In response to Mr. Hira's
4 cross-examination, when he asked you whether
5 Mr. Solymosi was responsible for the delay between
6 November 13, 2020 and February 19, 2021, he put to
7 you that that was -- that delay was occasioned
8 because of the appeal. And your response was, no,
9 the appeal was solely to deal with the transfer of
10 the dates, i.e. the October 31, 2020 deadline. So
11 you agree with me that is not accurate. The appeal
12 was about both matters set out on the screen at
13 page 27 -- paragraph 27, which is paragraph 27 (a),
14 is about delay. 27 (b) is about the extension of
15 the dates. So the appeal was not just about the
16 extension of the deadline, it also addressed the
17 issue of delay; correct?

18 A Correct. So when he was asking that it was in
19 reference to the moratorium, which I believe was
20 already corrected on 21st by FIRB. Sorry, my fault
21 on that.

22 Q All right.

23 CNSL N. MITHA: Those are my questions.

24 THE CHAIRPERSON: Thank you, Mr. Mitha.

25 Mr. Mastronardi, I can't see you on screen right
26 now, but in any event I would like to take this
27 opportunity to thank you for being with us over the
28 course of the past three days. You are now
29 excused.

30 PAUL MASTRONARDI: All right. Thank you, Mr. Chair.

31

32 (WITNESS EXCUSED)

33

34 (EXCERPT CONCLUDED)

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Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

1 When will our -- this is unacceptable
2 when will our agency licence be issued?
3

4 Or words to that effect; correct?

5 A Correct.

6 Q The telephone call takes place between November 13
7 and February 19th?

8 A I don't recall.

9 Q It's fair to say, sir, that this delay between
10 November 13 and February 19 was because of the
11 appeal; correct?

12 A Because of the appeal? No.

13 Q Yes, there was an appeal that you launched and we
14 were -- and you were waiting for the decision;
15 isn't that correct?

16 A What does the appeal have to do with the
17 application of our agency? The appeal was about an
18 extension of the transfer dates.

19 Q I see. So your position is that despite the
20 appeal, you expected the Commission to deal with
21 your agency licence?

22 A Correct.

23 Q And if I've got it correctly, that my client is
24 somehow responsible for the Commission's delay in
25 dealing with the agency licence; is that right? Is
26 that your position?

27 A I'm thinking of what you said. Sorry. Can you say
28 that again? Sorry.

29 Q If I have it correct, my client is somehow
30 responsible for the Commission's delay; it's
31 between the time November 13 to February 19 in
32 dealing with your agency licence?

33 A Not dealing with the vote, no.

34 Q Thank you. And of course I am instructed that my
35 client and his family got COVID around January 25
36 and was off for a period of time. You were of
37 course not aware of that?

38 A Not to my knowledge, no. I did not know.

39 Q I understand. I wouldn't expect you to know. And
40 on March 5, 2021, you again wrote to my client
41 asking about the agency licence; correct?

42 A Correct.

43 Q Complaining about the lack of response from him?

44 A Correct.

45 Q Now that you know he had COVID, I am sure you can
46 understand the delay in the response; is that a
47 fair statement?

28

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 A I'm not sure of the severity of the COVID, so I
2 can't make an answer to that. I'm sorry.
- 3 Q Okay. But again you agree with me that he wasn't
4 responsible for the delay between February 19 and
5 March 5 as a matter with -- your agency matter was
6 with a panel of the Commission; correct?
- 7 A Correct.
- 8 Q And in fact he did respond to you on the evening of
9 March 5, 2021 saying that information is near the
10 completion of its review of the licence -- sorry --
11 an order of the amendments may be issued by the end
12 of next week; correct?
- 13 A Correct.
- 14 Q So to be fair, you are not alleging that this delay
15 between September 18 and March 5, is something that
16 my client is responsible for, rather it is
17 something that the panel is responsible for;
18 correct?
- 19 A Correct.
- 20 Q Now let's go to the phone call. As I understood it
21 you stated that there was no sense of urgency. He
22 had a poor demeanour. He didn't care. Have I got
23 your three complaints?
- 24 A Correct.
- 25 Q When you say no sense of urgency, what did my
26 client say to you to give you that impression?
- 27 A That he really couldn't give me answers. I kept
28 asking him about the application and, you know,
29 when is it going through. Just like I don't know.
30 Just kind of like it-is-what-it-is type of
31 situation.
- 32 Q Right. This is --
- 33 A Like I could tell his tone.
- 34 Q We'll get to his tone in a moment. He was
35 conveying to you, you agree with me, that it was
36 before a panel of the Commission; correct?
- 37 A Correct.
- 38 Q And what is it about his tone? Was he -- was it an
39 angry tone?
- 40 A It was like I said, more of a smart aleck tone.
- 41 Q Oh, a smart aleck tone. I don't quite understand
42 that. What do you mean by that?
- 43 A Like I said he didn't carry -- he did not want to
44 talk to me on the phone. And it's like, it is what
45 it is, you know. Will come out when it comes out.
46 Didn't want to really give any further guidance
47 about stuff.

14

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 saying that you need to refresh your memory from
2 the document, I want you to exhaust your memory. I
3 am asking you, did Mr. Mitha ask you what evidence
4 you had that the Commission was trying to delay
5 your application?
- 6 A Yes.
- 7 Q And you will agree with me that your response was
8 that you wouldn't answer that question on the basis
9 of privilege?
- 10 A Which would go back again to Ravi, yes.
- 11 Q And that is my point, sir. None of what Mr. Cheema
12 has to say implicates my client; would you agree
13 with me?
- 14 A Or the I scratch your back/you scratch my back or
15 are you talking about the delay of the quota and
16 stuff like that?
- 17 Q The delay of your application for agency.
- 18 A With what Mr. Ravi has to say, yes, on that.
- 19 Q In other words, nothing that Mr. Cheema has to
20 say -- Mr. Cheema has nothing to the effect that
21 Mr. Solymosi delayed your application; correct?
- 22 A Correct.
- 23 Q Thank you. Mr. Solymosi, has stated close to the
24 time MPL submitted its application there was a
25 moratorium on agency applications. First, do you
26 agree with that?
- 27 A Yes.
- 28 Q It goes on. This was lifted in October 2020 and a
29 panel was struck. Do you agree with that?
- 30 A Yes.
- 31 Q The Commission contacted applicants; do you agree
32 with that?
- 33 A What do you mean by applicants, sorry?
- 34 Q The Commission contacted MPL, [indiscernible]
35 whoever had interest in your application; do you
36 agree with that?
- 37 A Yes.
- 38 Q The panel sent the request for further clarity for
39 information; do you agree with that?
- 40 A Yes.
- 41 Q The Commission was working on amending the general
42 orders for agency applications; do you agree with
43 that?
- 44 A Are you asking if I knew that at that time?
- 45 Q Do you agree that you were told of that?
- 46 A When, though? We were told after the fact. After
47 we submitted our application.

18

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 Q Yes. He wrote to you that the panel had asked to
2 defer the consideration until the Commission had
3 finalized its additional criteria in consideration
4 for the agency applications; correct?
- 5 A Correct.
- 6 Q And he said this is expected to be completed within
7 four weeks?
- 8 A Yes.
- 9 Q So just to be clear, you're not alleging any delay
10 by my client between September 18 and November 13,
11 correct?
- 12 A Correct.
- 13 Q And you understood from the November 13 email that
14 the application was before a panel; correct?
- 15 A Correct.
- 16 Q And his expectation was that -- the considerations
17 for the agency application would be completed
18 within four weeks, yes?
- 19 A That's what he said, yes.
- 20 Q And you agree with me that he had -- he was not a
21 commission member; correct?
- 22 A Correct.
- 23 Q He is not a voting member; correct?
- 24 A Correct.
- 25 Q So the matter was in the hands of the panel;
26 correct?
- 27 A About issuing a new application process, correct.
- 28 Q And he had no control over the timing of that;
29 correct?
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31 helped design the new regulations or not. I know
32 he doesn't vote.
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34 voting member; correct?
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37 criteria was before the panel; correct?
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40 next; correct?
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43 also up to the panel; correct?
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Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

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2 when will our agency licence be issued?

3
4 Or words to that effect; correct?

5 A Correct.

6 Q The telephone call takes place between November 13
7 and February 19th?

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9 Q It's fair to say, sir, that this delay between
10 November 13 and February 19 was because of the
11 appeal; correct?

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14 were -- and you were waiting for the decision;
15 isn't that correct?

16 A What does the appeal have to do with the
17 application of our agency? The appeal was about an
18 extension of the transfer dates.

19 Q I see. So your position is that despite the
20 appeal, you expected the Commission to deal with
21 your agency licence?

22 A Correct.

23 Q And if I've got it correctly, that my client is
24 somehow responsible for the Commission's delay in
25 dealing with the agency licence; is that right? Is
26 that your position?

27 A I'm thinking of what you said. Sorry. Can you say
28 that again? Sorry.

29 Q If I have it correct, my client is somehow
30 responsible for the Commission's delay; it's
31 between the time November 13 to February 19 in
32 dealing with your agency licence?

33 A Not dealing with the vote, no.

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35 client and his family got COVID around January 25
36 and was off for a period of time. You were of
37 course not aware of that?

38 A Not to my knowledge, no. I did not know.

39 Q I understand. I wouldn't expect you to know. And
40 on March 5, 2021, you again wrote to my client
41 asking about the agency licence; correct?

42 A Correct.

43 Q Complaining about the lack of response from him?

44 A Correct.

45 Q Now that you know he had COVID, I am sure you can
46 understand the delay in the response; is that a
47 fair statement?

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Paul Mastronardi (for MPL)

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2 can't make an answer to that. I'm sorry.
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4 responsible for the delay between February 19 and
5 March 5 as a matter with -- your agency matter was
6 with a panel of the Commission; correct?
- 7 A Correct.
- 8 Q And in fact he did respond to you on the evening of
9 March 5, 2021 saying that information is near the
10 completion of its review of the licence -- sorry --
11 an order of the amendments may be issued by the end
12 of next week; correct?
- 13 A Correct.
- 14 Q So to be fair, you are not alleging that this delay
15 between September 18 and March 5, is something that
16 my client is responsible for, rather it is
17 something that the panel is responsible for;
18 correct?
- 19 A Correct.
- 20 Q Now let's go to the phone call. As I understood it
21 you stated that there was no sense of urgency. He
22 had a poor demeanour. He didn't care. Have I got
23 your three complaints?
- 24 A Correct.
- 25 Q When you say no sense of urgency, what did my
26 client say to you to give you that impression?
- 27 A That he really couldn't give me answers. I kept
28 asking him about the application and, you know,
29 when is it going through. Just like I don't know.
30 Just kind of like it-is-what-it-is type of
31 situation.
- 32 Q Right. This is --
- 33 A Like I could tell his tone.
- 34 Q We'll get to his tone in a moment. He was
35 conveying to you, you agree with me, that it was
36 before a panel of the Commission; correct?
- 37 A Correct.
- 38 Q And what is it about his tone? Was he -- was it an
39 angry tone?
- 40 A It was like I said, more of a smart aleck tone.
- 41 Q Oh, a smart aleck tone. I don't quite understand
42 that. What do you mean by that?
- 43 A Like I said he didn't carry -- he did not want to
44 talk to me on the phone. And it's like, it is what
45 it is, you know. Will come out when it comes out.
46 Didn't want to really give any further guidance
47 about stuff.

29

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

1 Q Okay.
2 A I asked if we were first in the queue.
3 Q Okay. So he gave you information that you were
4 first in the queue; correct?
5 A That's what he said, yes.
6 Q Gave you information that it was before --
7 A I asked for it. He did not give that information,
8 sorry. I requested that information.
9 Q And you received a clear and direct answer;
10 correct?
11 A Yes.
12 Q He also give you information that it was before a
13 panel of the Commission; correct?
14 A Yes.
15 Q He also gave you information that he didn't have
16 control over when the decision would be made? It
17 was before the panel?
18 A He didn't say those words and he didn't say I'm not
19 in control of this.
20 Q But that's the information you got from him;
21 correct?
22 A He said it was in front of the panel, correct.
23 Q And you also understood from that that he couldn't
24 control the timing; correct?
25 A Like I said, I didn't know if he was part of the
26 panel or anything like that. I wouldn't have a
27 clue if he was a contributor to the panel in any
28 way.
29 Q Well, sir, you're a sophisticated businessman. You
30 were applying for an agency. You know he is not a
31 voting member of the panel; correct?
32 A Correct.
33 Q You know as a general manager you can't control the
34 panel; correct?
35 A Correct.
36 Q So you received information in the phone call that
37 it was before the panel and that he had no control
38 over the timing; correct?
39 A Well, he had give me: I have no control over the
40 timing. He says basically it is what is it and
41 there is a panel.
42 Q Yes. And you understood that he couldn't control
43 the timing of when the panel would make it's
44 decision; correct?
45 A You talking about at that time?
46 Q The phone call?
47 A I wouldn't know whether or not he had control at

30

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

1 that time, sorry.

2 Q Sir, let's go back, then. You are a sophisticated
3 businessman with an agency licence in Ontario;
4 correct?

5 A Correct.

6 Q You are applying for an agency licence in British
7 Columbia; correct?

8 A Correct.

9 Q And as part of your due diligence, do you
10 understand how the Vegetable Marketing Commission
11 works in British Columbia?

12 A Yes.

13 Q And as you told me earlier you knew the general
14 manager was not a voting member of the Commission;
15 correct?

16 A Correct.

17 Q And you agreed with me that the general manager
18 couldn't control the timing of the decision of the
19 panel?

20 A Again I'm going to go back since you have alluded
21 to it. In Ontario what I know is that if there is
22 some type of panel, there are contributors that
23 will give information to the panel to vote on. I
24 am not sure if Mr. Solymosi is a contributor of
25 information to the panel for them to make a
26 decision on. As general manager, I am sure he is
27 responsible for collecting data and stuff like that
28 as well too.

29 Q You understood that he couldn't control the timing
30 of the panel's decision; correct?

31 A Not unless he delayed information to them that they
32 were requesting to make decisions on.

33 Q And there is no -- you have no facts suggesting
34 that he delayed getting them information, do you?

35 A No.

36 Q Thank you. So I'm still trying to understand this
37 phone call. What was improper about this phone --
38 that is improper about my client?

39 A I told you. His demeanour -- smart aleck
40 demeanour.

41 Q Sir, you are relying on the smart -- the alleged --
42 your view that he has a smart aleck demeanour, it
43 is what it is, said that he has committed
44 misfeasance in office and unlawful in fact?

45 A Yes. You could tell that he did not want to deal
46 with me or talk with me when I was talking with him
47 and obviously it's clear when he calls us the

31

Paul Mastronardi (for MPL)

Exam for Mr. Solymosi by Cnsl R. Hira

- 1 enemy.
- 2 Q You didn't know about the enemy until after the
3 lawsuit was started?
- 4 A Correct. Correct.
- 5 Q And you agreed with me that the delay between
6 September 18 and March 5, was not something that my
7 client was responsible for; correct?
- 8 A I said he was not responsible for voting decisions.
9 I'm not sure if he was required to submit
10 information for the voting decision.
- 11 Q So it really comes down to this phone call. You
12 say that the way he -- his tone on the phone, the
13 demeanour is a component of the unlawful acts; is
14 that your evidence?
- 15 A Correct. You can tell that he didn't want
16 Mastronardi to get their licence the way his tone
17 is and he didn't even want to have to phone call
18 with me.
- 19 Q So facts. Remember when we started the
20 cross-examination with reference to the importance
21 of having facts. Remember that?
- 22 A Yes, you did.
- 23 Q So I want to know -- you said you can tell by the
24 tone that he didn't want Mastronardi to have its
25 licence. What facts did you rely upon in that
26 telephone conversation or tone? You will have to
27 describe the tone to me that led you to that
28 conclusion?
- 29 A It did. This isn't the first conversation I have
30 had in my life where I talk to people and you know
31 how people treated you when they talked to you.
- 32 Q I see. So you can't come up with any specific
33 facts; is that a fair comment by me?
- 34 A His tone and like I said his demeanour on the call.
- 35 Q All right. Coincidentally, your application is in no
36 way related to -- first of all, you have no
37 relationship with Prokam, do you, sir?
- 38 A No.
- 39 Q You have no relationship with Mr. Bob Dhillon?
- 40 A No.
- 41 Q And neither Prokam or Bob Dhillon had any part of
42 your -- are involved in any part of your
43 application?
- 44 A No.
- 45 Q And neither Prokam or Bob Dhillon at all came up in
46 any conversations or communications with my client
47 that you talked about at your application?

55

Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

- 1 Q Well, sir, let's --
2 A I see the concerns, right, but my agency was not
3 concerned. They didn't mention anything to me.
4 It was business as usual.
5 Q Sorry. Go ahead and finish. I'll wait until you
6 finish. Sorry, I shouldn't interrupt.
7 A I'm done.
8 Q Okay. I guess what I'm saying is there's a
9 letter written where you were a recipient in May
10 where there's an overall message from the
11 commission that you better comply with the
12 commission's requirements and orders or else
13 there could be serious consequences, and you got
14 that; right?
15 A I got that, and at the same time I have an agency
16 looking out for my best interest and looking out
17 for farmers, so I thought I was in good hands.
18 Q Right. But you were a grower and you were also a
19 director and vice president of an agency; right?
20 A Like I said earlier, right, like, there was four
21 of us in that office. They needed another
22 director so I was a director. And then in 2017 I
23 was planting potatoes and I got a phone call that
24 they wanted a meeting and I said sure. As I'm
25 planting they have this meeting and they say
26 whoever wants to put Bob as vice president. I
27 said vice president? And they said yeah, we just
28 need a vice president and thinking that would be
29 a better title for you. I didn't think anything
30 of it at the time. I said it's not that I make
31 any business decisions there. You could probably
32 tell through the string of emails, and I went
33 with it.
34 Q But, sir, you understood that even as a producer,
35 as a grower, you are growing in a regulated
36 market system; right?
37 A 100 percent, I acknowledge that. But, you know,
38 the agency is taking agency fees, I'm paying my
39 dues, you know, apparently they have a plan so I
40 thought hey, we're in the parameters where we
41 should be and I'll let the agency take care of
42 it.
43 Q But, sir, you were concerned about this June
44 letter, this June 14th letter. In fact you were
45 very concerned about it, weren't you?
46 A Well, I was concerned and the agency took certain
47 steps to do that. At this time of year, like,

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 Q Sam Enterprises' dealings with the commission,
2 British Columbia Vegetable Marketing Commission,
3 you're responsible for that too. Do you agree
4 with me?
- 5 A Yeah, with input of my father, yes.
- 6 Q And the reality is you're very familiar with the
7 commission's minimum pricing orders?
- 8 A I'm familiar with what the order needs to do,
9 yes.
- 10 Q And, in fact, it's fair to say you've been
11 acutely familiar with that since October 25,
12 2000. Would you agree with that proposition?
- 13 A 2000?
- 14 Q Yes.
- 15 A I probably wasn't too familiar with that because
16 I don't believe we did regulate back then.
- 17 Q I'm sorry. I didn't hear the last part of your
18 answer.
- 19 A In 2000 I -- I don't recall with whether they did
20 regulate it or not.
- 21 Q Well, let's refresh your memory.
22 Go to page 13, please, Ms. Hall. 13. There
23 we are.
24 You see before you a decision of the -- I'm
25 sorry, an appeal from a decision of the -- I'm
26 sorry. You see a decision of the vegetable
27 marketing commission. Do you see that, sir?
- 28 A Yes.
- 29 Q And you'll agree with me that the -- go to --
30 you'll agree with me that you appeared for the
31 appellant. See that on the first page?
- 32 A Yes. Like I say, language barrier, I went there
33 for my dad, yes.
- 34 Q You appeared for the appellant Sam Enterprises
35 Ltd.; correct?
- 36 A Correct.
- 37 Q If we go to the next page, page 14, page 2 of the
38 decision, you actually filed an appeal from a
39 decision made October 25, 2020. Do you see that,
40 the first paragraph?
- 41 A Yes.
- 42 Q And it was an appeal from a decision, if you look
43 at paragraph 2(b) that you had violated certain
44 sections of the consolidated general orders by
45 offering regulated product nugget potatoes below
46 the price established by the vegetable
47 commission. Do you see that?

32

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 Q You will agree with me that in August and
2 September 2017 IVCA was focussed on addressing
3 internal problems or matters with Prokam?
4 A By that time they had full control of the system
5 so it's not that -- you know, we didn't give
6 him -- they wanted control of the system they got
7 control of the system. I don't know what they're
8 referring to. You know, this is from the
9 commission and, like I said, I guess they dropped
10 the ball there. They should have been there or
11 whether they thought that they didn't need to be
12 there because they were already given their
13 marketing plan and I think they, you know, told
14 the commission that on more than one occasion.
15 So I think it was -- I think it fell on IVCA's
16 responsibility to either resolve that or take
17 care of that, right. Like, that was their --
18 that was, you know -- that was their
19 responsibility.
- 20 Q Sir, let's go to document 1097. Let's go down to
21 the September 27, 2017 email of 1:47 P.M. from
22 Mr. Solymosi to Mr. Meyer. Do you see that, sir?
23 A Yes.
- 24 Q And in the first sentence Mr. Solymosi reiterates
25 that selling below the minimum price is a serious
26 matter. You agree with that proposition, don't
27 you, sir?
28 A I do.
- 29 Q And let's be clear, you were having difficulties
30 with IVCA in September of 2017; correct?
31 A I don't think I was. You know, they wanted
32 control of the system, we gave them control of
33 the system. You know, but we were -- you know,
34 that's how they wanted it and that's what
35 happened. So other than that as a grower I
36 wasn't under any, you know what I mean, I didn't
37 think nothing of it.
- 38 Q Sir, you told us earlier that you had grown and
39 shipped potatoes far in excess of your delivery
40 allocation; correct?
41 A Under IVCA's authority.
- 42 Q Okay. I put it to you, sir, as Mr. Solymosi has
43 quite properly pointed out in the last paragraph
44 of this email that Prokam was acting as a rogue
45 producer. Do you agree with me or disagree with
46 me?
47 A I disagree. I think Andre could have just came

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 A Sam Enterprises, my father did, yes.

2 Q Well, to be clear, you were very aware of minimum
3 pricing requirements as early as October 2000;
4 correct?

5 A You were really choppy there. Can you repeat the
6 question, please?

7 Q To be clear, you were aware of minimum pricing
8 requirements as of October 2000?

9 A I wasn't in -- I don't think we did any regulated
10 back there. It was under -- like I said, I got a
11 day-to-day with Sam Enterprises and this is --
12 decisions are made by my dad and I believe he put
13 in nuggets but it's not to say that I was aware.
14 I don't agree with that.

15 Q Well, let's go to paragraph 2 of the decision.
16 You were appealing a decision of the vegetable
17 marketing decision that had concluded that Sam
18 Enterprises was offering for sale regulated
19 product nugget potatoes below the price
20 established by the vegetable commission; is that
21 correct?

22 A Yes. 22 years ago I guess my dad was. I'm not
23 too clear about it.

24 Q You were aware then 22 years ago that you
25 couldn't sell potatoes below the minimum price.
26 Would you agree with that proposition?

27 A While I was doing it maybe not. Afterwards, when
28 my father ran into this problem, I was obviously
29 aware of it.

30 Q Thank you.

31 THE CHAIR: Mr. Hira, not to interrupt, but do we need
32 to mark this as evidence?

33 CNSL R. HIRA: I will suggest that in a few moments.

34 THE CHAIR: Okay. Thank you.

35 CNSL R. HIRA: If that's all right, Mr. Chair.

36 THE CHAIR: That's fine. Continue.

37 CNSL R. HIRA: I just want to make sure I cover what I
38 need to cover before we get there.

39 Q If we go forward to page 19 paragraph 36 I'm
40 going to read to you from the second sentence of
41 that paragraph:

42
43 The appellant is not appealing the factual
44 findings made by the vegetable commission at
45 its October hearing. The appellant admitted
46 to violating the vegetable commission's
47 consolidated general orders. Rather what

81

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 A Yeah, I see that there. It says that there, yes.

2 Q You knew you couldn't -- as of 2000 you knew you
3 couldn't sell potatoes below the minimum price
4 established by the commission?

5 A I see that now but back then I thought it was
6 just because he grew without quota, but I see
7 that.

8 Q Sir, you agree with the proposition; you knew?

9 A Well, I see it now. 22 years ago I couldn't tell
10 you what I read or what I thought of this whole
11 thing. I see it now.

12 Q When did you first discover in your 30 years of
13 farming that you couldn't sell potatoes below the
14 minimum price established by the commission?

15 A I would say when I got into the regulatory items.

16 Q Unfortunately I don't walk in your shoes. Can
17 you give me a year?

18 A I think -- give or take -- I think 2010 or
19 something Sam Enterprises started growing
20 cabbage. At that time I was aware of what the
21 rules were.

22 CNSL R. HIRA: All right. I wonder, Mr. Chairman,
23 whether this bundle of documents spanning 1 to 20
24 could be marked as the next exhibit.

25 THE CHAIR: Thank you, Mr. Hira.

26 CNSL R. HIRA: And we can describe it as LinkedIn
27 profile and March 14, 2001 decision of vegetable
28 marketing commission.

29 THE CHAIR: Mr. Hira, just a small item on that. This
30 is actually a decision by the BC marketing board
31 which was the precursor to the Farm Industry
32 Review Board.

33 CNSL R. HIRA: Thank you. I'm sorry. I'm just
34 getting into vegetables starting January 31 of
35 this year. Thank you for correcting me.

36 THE CHAIR: So you'd like it marked as...

37 CNSL R. HIRA: As LinkedIn profile, Better Business
38 Bureau profile and the decision of the vegetable
39 marketing board of March 14 --

40 THE CHAIR: The BC Marketing Board.

41 CNSL R. HIRA: I'm sorry, the British Columbia
42 Marketing Board.

43 THE CHAIR: Thank you. I think we have it correct
44 now.

45 CNSL R. HIRA: Thank you very much.

46 THE REGISTRAR: That would be Exhibit number 12.

47

88

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 A Myself, no.
2 Q All right. On April 5, 2017, you attended a
3 storage crop agency manager's meeting; correct?
4 A Yes. The AGM you're referring to? Sorry.
5 Q I'm sorry, I didn't hear that.
6 A You're referring to the AGM meeting?
7 Q There's a meeting of the storage crop agency
8 managers?
9 A I don't believe I went to any managers meeting
10 the best I could recall.
11 Q Suggest to you it was held at the Town & Country
12 Inn. Does that ring a bell?
13 A And it was a manager's meeting? I don't think I
14 would be there though.
15 Q Storage crop agency managers meeting that you
16 attended, I suggest to you, with Brian Meyer and
17 Terry Michell and your brother-in-law Bob Gill?
18 A Okay. I believe that was an AGM meeting.
19 Q Fair enough. You attended it; correct?
20 A Correct.
21 Q Mr. Solymosi was present; correct?
22 A Correct.
23 Q And you discussed the anticipated potato yield
24 for 2017; correct?
25 A Correct. We were all there, yes.
26 Q And you discussed production and delivery
27 allocations; correct?
28 A I don't recall that. I think it was more or less
29 of a meeting of what was anticipated to be put in
30 the ground for the following year.
31 Q Right. And it was emphasized that you got to
32 stick with your allocations; correct?
33 A Yes.
34 Q And it was also emphasized that it was important
35 not to sell below the minimum price; correct?
36 A Correct.
37 Q Mr. Mitha took you to the June 14, 2017 letter
38 addressed to IVCA and -- stand to be corrected on
39 this, I'm sure Ms. Hunter will help me -- I
40 believe Prokam. Do you remember that?
41 A Yes.
42 Q And again the importance of delivery allocations
43 and sticking within it were emphasized in the
44 letter; correct?
45 A Correct.
46 Q I'm sorry?
47 A Correct.

30

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 that is 11:57 A.M. on August 8, 2017. Is it your
2 evidence that you are unaware of this email?
3 A Yeah, if I'm not in on it, I'm doing other stuff.
4 Q Leave it and go to something different. Go to
5 page 931. You received this August 14, 2017
6 letter from the commission; correct?
7 A Correct.
8 Q And you were aware that the commission wanted
9 your attendance at the next commission meeting on
10 September 6 to discuss IVCA's marketing plan;
11 correct?
12 A Okay.
13 Q Let's go down to the sentence "at this time
14 commission has two requests that support its
15 response to immediate issues." First request was
16 to attend the next commission meeting to discuss
17 the IVCA marketing plan; correct?
18 A Correct.
19 Q It was made very clear in underlining that IVCA
20 attend to participate and review their marketing
21 plan; correct?
22 A Correct.
23 Q And you'll agree with me that you didn't attend
24 the next meeting?
25 A I couldn't tell you for certain whether I did or
26 not. It would have been when, July 10th?
27 Q Read that, sir. It's September 6.
28 A September 6. Yeah. Yeah, they're asking the
29 commission request that IVCA attend so whether
30 they did or not I'm not too sure but they wanted
31 IVCA to attend; right? Yes.
32 Q This letter is addressed to you as vice
33 president; correct?
34 A Yeah.
35 Q And you're not sure -- and of course when you
36 receive a letter from the commission --
37 A M'mm-hmm.
38 Q -- that's important; correct?
39 A Very important, but I -- like I said, I'm the
40 grower. This is a busy time of year for me.
41 It's addressed to IVCA, too, and that's why we
42 got agencies. Agencies look after and look over
43 growers so, you know, I can't tell you for sure
44 if I was there or even if they were there but at
45 the end of day they should have been there
46 representing their farmers.
47 Q Well, I'm going to suggest to you that nobody

66

Bob Dhillon (a witness)
Cross-exam by Cnsl K. McEwan

1 said there was a couple.
2 Do you see that?
3 A Yeah.
4 Q And we're still, sir, just so we don't get lost
5 on the context, we're on June 22nd. See that?
6 A Okay.
7 Q And Andre would be Mr. Solymosi; right?
8 A Okay yeah.
9 Q And you're asking for the information that's
10 coming from Mr. Solymosi; right?
11 A Yeah.
12 Q Yeah. And so, sir, I mean, you're actively
13 watching what's happening here with the
14 commission and the issues that had arisen; fair?
15 A No. I did my due diligence. You know, I wanted
16 to -- you know, I tried to, when I had time,
17 inquire and make sure, you know, everything was
18 hopefully getting done at that agency level.
19 Q You followed up and asked for the letters that
20 had come across to be sent to you or resent to
21 you; correct?
22 A No, I didn't get them sent to me or they didn't
23 even send them to me. All I know that he said
24 that there was a couple of notes. I don't know
25 if there was any [indiscernible] beyond that.
26 Q Sorry, sir, I'll leave it on the record the
27 emails that transmitted the letters that show
28 that a couple of letters were sent to you. Are
29 you challenging that now?
30 A I'm not challenging it. I just don't recall it.
31 Q You asked for the May 14 letter to be sent to you
32 again so you could go to a lawyer, the May 18th
33 letter, I apologize; right? We saw that in your
34 texts?
35 A Yeah.
36 Q Right?
37 A Yeah.
38 Q And when this issue arose with we need to start
39 making reports so we can track delivery
40 allocation, you wanted information, you wanted to
41 see a lawyer; correct?
42 A No, not about that. He had that -- he had all of
43 that information. He could have given it to the
44 commission at any given time.
45 Q I see, sir. And so you were seeing a lawyer,
46 sir, and I'm not going to ask you about legal
47 advice, I want to make that clear, but you were

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 A Myself, no.
2 Q All right. On April 5, 2017, you attended a
3 storage crop agency manager's meeting; correct?
4 A Yes. The AGM you're referring to? Sorry.
5 Q I'm sorry, I didn't hear that.
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8 managers?
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12 Inn. Does that ring a bell?
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14 would be there though.
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29 of a meeting of what was anticipated to be put in
30 the ground for the following year.
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32 stick with your allocations; correct?
33 A Yes.
34 Q And it was also emphasized that it was important
35 not to sell below the minimum price; correct?
36 A Correct.
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39 this, I'm sure Ms. Hunter will help me -- I
40 believe Prokam. Do you remember that?
41 A Yes.
42 Q And again the importance of delivery allocations
43 and sticking within it were emphasized in the
44 letter; correct?
45 A Correct.
46 Q I'm sorry?
47 A Correct.

90

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 Q When was it made?
2 A I have no idea. I don't recall.
3 Q You were also warned of intentionally -- that is
4 Prokam was warned that it was intentionally
5 planting in excess of its delivery allocation;
6 correct?
7 A Yeah, that's what it says but, you know, as
8 Prokam being the grower, you know, there are
9 certain obligations that fall on IVCA also,
10 right. Like in June we were harvesting potatoes,
11 we were picking potatoes. I knew there was a
12 problem and I thought IVCA would address it.
13 Q Sir --
14 A The agency.
15 Q The warning was to Prokam; correct?
16 A Prokam was on it also and IVCA was on it also.
17 Q And the fact is that Prokam had been planting in
18 excess of its delivery allocation; correct?
19 A Under the direction of IVCA because they needed
20 the product.
21 Q So you're saying that IVCA said we know your
22 delivery allocation but please plant in excess of
23 it?
24 A Yeah, because their customer required it and they
25 had no avenue of getting the potatoes.
26 Q Who at IVCA said that?
27 A That would have been Terry Michell and Ron
28 Wittal.
29 Q And can you direct me to a document where they
30 instructed you to do that?
31 A I cannot, no.
32 Q So when did these -- when did Mr. Michell say to
33 you listen, Mr. Dhillon, we know your delivery
34 allocation but we'd like you to plant in excess
35 of it. When did that happen, sir?
36 A Well, we start planning for that -- it was 2017
37 crop. We start planning that up in
38 November/December roughly around that time.
39 Q How did they communicate this to you saying
40 please plant in excess of your delivery
41 allocation?
42 A It was just a conversation and they said that
43 they had a customer that was requiring more
44 potatoes that they had. You know, at that time I
45 think there was three growers and I don't know
46 what the other growers did but they had a
47 customer and they needed product and it was

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 replacing US product and I agreed to it.
2 Q I see. And there's no document for operating
3 this instruction?
4 A There isn't a document but I'm not going to put
5 in, you know, that much acreage on a hunch, you
6 know. It was talked about. I guarantee you
7 that.
8 Q You were director of IVCA at that time; correct?
9 A Correct.
10 Q And you knew as a director that IVCA had a duty
11 to the vegetable marketing commission to act
12 within the general orders; correct?
13 A Like I said earlier, it was a title. Like I
14 said, I was the fourth person there. They needed
15 another director, they did so. Other than that,
16 it was all under the direction of the agency, Ron
17 Wittal and Terry Michell.
18 Q Sir, you were a director of IVCA and I put it to
19 you that you knew as a director of IVCA, an
20 agency, that it must act in a manner that follows
21 all the general orders of the commission?
22 A I was a director but I relied on the agency IVCA.
23 I had -- it was just a title. I had no authority
24 there.
25 Q Okay. Well, we'll see how that develops in a few
26 moments. Now, you were also warned in the June
27 2017 letter that because there was no marketing
28 plan, which is required under part 14 of the
29 general order, any volume marketed in excess of
30 IVCA's delivery allocation for any period would
31 require commission authorization; correct?
32 A Correct, and IVCA was fighting that tooth and
33 nail and saying that their plan was in the
34 reapplication for agencies.
35 Q You received that warning; correct?
36 A Correct.
37 Q And the warning was pretty clear that any volume
38 marketed in excess of the delivery allocation
39 would require commission authorization; correct?
40 A Correct.
41 Q And by this time you were not only a director but
42 a vice president of IVCA; correct?
43 A This was in June. I'm not sure. If that's the
44 sequence of dates, it might be. I'm not sure.
45 Q Well, we took you to the annual general meeting.
46 You were re-elected director and vice president
47 on May 25, 2017; correct?

39
 Bob Dhillon (a witness)
 Exam by Cnsl N. Mitha

1 sought assistance from collaboration or otherwise
 2 from any counsel. And whether or not it's
 3 appropriate or not appropriate to me is of no
 4 difference because it just hasn't happened.

5 THE CHAIR: Thank you, Mr. Mitha.

6 Ms. Thiesson, can you bring Mr. Dhillon back
 7 please from the breakout room.

8 THE PANEL SECRETARY: Yes, just a moment.

9 CNSL R. BASHAM: Mr. Donkers, may I be excused again?

10 THE CHAIR: Yes, of course, Ms. Basham.

11 CNSL R. BASHAM: Thank you.

12 THE PANEL SECRETARY: He's been admitted back into the
 13 hearing.

14 THE CHAIR: Mr. Dhillon, you're back with us. Thank
 15 you.

16 THE WITNESS: Yes, I am. Thank you.

17 THE CHAIR: Just a reminder that you're still under
 18 oath.

19 THE WITNESS: Yes.

20 THE CHAIR: And we will continue with Mr. Mitha.

21

22

**BOB DHILLON, a
 witness, recalled.**

23

24

25 **EXAMINATION BY CNSL N. MITHA (continued):**

26

Q Before this morning there was some discussion
 27 about the delivery allocation that Prokam had and
 28 I just want to take you to -- I believe you
 29 answered that question actually in affidavit you
 30 provided and I believe you said it was 100 acres.
 31 Do you have a recollection of that? I'll take
 32 you to the affidavit so that you can have
 33 reference to it. Just over the lunch break I was
 34 reviewing that and saw that in fact I believe you
 35 had -- sorry, I'm just trying to -- sorry, just
 36 give me a moment. So paragraph 48.

37

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Prokam has delivery allocation for only
 about 100 acres of potatoes. Last year,
 Prokam grew over 300 acres of potatoes.
 Last remaining 2017 because this was sworn in
 2018. And IVCA sold all those potatoes by

40
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 November mostly to Thomas Fresh Calgary and
2 Thomas Fresh Saskatoon. Do you see that?
3 A Yes.
4 Q And is that accurate? At this point in time,
5 Prokam had delivery allocation for 100 acres and
6 grew over 300 acres of potatoes?
7 A Yes, sounds right.
8 Q Okay. I think earlier you had said you had
9 delivery allocation of 300 acres, that would be
10 incorrect. It was 100 acres for the 2017 season;
11 correct?
12 A Correct.
13 CNSL C. HUNTER: Mr. Mitha, just a moment. I don't
14 recall my client giving that evidence. Before
15 the break the discussion was about tons of
16 delivery allocation. I'm not sure it goes
17 anywhere but I don't believe he gave that
18 evidence.
19 CNSL N. MITHA: All right. I'm sorry, you're right,
20 because this says 100 acres. You're correct. So
21 just dealing with that -- and thank you for that.
22 Q Dealing with that, sir, 100 acres, how many tons
23 of delivery allocation would that be?
24 A 100 acres say around 15 ton an acre, give or
25 take.
26 Q All right. So it would be 15 tons per acre. Is
27 that what you just said?
28 A Roughly, yeah.
29 Q Okay. So 100 acres would be -- if you multiply
30 that by 15 tons that's 1,500 tons; is that right?
31 A That's the math, yeah.
32 Q Right. And if you grew 300 acres that means you
33 grew 4,500 tons?
34 A Yeah, give or take. You know, there's smaller
35 yields and more yield on other ones so I'd have
36 to figure that out but ...
37 Q That's approximately an average, that's a
38 reasonable approximation?
39 A Yeah, give or take. Yeah, on the early potatoes
40 you're only getting about, you know, 6 ton so,
41 you know, I'd have to figure it out but ...
42 Q All right. Before the break we were going
43 through the various legal proceedings that had
44 occurred as a result of the decisions of the
45 commission and as you might recall we were at the
46 stage where the matter was sent back -- BCFIRB
47 had made a decision and had sent it back to the

53
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1
2 A Yes.
3 Q It goes on to say:
4
5 Delivery allocation is one of two critical
6 components of orderly marketing that are
7 essential to the system to be effective.
8 The other is minimum price.
9
10 Right?
11 A Yes.
12 Q And then you get the June 14th letter which is
13 written to yourself and we saw this a bit
14 earlier, this is on page 847, communicate to
15 yourself and Mr. Meyer. And again the letter
16 starts out by saying "this addresses the need to
17 hold Prokam and IVCA accountable"; right?
18 A Yes.
19 Q Talks again about delivery allocation being one
20 of two key components and the other one is
21 minimum price?
22 A Yes.
23 Q Okay. And it goes on to talk about delivery
24 allocation and how it's set on a rolling five
25 year average; right?
26 A Yes.
27 Q And it talks, then, at page 849 page 11 letter:
28
29 Over the 2016/2017 crop year, Prokam's
30 potato shipments were significantly greater
31 than its assigned delivery allocation.
32
33 And it talks about the fact that the shipments
34 were nine times the DA compared to A and seven
35 times it's entitlement in period B; right?
36 A Yes.
37 Q And as you acknowledged that was accurate that
38 Prokam had shipped significantly in excess of its
39 delivery allocation; right?
40 A Right.
41 Q And it talks about the fact that no marketing
42 plan was submitted by IVCA which was a concern
43 expressed at that time; right?
44 A Yes.
45 Q And it gives some charts about the allocation and
46 the delivery. Talks about the fact that you have
47 to provide planting intentions. And then a

2

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

- 1 A Of the minimum pricing?
2 Q Yes.
3 A I don't think so. I don't recall it.
4 Q But you don't dispute that the commission set a
5 minimum price for the export of potatoes? You
6 don't have any evidence to the contrary?
7 A That they didn't?
8 Q Yes.
9 A No.
10 CNSL C. HUNTER: Just a moment, Mr. Mitha. Just I
11 want to confirm you're not asking the witness to
12 agree that there was a validly set minimum price,
13 export minimum price.
14 CNSL N. MITHA: No. This is regardless whether it's
15 valid or not, they set a minimum price, that's
16 all I'm saying.
17 Q You can't say one way or the other because you
18 just don't know; is that right?
19 A Yes.
20 Q And you would appear that Prokam and IVCA after
21 August 11, 2017, continued to sell below the
22 minimum price. Again, that's something you had
23 no knowledge of because you don't know the
24 minimum price; is that right?
25 A Correct.
26 Q But you'll agree with me that Prokam continued to
27 sell its potatoes at the same price before August
28 11, 2017, and after August 11, 2017; right?
29 Didn't change the price for exports?
30 A I can't say for certain.
31 Q All right. We know that there was a -- we saw
32 that there was a fallout between Prokam and IVCA
33 in terms of how orders and what information was
34 needed to process orders; right?
35 A Yes.
36 Q So before September 2017 -- let me take one step
37 back. We also note from the June 14th letter,
38 and I think you have confirmed this, that Prokam
39 had shipped potatoes significantly greater than
40 its assigned delivery allocation; right?
41 A Yes.
42 Q So all of that was happening before September
43 2017; right?
44 A Yes.
45 Q And really what your complaint is, as I
46 understand it, is that instead of simply going
47 straight to dealing with the cease and desist

55

Bob Dhillon (a witness)
Cross-exam by Cnsl R. McDonell

1 that when you gave your estimate from 15 to 17
2 tons per acre?
3 A Yes. So like nuggets are going to give you a lot
4 less tonnage. You know, the russets and, you
5 know, depends what you're marketing.
6 Q Yes, of course. But anyways, what you would
7 advise us to use here in trying to calculate what
8 you plan to grow, that's what we're talking about
9 at the moment, was about a yield of 15 tons an
10 acre -- and I have, from the evidence from the
11 FIRB hearing I believe, 380 acres and you
12 mentioned 350 a moment ago. What's the correct
13 number for your acreage in 2017 that you planted?
14 A This is four years ago, in about there. I know
15 it was over 300, around 350, something like that.
16 Q Okay. So my arithmetic isn't great but even
17 giving you some benefit some lower yields with
18 your earlies, if I get somewhere around 5,000
19 tons. Is that what you planned to grow in 2017?
20 A I'll take your math.
21 Q Okay.
22 A If that's what you figured out, yeah.
23 Q And at paragraph 15 of the FIRB decision in the
24 spring of 2018 -- sorry, the decision may be
25 later, your delivery allocation for potatoes is
26 described as 26 tons; right? Is that the correct
27 number for your delivery allocation in 2017?
28 A In 2017?
29 Q Yes. 2017 is my question.
30 A Yeah. In 2017 I had more than 26 ton.
31 Q What was your delivery allocation in 2017, sir?
32 A In 2017 -- I'd have to look. I have -- I have no
33 idea. It was a long time ago.
34 Q Any recollection of appealing the finding of
35 BCFIRB that your allocation, your delivery
36 allocation, was 26 tons in 2017?
37 A I definitely don't think it was 26 ton.
38 Q But you can't say what it was?
39 A Well, I had boughten [sic] about 450 ton from
40 Hothi and plus I added on to it, so it was a 26,
41 it was a little higher than that.
42 Q At the start of your evidence yesterday, in a
43 response to my learned friend, Mr. Mitha, if I
44 had it right, you described your delivery
45 allocation for 2017 as 400 tons. Is that your
46 evidence today that that's what your DA was in
47 2017?

56

Bob Dhillon (a witness)

Cross-exam by Cnsl R. McDonell

- 1 A Yeah, I think it was in around there.
2 Q Around 400 tons?
3 A It might have been more. When I first got my
4 delivery allocation it was roughly that much.
5 Actually it was more than that, including the
6 russets.
7 Q Whether it's 26 tons or 400 tons, you're planning
8 intention for 2017 were for upwards of 5000 tons;
9 right?
10 A Okay.
11 Q No, not "okay." Yes or no? Is that correct?
12 A Correct.
13 Q Now, those are your planning intentions. What
14 exactly did you grow and ship in 2017?
15 A I'd have to check my records but like I said it
16 was about 3- to 350 acres. Off the top of my
17 head I couldn't tell you the tonnages that we
18 got.
19 Q Well, you do know that -- well, you would recall
20 as to how you ended up in 2017 on yield. How did
21 you do?
22 A I did good. Okay I believe --
23 Q You planted for approximately 5,000 tons and you
24 produced and shipped approximately 5,000 tons.
25 Would that be fair?
26 A If that's what it shows, okay.
27 Q I didn't say it's what it shows. It's a question
28 to you, sir?
29 A Like I said, I don't know the exact numbers.
30 Q No, no, but you do know that you yielded
31 approximately what you had intended to produce
32 and harvest and again we come back to an
33 approximate number, 5,000 tons; right?
34 A Correct.
35 Q Described in the BCFIRB decision as approximately
36 9 percent of total BC production?
37 A Correct.
38 Q Right. Now, your sales to Thomas Fresh in
39 Alberta are found by BCFIRB at paragraph 28 of
40 his 2018 decision to be approximately 348 tons.
41 Does that sound right?
42 A Yeah, I guess. I don't know the number but --
43 Q You don't dispute the BCFIRB finding in that
44 regard, do you?
45 A No.
46 Q So there's no dispute that you definitely in 2017
47 harvested, produced and shipped in excess of your

56

Bob Dhillon (a witness)
Cross-exam by Cnsl R. McDonell

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47 harvested, produced and shipped in excess of your

57

Bob Dhillon (a witness)

Cross-exam by Cnsl R. McDonell

1 delivery allocation for any varieties of potatoes
2 that you have DA for; right?
3 A Yes.
4 Q That was a yes, sorry?
5 A Yes.
6 Q Yes. And added to that you had -- am I correct
7 in saying you had no delivery allocation for
8 Kennebecs; right?
9 A Correct.
10 Q And you sold -- you shipped and sold Kennebec
11 volumes; right?
12 A Under IVCA's direction, yes.
13 Q Yeah. About 4,000 pounds?
14 A Roughly, yes.
15 Q You mentioned earlier some -- in 2017 some
16 potatoes left in the field. I think you said
17 yellows and Kennebecs.
18 A Yes.
19 Q At the time -- after receipt of the cease and
20 desist order. Do you remember that?
21 A Yes.
22 Q And so -- and I don't have my note. How much
23 acreage was left? Was it about 30 or 40?
24 A 30, 40.
25 Q Yeah. And at that point in time, had you already
26 exceeded your delivery allocation for yellows?
27 A Most likely.
28 Q Yeah. And you hadn't exceeded your DA for
29 Kennebecs because you didn't have any at that
30 point; right?
31 A Correct.
32 Q Now, what did you grow and ship in terms of
33 potatoes, if anything, in 2018?
34 A None.
35 Q None. 2019?
36 A None.
37 Q 2020?
38 A None.
39 Q 2021?
40 A We had grown about 20 some odd -- 20, 30 acres.
41 Q Is that what you sold through -- sorry. Was it
42 OGP, the Okanagan agency?
43 A Well, we didn't get the chance. We got flooded
44 but that was the plan.
45 Q And I'm very sorry to hear about that, sir. I
46 didn't know that until yesterday and I'm very
47 sorry to hear that you suffered a flood and lost

58

Bob Dhillon (a witness)
Cross-exam by Cnsl R. McDonell

1 crop as a result. And it was crop left in the
2 field that was flooded, was it? Not left in the
3 field; you couldn't get it because of the flood
4 but it was damaged. You lost your crop in the
5 field; right?
6 A No, it was harvested.
7 Q It was harvested and in storage?
8 A Yes.
9 Q I see, okay. Did you not -- you gave evidence
10 earlier that you were not prepared to work with
11 BCfresh and is that why you didn't grow potatoes
12 in 2018 because you'd been directed by the
13 commission that BCfresh would be your agency?
14 A In 2018, yes.
15 Q And same answer for 2019 and 2020?
16 A I believe in 2020 we tried -- had a couple of
17 meetings but we couldn't come to any conclusion,
18 plus it was -- we had corona issues.
19 Q Now, the price at which you were selling has been
20 referred to in evidence so far and I
21 understand -- and indeed -- I think we saw the --
22 some of your contracts this morning. You were
23 selling at \$22 at 100 weight?
24 A \$22 at 50 pounds, was it?
25 Q Well, yeah, you tell me. I looked at the
26 contract, it said \$22 100 weight. But what you
27 intended to do was to contract to sell a 50 pound
28 carton, whether it's 5 by 10 or a 10 by 5 for
29 \$22, right, that was your intention when you
30 signed the agreement with Thomas Fresh; right?
31 CNSL C. HUNTER: I'm sorry. I object to the question.
32 That's misleading to the witness. Mr. Dhillon
33 did not sign a contract. There's no evidence he
34 did.
35 CNSL R. MCDONELL: Fair enough.
36 Q When there was a contract entered into, the 60
37 day forward contracts with Thomas Fresh, you
38 intended to sell for \$22 and 50 pound carton as
39 is the standard in British Columbia; right?
40 A For export, yes.
41 Q Yes. And do you dispute that the contract says
42 the \$22 100 weight?
43 A No.
44 Q And you knew at the time that the agreement was
45 entered into that it was \$22 100 weight or did
46 you?
47 A I think it was just -- I knew it would be based

54

Bob Dhillon (a witness)
Cross-exam by Cnsl R. McDonell

1 A Yes.
2 Q The words you used was, I was directed by IVCA,
3 yesterday, I was told IVCA, and today you said
4 you were required by IVCA to grow in excess of
5 your DA. Do you remember that?
6 A Yes.
7 Q Was that direction from IVCA in writing?
8 A No.
9 Q There's no written record whatsoever of this
10 direction to Prokam as to how much to grow?
11 A I don't believe so.
12 Q No. But you do recall how much in excess of your
13 DA you were required by IVCA to grow; is that
14 right?
15 A Anything that was over, yes.
16 Q And how much was it?
17 A I'm not sure on the exact numbers.
18 Q You're not sure?
19 A What the exact number was?
20 Q Approximate number, how many tons?
21 A I'd be totally guessing.
22 Q Well, sir, I suggest you can do more than guess.
23 You've just described in full detail as to all
24 the planning that goes into growing these
25 potatoes, buying the seed. You start as early as
26 late November. How many tons did you plan to
27 grow in 2017?
28 A I had about 350 acres so all yields are
29 different, Warba yields are around 7 ton which I
30 had maybe 30, 40 acres of that and the rest were
31 colours, so you're looking at anywhere from 15 to
32 16 ton an acre.
33 Q Right. Yesterday when you first gave your yields
34 you described it as I think 17 to 20 tons per
35 acre and I won't challenge you on -- I won't
36 challenge you on being proud of your yields. 17
37 to 20 is a bit high; right?
38 A It's been done but, you know, it's a little high,
39 yeah, maybe.
40 Q Because what you did -- to be fair --
41 A Sorry.
42 Q Later in your testimony you did reduce it I think
43 to somewhere around 17 tons?
44 A Yeah.
45 Q Were you factoring in the lower yields on earlies
46 when you -- you may have said 15 to 17. Were you
47 factoring in your earlies and the lower yield on

63

Bob Dhillon (a witness)
Cross-exam by Cnsl K. McEwan

1 A I can't say for sure.
2 Q And you will see Mr. Meyer says "no, like what?"
3 Right? He's asking you?
4 A Yeah.
5 Q And then over -- and this is on June 19. Let's
6 go over to page 3416.
7 A M'mm-hmm.
8 Q Whether it's connected or not Mr. Meyer says to
9 you:
10
11 We have to send in tonnage reports each week
12 for them to do percentage reports on
13 delivery allocation.
14
15 I believe that's supposed to be allocation.
16
17 The first one is to be in by 5:00 P.M.
18 tomorrow.
19
20 Do you see that?
21 A Yeah.
22 Q Do you see your response?
23 A Yeah.
24 Q And I'm going to put it on the record. You say
25 "fuck them." You see that?
26 A Yeah.
27 Q Meaning the commission?
28 A The report -- I don't know who was doing the
29 report. I see [indiscernible].
30 Q Well, sir, who would be monitoring delivery
31 allocation percentage?
32 A Yeah. I would say it's commission but me and
33 Brian --
34 Q Yes.
35 A Me and Brian talked like that all the time. It's
36 not like we're fighting here. We're just, you
37 know ...
38 Q No. You're responding to the suggestion that you
39 had delivery allocation reports to be filed with
40 the commission, that's what you're responding to;
41 right?
42 A Yeah. They got rid of that after a week anyways.
43 Q I didn't ask you that, sir. I'm asking you about
44 the attitude you took towards your regulator and
45 we'll put it more politely. No; right?
46 A I would have to read the whole text. Afterwards
47 he says "yeah, I will." I don't know what means.

85

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 do was to maintain a minimum price in British
2 Columbia; correct?
- 3 A In British Columbia, yes.
- 4 Q And whatever couldn't be sold in British Columbia
5 they wanted to sell it outside of British
6 Columbia?
- 7 A IVCA you're referring to?
- 8 Q I'm referring to IVCA; I'm referring to all
9 agencies.
- 10 A So what was the question.
- 11 Q Whatever couldn't be sold in British Columbia at
12 a minimum price the idea was to sell it outside
13 of British Columbia; correct?
- 14 A Correct.
- 15 Q And to sell it outside British Columbia the idea
16 was that the minimum price in British Columbia
17 wouldn't apply?
- 18 A Correct.
- 19 Q And the contracts entered into with Thomas Fresh
20 in early 2017 were below the British Columbia
21 minimum price?
- 22 A British Columbia, yes, but not export.
- 23 Q Now, you became involved with IVCA, what is it,
24 when I say "involved" what -- I should be more
25 precise. You became a director of IVCA in 2016;
26 is that correct?
- 27 A Yes.
- 28 Q You're a vice president; is that correct?
- 29 A Yes. Yes.
- 30 Q And you know the responsibilities that are
31 associated with being the director and the vice
32 president of a vegetable marketing agency;
33 correct?
- 34 A That's the makeup of the agency, like I said, in
35 2016 when I came there, they needed a director
36 so, you know, being new and everything like that,
37 they basically said hey, you want to be director,
38 so I did so. But all the day-to-day decisions,
39 everything, I didn't get involved.
- 40 Q So put another way you knew that you had
41 responsibilities as a director of IVCA?
- 42 A I would have responsibilities if any were given
43 to me but, like I said, Terry Michell ran that
44 place.
- 45 Q You had responsibilities as a director to ensure
46 that IVCA was working in a manner that was
47 compliant with the orders of the commission.

14
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 exceeded my delivery allocation and that is
2 allowed I was told by my agency.
3 Q Leaving it aside whether it's allowed or not the
4 letter contained an appendix B; okay?
5 A Okay.
6 Q Which sets out what the delivery allocation was
7 and the total potatoes. So it looks like on this
8 appendix you can see the delivery allocations?
9 A M'mm-hmm.
10 Q So it look like a delivery allocation for periods
11 A, B -- categories A, B, C and D was 130 and your
12 total shipped was 827; is that correct?
13 A I believe so.
14 Q And the same thing -- sorry. Your delivery
15 allocation I guess is 827 and your total potatoes
16 shipped is 2135. Does that make sense?
17 A Okay.
18 Q Does that make sense to you?
19 A I don't know the exact numbers but it might be
20 right.
21 Q Okay. All right. All right. Going to go back
22 to the decision. And I want to take you to a
23 couple of paragraphs. I think I'm making the
24 same mistake I did earlier. Sorry about that.
25 Hang on a second. My apologies. Okay. Sorry
26 about that. I want to take you to paragraph 26
27 of this decision, sir?
28 A Okay.
29 Q And you can see it says:
30
31 On the evidence there's no dispute that
32 Prokam grew Kennebec potatoes without DA.
33 Mr. Dhillon confirmed that IVCA president,
34 Mr. Michell, wanted to make sure that if
35 there was a gap in production due to
36 inconsistent quality, IVCA could fill the
37 gap.
38
39 Do you see that?
40 A Yes, I do.
41 Q Paragraph 27 says:
42
43 Mr. Dhillon, either in his role as the
44 principal of Prokam or as a director of
45 IVCA, did not seek approval from the
46 commission before producing or shipping
47 regulated product not covered by or in

15
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 excess of Prokam's DA as required by the
2 general orders.
3
4 Did I read that accurately?
5 A Yes, you did but, you know, and I will say this,
6 you know. I'm Prokam; I'm a grower; I'm kind of
7 going at the direction of my agency which was
8 IVCA.
9 Q All right. But you were also a director of IVCA?
10 A I guess I was, you know, for the reason being
11 because there was four people in that agency and
12 they needed three directors so they made me a
13 director. I had no decision-making power of any
14 sort.
15 Q In any event what's set out at paragraph 26 and
16 27 is correct factually, isn't it?
17 A Yes.
18 Q So as you --
19 A Sorry.
20 Q Go ahead.
21 A I have to point out in paragraph 27 it wasn't my
22 job to seek the approval of the commission. It
23 was my agency's job.
24 Q And you were a director of that agency?
25 A Like I said -- I was a director, yes, but ...
26 Q Okay. And you understand as a director you have
27 certain responsibilities. As a director you have
28 what's called fiduciary obligations. You
29 understood that?
30 A Yes, but I made no such decisions there. It was
31 basically -- I was basically a director there
32 because they needed three and there was nobody
33 else.
34 Q I understand what you're saying?
35 A Okay.
36 Q But you don't disagree that the -- well, you will
37 agree that paragraphs 26 and 27 are factually
38 correct?
39 A I don't agree about the approval, that I did not
40 seek approval as a grower, but I understand what
41 you're saying. I was a director but I'd just
42 like to point out that I was a director because
43 they needed a chair for a director.
44 Q I think I have your evidence on that. Now, as
45 you indicated Prokam sold its potatoes through
46 IVCA; right?
47 A Yes.

6

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 Q If we go to the seventh page please, Ms. Hall,
2 paragraph 27.

3 Do you agree with this finding that
4 Mr. Dhillon, either in his role as the principal
5 of Prokam or as a director of IVCA, did not seek
6 approval from the commission before producing or
7 shipping regulated product not covered by or in
8 excess of Prokam's DA as required by the general
9 orders?

10 A As I said that falls on the agency, not the
11 grower.

12 Q You don't disagree with that paragraph, do you,
13 sir?

14 A Well, in my view, I did not, as a grower, need to
15 do such a thing because that falls on the agency.

16 Q Right. We'll come back to that. We go to the
17 next page, the last sentence of paragraph 29,
18 you'll agree that by the time the cease and
19 desist orders were issued, you had sold
20 approximately 348 tons of potatoes to Thomas
21 Fresh?

22 A After the cease and desist?

23 Q Yes. Sorry. By the time of the cease and desist
24 orders.

25 A I don't know the number. It may be. I'm not too
26 sure.

27 Q Well, let's look at the last sentence at
28 paragraph 28 at page 4 -- sorry, it's the page
29 4111 or 5010, Ms. Hall. So it's page 4111 of the
30 record, and I'm going to read that sentence:

31
32 By the time of the cease and desist orders
33 were issued Prokam had sold approximately
34 348 tons of potatoes to Thomas Fresh.

35
36 You don't disagree with that finding, do you?

37 A That's what they have and, like I said, I haven't
38 checked my numbers but, yeah. And it replaced
39 all US product, yes.

40 Q Sir, you'll also agree with me that you were a
41 big player in IVCA?

42 A One of them.

43 Q I'm sorry, I didn't hear you, sir.

44 A One of them.

45 Q But you'll agree with me that you acknowledge
46 that IVCA needed Prokam as a grower both
47 financially and for growth?

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 do was to maintain a minimum price in British
2 Columbia; correct?
- 3 A In British Columbia, yes.
- 4 Q And whatever couldn't be sold in British Columbia
5 they wanted to sell it outside of British
6 Columbia?
- 7 A IVCA you're referring to?
- 8 Q I'm referring to IVCA; I'm referring to all
9 agencies.
- 10 A So what was the question.
- 11 Q Whatever couldn't be sold in British Columbia at
12 a minimum price the idea was to sell it outside
13 of British Columbia; correct?
- 14 A Correct.
- 15 Q And to sell it outside British Columbia the idea
16 was that the minimum price in British Columbia
17 wouldn't apply?
- 18 A Correct.
- 19 Q And the contracts entered into with Thomas Fresh
20 in early 2017 were below the British Columbia
21 minimum price?
- 22 A British Columbia, yes, but not export.
- 23 Q Now, you became involved with IVCA, what is it,
24 when I say "involved" what -- I should be more
25 precise. You became a director of IVCA in 2016;
26 is that correct?
- 27 A Yes.
- 28 Q You're a vice president; is that correct?
- 29 A Yes. Yes.
- 30 Q And you know the responsibilities that are
31 associated with being the director and the vice
32 president of a vegetable marketing agency;
33 correct?
- 34 A That's the makeup of the agency, like I said, in
35 2016 when I came there, they needed a director
36 so, you know, being new and everything like that,
37 they basically said hey, you want to be director,
38 so I did so. But all the day-to-day decisions,
39 everything, I didn't get involved.
- 40 Q So put another way you knew that you had
41 responsibilities as a director of IVCA?
- 42 A I would have responsibilities if any were given
43 to me but, like I said, Terry Michell ran that
44 place.
- 45 Q You had responsibilities as a director to ensure
46 that IVCA was working in a manner that was
47 compliant with the orders of the commission.

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 A I was -- yeah, from director to vice president,
2 yes.
3 Q Well, you had both roles; correct?
4 A No, I don't believe so.
5 Q Are you telling us that you stopped being a
6 director?
7 A I would -- I don't know how that works. If I was
8 a director and they made me vice, I don't think
9 you're a director anymore.
10 Q Do we have to go back to that document and
11 establish that you were a director and a vice
12 president. Is that what you'd like to do?
13 A So you're saying I was both?
14 Q Well, sir, I wasn't there. I've taken you to a
15 document dated May 25, 2017, that lists you as a
16 director and a vice president. Do you agree that
17 you were a director and a vice president?
18 A Can I see that document again, please.
19 Q Let's go to 3189. We're at 3189. Do you see yet
20 again the annual general meeting at IVCA held May
21 25, 2017, and you were present at least by
22 FaceTime or telephone as you say; correct?
23 A Correct.
24 Q And if we go to the next page under "election of
25 officers" there's "directors," your name appears
26 under "directors and vice president re-elected."
27 Do you see that, sir?
28 A Okay. I was unaware that president and vice
29 president were still directors but if everybody's
30 a director and then they got another title --
31 okay. I see that now. Sorry.
32 Q So going back now to the June 2017 letter, as a
33 director and vice president you knew, and I'm
34 going to suggest to you that it was your duty to
35 make sure that your agency complied with the
36 commission's general orders?
37 A I think everybody had their duties there, right.
38 We had general managers, Ron Wittal was there,
39 everybody had a duty, right. Now, if you say I'm
40 a director and vice president I agree with that.
41 THE REGISTRAR: Sorry. You're ...
42 THE WITNESS: Sorry.
43 THE REGISTRAR: Mr. Dhillon's a bit warbally [sic].
44 THE WITNESS: Sorry.
45 THE REGISTRAR: That's okay.
46 CNSL R. HIRA:
47 Q You were also warned in that letter that

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 A No.
2 Q Okay. Let me help you with it. First, you
3 understand the date, August 9, 2017; correct?
4 A Correct.
5 Q You understand the end date, September 30, 2017;
6 correct?
7 A Correct.
8 Q You understand the agency is IVCA; correct?
9 A Correct.
10 Q You understand that you're a director and officer
11 of IVCA during that time period; correct?
12 A Correct.
13 Q You understand that Prokam potatoes are being
14 marketed by that agency; correct?
15 A Correct.
16 Q And you understand what the BC minimum price was
17 throughout that time period; correct?
18 A Correct.
19 Q Having understood all those components I put it
20 to you that you knew between August 9 and
21 September 30, 2017, that IVCA, an agency that you
22 were the director and officer of, was selling
23 Prokam potatoes at below the BC minimum price?
24 A Not in BC and they believed that price of BC
25 minimum price did not matter on exports is what I
26 believe.
27 Q And when you -- I'm sorry I interrupted. I beg
28 your pardon.
29 A Is what IVCA believed.
30 Q And when you say they believed, are you saying
31 that Brian Meyer believed he could do so?
32 A Brian Meyer, Terry Michell, Ron Wittal.
33 Q They all believed that they could do so?
34 A I believe so. That's why they got me to grow the
35 potatoes that they got me to grow.
36 Q Is there any document that you can point to
37 recording that belief, sir?
38 A No, they were verbal or telephone conversations.
39 I wouldn't have -- as a grower and if you ask a
40 grower no growers can invest that kind of money
41 into seed potatoes if there isn't a plan.
42 Q Sir, is there any document that you can point me
43 to that records that belief?
44 A I do -- myself personally, no.
45 CNSL R. HIRA: Thank you. Mr. Chairman, I note the
46 time.
47 THE CHAIR: It is 2:30. It is break time. So we'll

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Bob Dhillon (a witness)
Cross-exam by Cnsl K. McEwan

1 seeing a lawyer because you recognized that
2 Prokam's interest were in the centre of this?
3 CNSL C. HUNTER: I object to the question in respect
4 of what the subject matter on which legal advice
5 was sought.
6 CNSL K. MCEWAN: Well, let me try and reframe it to
7 save us a few minutes. I don't understand that
8 to be objectionable why he went as opposed to
9 anything that was said.
10 Q Sir, you saw these letters, the issue of delivery
11 allocation percentage as affecting Prokam's
12 interests; right?
13 A Referring to a letter that I told to send to the
14 lawyer?
15 Q Yes.
16 A Yeah, if something concerns me I send it to my
17 lawyers, and I did that one. And as far as this
18 chain goes, this is just day-to-day so ... Terry
19 said there was --
20 Q This is just day-to-day, sir?
21 A Terry said there was a couple of emails and --
22 yeah, day-to-day that the agency would take care
23 of it. I don't know what they're referring to
24 here. It could have been a couple of emails.
25 Who knows what they were regarding.
26 Q Well, let's be clear, we're looking at your
27 texts; right?
28 A Yeah.
29 Q Yeah. And "the email from Andre today, Terry
30 said there was a couple." That's your words,
31 sir. It's not they; it's you; correct?
32 A Yeah.
33 Q Can I take you, please, sir, to page 891. Do you
34 have a letter of July 10th, 2017?
35 A Yes.
36 Q On IVCA letterhead?
37 A Yes.
38 Q A response to the commission?
39 A Yes.
40 Q Signed by you?
41 A Yes.
42 Q And signed by you as vice president of Island
43 Vegetable Cooperative Association. Do you see
44 that?
45 A Yes.
46 Q Yeah. So you're holding yourself out to your
47 regulator again as one of the responsible

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Bob Dhillon (a witness)
Cross-exam by Cnsl K. McEwan

- 1 officers for IVCA; right?
- 2 A Well, if you want to go on the fact that -- what
3 that position as vice chair, whatever that means,
4 I would say so. I guess so.
- 5 Q And, sir, the letter, if I can take you to 895,
6 responds not only on behalf of IVCA but also to
7 the warnings issued to Prokam; correct?
- 8 A I'm not -- I guess, yeah, they're just addressing
9 all the issues.
- 10 Q I'm going to take you to 942 if I might, sir.
11 And I do want to just ask you a few questions
12 about this email chain. You'll recall Mr. Hira
13 took you to this email?
- 14 A Yes.
- 15 Q And this is where IVCA expresses concerns about
16 cooperation from Prokam on pricing, purchase
17 order entries, returned phone calls and emails;
18 right?
- 19 A Yeah.
- 20 Q And your response, sir, and we saw the letter you
21 just signed:
22
23 As vice president of ICVA [sic] --
24
25 This is your email in response.
26
27 -- no such changes should be made in such a
28 busy time. If there's a change to be made
29 directors can vote.
30
- 31 See that?
- 32 A Yeah.
- 33 Q And you asserted your authority as vice president
34 of ICVA [sic] in this email chain; correct?
- 35 A Again I was just -- I was telling him that if I
36 was a vice president of IVCA no such thing like
37 this should happen, right, but they just
38 discarded it and did whatever they wanted to do
39 anyways.
- 40 Q Let's pause, sir. Firstly, your email doesn't
41 say if. There's no if about it. You were the
42 vice president, sir, and you represented yourself
43 to your regulator as such; fair?
- 44 A Yeah, only to go for him to not even acknowledge
45 that, yes.
- 46 Q And secondly, sir, I want to go back to the email
47 that started this chain from Mr. Meyer. And if

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Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 A Yes, because IVCA was marketing the potatoes in a
2 proper fashion.

3 Q All right?

4 A I didn't understand why all this stuff was
5 happening when IVCA was doing the right thing.

6 Q And as was Prokam, right, you were doing nothing
7 wrong?

8 A As a grower I definitely wasn't doing anything
9 wrong.

10 Q So neither IVCA or Prokam was doing anything
11 wrong and therefore the commission's letter of
12 June 14 was completely improper, it was
13 harassment, it was human rights violations, it
14 was red tape, all of those things; right?

15 A Okay.

16 Q That's what you communicated; right? Sorry, you
17 have to answer -- because we have a recording you
18 have to answer audibly.

19 A Yes. Because -- because, you know, we were
20 walking the straight line and we weren't doing
21 anything wrong. And, like I said, I wasn't
22 involved in the string of emails, right, so I
23 don't know what IVCA was thinking there, you
24 know. They weren't doing anything wrong so we
25 felt this way I guess.

26 Q All right.

27 THE CHAIR: Mr. Mitha --

28 CNSL N. MITHA: We're passed the break. It may be a
29 good time to take that.

30 THE CHAIR: Thank you, I was just going to suggest
31 that. So let's come back -- it's 22 minutes
32 before the hour so let's come back at five
33 minutes before. We're off the record.

34 CNSL N. MITHA: Thank you.

35
36 **(WITNESS STOOD DOWN)**

37 **(OFF THE RECORD)**

38

39 THE CHAIR: Mr. Mitha.

40 CNSL N. MITHA: Thank you.

41

42

**BOB DHILLON, a
witness, recalled.**

43

44

45 **EXAMINATION BY CNSL N. MITHA:**

46

Q I want to end off with that July 10th letter just
47 by saying to you that you understood that upon it

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Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

1 being sent, it was a letter that was critical of
2 the commission; right?

3 A I think it was, you know -- like, it was a view
4 of IVCA as a whole.

5 Q And Prokam; right?

6 A And Prokam, yeah.

7 Q And nowhere in the letter does it say yes, we're
8 going to comply, because it doesn't say anything
9 like that; right?

10 A I don't think it's about whether we were going to
11 comply or not. IVCA believed they were walking
12 the straight line and that was everybody's view.

13 Q Including Prokam's?

14 A Yeah.

15 Q And then I'm going to take you to page 901. I'm
16 going screen share again. All right. So you
17 sent that letter on July 10th, 2017, and you sent
18 it to, among other people, BCFIRB, and here is
19 BCFIRB's response. It says:

20

21 Mr. Michell and Mr. Dhillon, thank you for
22 your letter of July 10th. You raise a
23 number of concerns...

24

25 Et cetera. And then it says:

26

27 First, please be aware that if IVCA and/or
28 Prokam Enterprises is agreed by or
29 dissatisfied with an order decision or
30 determination of the commission you can
31 appeal it to BCFIRB.

32

33 Right?

34 A Yes.

35 Q Okay.

36 A I did not -- like, I didn't see that letter after
37 that -- or who is it addressed to?

38 Q It's addressed to you.

39 A Okay.

40 Q In any event, at this point no appeal was
41 launched; right?

42 A No.

43 Q Okay. Now, I want to just ask you some questions
44 generally about prices of potatoes. We can go
45 and look at all the documents but here's what I
46 understand and I want to see if you have a
47 recollection. My understanding is that from

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Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 Q The chair of the marketing commission,
2 Mr. Solymosi, your MLA at the time, and the
3 minister of agriculture.

4 A Yes.

5 Q And you'll see it says:

6

7 This letter is in response to the one
8 received by Prokam and by the office of
9 IVCA.

10

11 And there's a reference of the June 14 letter;
12 right?

13 A Yes.

14 Q And I just want to take you to portions of the
15 letter. You'll see that in the second paragraph
16 it says:

17

18 We also believe that the information that
19 the commission would like treated
20 confidential will likely need to be
21 disclosed. Alleged harassment and other
22 threats of significant punishment to
23 growers, shippers/packers in BC and other
24 affected entities are surfacing on a weekly
25 basis.

26

27 Do you see that?

28 A Yes. And this letter was done in Victoria at the
29 office. Bob Gill wrote the letter I believe.
30 They all discussed it. Like I said I was way too
31 busy, you know. At this time, we're planting,
32 we're harvesting, we're doing whatever. And I'm
33 telling you the truth. I left it in the hands of
34 my agency. I know there was changes made. Terry
35 Michell was there, Brian Meyer was there,
36 everybody was there. I thought it was -- you
37 know, in my opinion who needed to be there was
38 there and my agency, IVCA would, do the right
39 thing.

40 Q Sir, you just said a few minutes ago that you
41 read the letter and you put your name to it
42 because it reflected Prokam's position in
43 response to the letter; right?

44 A Yeah. According to what the agency put in there,
45 yes.

46 Q But you read it and signed it; right?

47 A Yes.

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Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

- 1 Q And it reflected Prokam's position in response to
2 the June 14 letter; right?
- 3 A Okay.
- 4 Q Well, sir, the letter was sent. You can expect
5 that anybody receiving it would assume that it
6 reflected Prokam's response because it's signed
7 by both Prokam and Island Vegetable; right?
- 8 A Yes.
- 9 Q So whatever you thought about it, you were
10 putting your name to it as the owner of Prokam to
11 communicate to everybody who you sent it to that
12 this is Prokam's position; right?
- 13 A Well, maybe that was my mistake. Maybe I should
14 have, you know, ran it by Claire or whoever I
15 should have, you know. Like I said I was much
16 too busy. And I agree with you but, like, I did
17 resort that IVCA would do the right steps.
- 18 Q So let me just take a step back here. It sounds
19 to me like what you're saying is you didn't
20 really take a close look at the letter; you just
21 signed your name to it?
- 22 A Kind of.
- 23 Q But you have to have understood obviously that by
24 doing that whatever was in the letter was going
25 to be perceived as Prokam's position; right?
- 26 A Yeah. And I guess that's my mistake, you know.
27 I had faith in my agency and I required them to
28 do whatever was required in the right way. Like
29 I said I took those positions because there was
30 nobody else to take it, you know, or else I would
31 have been at those meetings, you know.
- 32 Q But I'm just not clear now. Are you now saying
33 that what's in the letter is incorrect and it
34 doesn't reflect Prokam's positions and it was a
35 terrible mistake?
- 36 A What I'm saying is I relied on IVCA and maybe I
37 should have --
- 38 Q Leaving aside IVCA, we have this letter in front
39 of us.
- 40 A Yeah.
- 41 Q You signed it. Now, what I want to know is what
42 you said is maybe I made a mistake, those were
43 your words; right?
- 44 A Okay.
- 45 Q Okay. So are you now saying that this letter was
46 a mistake because it doesn't reflect Prokam's
47 views or doesn't reflect Prokam's position? Is

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Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

- 1 If the commission enjoys investigating the
2 real concerns behind orderly marketing of
3 regulated products and focusses on voting in
4 more restrictions as present members see fit
5 they will need to hire more staff. The
6 situation is such that the commission cannot
7 handle the dire effects of what they are
8 voting for.
9
- 10 Right?
- 11 A Yes.
- 12 Q You agree with that sentiment?
- 13 A Yes.
- 14 Q And then this conclusion at page 898 which sets
15 out four different paragraphs. Do you want to
16 take a look at that and tell me if you agree with
17 what's on there?
- 18 A I haven't seen this but obviously Terry Michell
19 sent this.
- 20 Q Well, sir, you signed it as well.
- 21 A This one, too? Oh, it's the same letter? Okay,
22 sorry.
- 23 Q Yes, yes. This is the end of the letter.
- 24 A Oh, okay, sorry. Yes.
- 25 Q Do you agree with the conclusions set out at the
26 end of this letter?
- 27 A Yes.
- 28 Q So this letter, then, appropriately reflects even
29 as you sit here today, even if you didn't read it
30 earlier today, appropriately, in your view,
31 reflects Prokam's response to the June 14 letter;
32 right?
- 33 A Yes, yes.
- 34 Q You would agree with me that really when you look
35 at this letter and the tone of the letter and the
36 message in the letter it really says Prokam
37 doesn't intend to comply because all of the
38 commission's requirements are unfair and
39 improper, right, that's really the tone of it,
40 isn't it?
- 41 A I think the tone of it is, you know, I think
42 we're kind of excited what we're doing, we're
43 opening up new markets. You know, it wasn't
44 meant in any bad way or anything. I think it was
45 more or less, you know -- you know, we're
46 replacing US product. It was great for Canada --
47 BC. I don't think that's the tone. I think it

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Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

1 need to go behind a grower's back. That's just
2 so wrong in so many ways. Like I'm growing
3 product; I'm growing -- and I'm serving BC and
4 that's -- honestly that's all I'm doing and all
5 he had to do was talk to me. I don't have a
6 problem with Andre. Andre, when he first got
7 hired in 2015, he came to my farm. He talked to
8 me. Everything was awesome. He said what are
9 you doing, okay, this, that, we're excited, okay,
10 let's do this. And then as the years progressed
11 he just dropped off, right. It just -- it's like
12 that old -- you know, as soon as he got into the,
13 you know, the boys club, the old boys club there,
14 he just stopped communicating with me and there
15 was no need for that. I'm not a rogue grower. I
16 did what my agency asked me to do. Like, this is
17 puzzling to me. Nobody asked me for my opinion
18 in this. If Andre would have come to me, even if
19 the FIRB would have come to me and said hey, what
20 the hell is going on or anything like that, even
21 after the fact, if they would have asked me my
22 side of the story but nobody did, right? I was
23 just labelled as a rogue grower agency, I don't
24 know. They wanted my agency tonnage fees, right,
25 they were making money, right? Like, when did
26 this start happening that agencies start throwing
27 your growers under the bus? It wasn't like that.
28 This is -- none of this stuff is true. You can't
29 control and take over an agency. How? I'm
30 unaware of how to do that.

31 Q And that's really what your complaint is, isn't
32 it?

33 A Well, yeah. If somebody could have asked me,
34 somebody could have -- Andre could have come to
35 me and asked me my concerns rather than going
36 behind my back and making deals with IVCA and
37 giving them a pass of their licence and all this
38 sorts of stuff, right? I didn't harm anybody. I
39 grew potatoes. I didn't harm any growers. All I
40 did was replace US product. It's a fact, right.
41 I'm trying to grow BC's market. I'm not trying
42 to wreck anything.

43 Q Sir, you'll agree with me that of course you have
44 received a June 14 letter of 2017 and responded
45 with a July 10 letter; right?

46 A Yes.

47 Q And the July 10th letter was a pretty aggressive

91

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

- 1 letter in its tone and content?
2 A Again that reflected everybody at IVCA, not just
3 me.
4 Q Yes, I understand that. I'm just going through
5 the events, sir. And you'll also agree with me
6 that by August 8th there was notice given that a
7 price for export potatoes was going to come in on
8 August the 11th, you know that, or you say you
9 don't know that but that's what occurred. And
10 Prokam continued to sell potatoes below the
11 minimum price, that was well known in the
12 industry, sir. Mr. Guichon, as I understand from
13 his statement --
14 A It was well known in the industry maybe that IVCA
15 was selling below minimum pricing, right?
16 Everybody's dragging the grower into this, right?
17 I'm a grower. I'm not an agency. I'm not
18 nothing like that, right? No need to -- I
19 don't -- I can't wrap my head around this why
20 anybody would treat a grower like this. My
21 family has operated hundreds of acres and we've
22 given nothing but produce and added value to BC
23 market. We're not about rogue -- this is all
24 wrong.
25 Q Sir, you just said that it was well known in the
26 industry that IVCA was selling potatoes below
27 market price.
28 A Sorry, that's not what I meant. I meant, like,
29 whatever IVCA was doing, if that's what people
30 were saying, it wasn't the grower doing it; it
31 was IVCA doing it.
32 Q But, sir, everyone in the industry at that time
33 knew that Prokam through IVCA was selling
34 potatoes below the commission's minimum price;
35 correct?
36 A Why does it fall on the grower?
37 Q I'm not asking -- just stop for a minute. I'm
38 not asking you why; I'm not asking whose fault it
39 was. I'm putting to you that you knew full well
40 -- IVCA knew full well, everybody knew full well
41 that there was a minimum price for export
42 potatoes and Prokam and IVCA was selling below
43 that minimum price, that was well known, wasn't
44 it, sir?
45 A I did not know. That's agency business, sir.
46 Q Sir, you're going to tell me your evidence is
47 that you didn't know that there was some

2

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

- 1 A Of the minimum pricing?
2 Q Yes.
3 A I don't think so. I don't recall it.
4 Q But you don't dispute that the commission set a
5 minimum price for the export of potatoes? You
6 don't have any evidence to the contrary?
7 A That they didn't?
8 Q Yes.
9 A No.
10 CNSL C. HUNTER: Just a moment, Mr. Mitha. Just I
11 want to confirm you're not asking the witness to
12 agree that there was a validly set minimum price,
13 export minimum price.
14 CNSL N. MITHA: No. This is regardless whether it's
15 valid or not, they set a minimum price, that's
16 all I'm saying.
17 Q You can't say one way or the other because you
18 just don't know; is that right?
19 A Yes.
20 Q And you would appear that Prokam and IVCA after
21 August 11, 2017, continued to sell below the
22 minimum price. Again, that's something you had
23 no knowledge of because you don't know the
24 minimum price; is that right?
25 A Correct.
26 Q But you'll agree with me that Prokam continued to
27 sell its potatoes at the same price before August
28 11, 2017, and after August 11, 2017; right?
29 Didn't change the price for exports?
30 A I can't say for certain.
31 Q All right. We know that there was a -- we saw
32 that there was a fallout between Prokam and IVCA
33 in terms of how orders and what information was
34 needed to process orders; right?
35 A Yes.
36 Q So before September 2017 -- let me take one step
37 back. We also note from the June 14th letter,
38 and I think you have confirmed this, that Prokam
39 had shipped potatoes significantly greater than
40 its assigned delivery allocation; right?
41 A Yes.
42 Q So all of that was happening before September
43 2017; right?
44 A Yes.
45 Q And really what your complaint is, as I
46 understand it, is that instead of simply going
47 straight to dealing with the cease and desist

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 dysfunctional, I'm going to suggest, in IVCA
2 through July of 2017. Would you agree with me or
3 disagree with me?
4 A You cut out there. Could you repeat the
5 question, please.
6 Q Certainly. Things were getting dysfunctional at
7 IVCA through July of 2017 would you agree with me
8 or disagree with me?
9 A After they made me vice president? That was
10 after that, right?
11 Q Well, I'm talking about July 2017. Which part of
12 the question do you not understand, sir?
13 A Of the same thing. I think they made me vice
14 president in end of June I think it was, so by
15 July I think we were still okay. I believe they
16 thought it was all good too that they made me a
17 vice president and a director, right. So I think
18 at that time we might have been okay as far as
19 mine and Brian's relationship went.
20 Q I'm going to suggest that your relationship at --
21 relationship between you and Mr. Gill on one hand
22 and the staff and other people at IVCA was
23 deteriorating in July of 2017. Do you agree with
24 that proposition or not?
25 A Yeah. We had -- they had some office problems
26 and spilling over into my growing department.
27 Q Let's take a look at some of the problems.
28 First, you'll agree with me that you were holding
29 on to significant purchase orders without
30 properly reporting them to IVCA?
31 A I don't agree with that.
32 Q Sorry?
33 A I don't agree with that. We weren't holding on
34 to purchase orders that I'm aware of.
35 Q Let's go to document 3210.
36 Go to the bottom of that document, please,
37 Ms. Hall.
38 See that, sir? There's an email, July 28,
39 2017, 2:00 P.M. to you from Brian Meyer and in
40 that email he, amongst other things, talks about
41 four purchase orders that you've been holding on
42 to for over \$70,000. Do you see that, sir?
43 A Okay.
44 Q Were you holding on to four purchase orders as he
45 alleges?
46 A I don't believe so. I want to get it to them as
47 soon as I can so I could get paid. Why would I

80

Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 Q Well, but you were disagreeing with him; right?

2 A Hmmm?

3 Q You were disagreeing with how he wanted to
4 process the orders; right?

5 A I was disagreeing with this process.

6 Q Right. And that became a matter of significant
7 contention between all of you; right?

8 A Yeah, because they weren't there on the weekends
9 to place the orders or give us paperwork. They
10 weren't open Saturday/Sunday so that posed a
11 problem.

12 Q Right. So whatever the reasons are, there was a
13 significant concern and a significant dispute;
14 right?

15 A Yes, because it wasn't done properly.

16 Q And then I'm going to show you a document, page
17 948, Friday, August 18, 2017, written to you,
18 Mr. Gill, Barb Dhillon,
19 Michell'sfarm@hotmail.com, and the subject is
20 orders from Prokam. And it's from IVCA orders,
21 orders@ivca.ca. And it says "Bob, Bobby and
22 Barb." It goes on to talk about the proper
23 procedure on orders. "We request the following
24 from Prokam on all orders." Talks about what
25 they require; right?

26 A M'mm-hmm.

27 Q And it's signed by Brian Meyer general manager;
28 right?

29 A Yeah.

30 Q And then it does say:

31
32 The reason the email orders that IVCA has
33 monitored 24/7 is so we can generate the
34 order as soon as the customer sends it to
35 us.

36
37 So it's monitored 24/7.

38 A That's not true.

39 Q You may not have thought so but that's what he
40 says; right?

41 A Yeah, but that's incorrect.

42 Q Okay. And maybe that's why you took issue with
43 it but regardless that's what he says; right?

44 A Yeah.

45 Q August 18th, Mr. Gill writes. He's taking issue
46 with the direction to issue the orders to
47 ivca.ca; right?

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Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

- 1 A Yes.
- 2 Q And this continued on for a significant period of
3 time through August 2017; correct? We can go
4 through all the emails but I invite you to think
5 about it and maybe refresh your memory, this was
6 a matter of significant dispute; right?
- 7 A There was dispute, yes.
- 8 Q And it was really about how the orders were going
9 to be flowing through. You wanted the orders to
10 be able to go to Prokam and they were saying no,
11 they all have to go to IVCA; right?
- 12 A Yeah, I was saying that for turnaround times and
13 getting it done but yes.
- 14 Q Okay. For whatever the reasons are, I don't
15 question your reasons or your motivation. I'm
16 just saying the big difference between yourself
17 and Mr. Gill on one side and Mr. Meyer on the
18 other side was this issue which is how the orders
19 were going to be processed and who gets the
20 documentation; right?
- 21 A Yeah.
- 22 Q Okay. I'm taking you to document 5658 which is
23 Mr. Michell's statement or will-say statement --
24 or interview report, excuse me, and you know
25 Mr. Michell of course was the president of IVCA
26 at the time?
- 27 A Yes.
- 28 Q And taking you to the first paragraph at the
29 bottom of the page that's highlighted, he says --
30 it says:
- 31
- 32 Mr. Michell was asked about the relationship
33 between IVCA and Prokam. His response was
34 that IVCA had a huge difficulty dealing with
35 Prokam and the principal of Prokam,
36 Mr. Dhillon. Mr. Michell's view was that
37 through the summer of 2017 Prokam was acting
38 inappropriately and was not providing
39 information required for the selling of its
40 potatoes. IVCA tried to get Prokam to
41 comply with the rules of the commission but
42 felt that Prokam, in his words, ran rough
43 shot over IVCA.
- 44
- 45 That's what he says.
- 46 A I don't agree with that.
- 47 Q You don't agree with that, okay. He then goes to

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Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 I believe and entrust that your efforts and
2 those of IVCA to take corrective action on a
3 matter are genuine in the interest of
4 preserving integrity in the orderly
5 marketing system. The commission needs to
6 know that IVCA is taking ownership of its
7 obligations as an agency and that there is
8 an agency. The audits control that its
9 placing the agency in a position of
10 noncompliance with its mandate. I can
11 honestly attest that the commission wants
12 IVCA to succeed as an agency as long as we
13 are honest and upfront, work together, and
14 support of the orderly marketing system and
15 request assistance when needed, your agency
16 licence is protected.

17
18 Now, is that the factual basis on which you make
19 the allegation that the commission improperly
20 made an inducement or offer of assistance to IVCA
21 to get information.

22 A Yes.

23 Q Is there any other evidence that you rely on
24 besides that, sir?

25 A You would have to ask my counsel. I'm not sure.

26 Q Are you aware of any other facts that would say
27 that the commission was either making a threat or
28 offering an inducement to IVCA?

29 A If it says it right there I think -- that's it.
30 That one -- let's see if there is anything else.
31 That's all I can remember right now.

32 Q Fair enough. Now, at the end of the day -- let's
33 go back to August 2017 you were having a dispute
34 at IVCA as to how Prokam would process its
35 orders; right?

36 A Yes.

37 Q And Prokam continued to process its orders its
38 way rather than the way IVCA wanted?

39 A I'm not sure what happened after that. I don't
40 recall what happened after that whether Bob Gill
41 was doing it or it went back.

42 Q You have no recollection whether you complied or
43 you didn't comply with requiring all orders to go
44 to --

45 A I think -- well, eventually we did. I think all
46 orders did start going there.

47 Q When was that, sir?

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Bob Dhillon (a witness)
Cross-exam by Cnsl R. McDonell

- 1 A Just once in 2016. I think there was ...
- 2 Q It's important, Mr. Dhillon, for a grower to work
- 3 co-operatively with its agency? You agree with
- 4 that?
- 5 A Yes.
- 6 Q Now, the state of affairs and your working
- 7 relationship between Prokam and IVCA in 2017 is
- 8 best described as, from what I've heard you
- 9 describe it, it's chaos -- it was chaos; right?
- 10 A Yes.
- 11 Q And it was chaos at the start and it only got
- 12 worse; right?
- 13 A Yes.
- 14 Q But yesterday you described IVCA as a fully
- 15 capable agency. Let me back up. This chaos of
- 16 course is IVCA's fault and not yours; right?
- 17 A Chaos in the beginning was just within their
- 18 office. There was Brian Meyers, Janice, they
- 19 would be going at each other, this and that. It
- 20 was the earlier chaos that I'm referring to is
- 21 just within their -- within their own office.
- 22 Q Well, no, but it was -- and you experienced that
- 23 vis-a-vis Prokam's sales and IVCA's sales of
- 24 Prokam potatoes; right? It had an impact on
- 25 Prokam, right, because there was chaos in your
- 26 sales?
- 27 A No. I said there was chaos in the office, right?
- 28 Janice had issues with Brian; Brian had issues
- 29 with Janice; they fired each other a couple of
- 30 times, came back, [indiscernible].
- 31 CNSL R. MCDONELL: Madame Reporter, was that too
- 32 blurry to recover?
- 33 THE REGISTRAR: That was very -- it sort of faded out
- 34 the last ...
- 35 CNSL R. MCDONELL:
- 36 Q Mr. Dhillon, could you please repeat that. I
- 37 believe you were describing difficulties between
- 38 Mr. Meyer and Ms. Solotski?
- 39 A Yeah. They had their issues. There was every
- 40 day issues going on at the office at IVCA,
- 41 bickering going back and forth.
- 42 Q In any event as things developed you were fully
- 43 comfortable in relying on IVCA to act properly in
- 44 accordance with the commission's general orders
- 45 and you had full faith in them as a capable
- 46 agency; correct?
- 47 A Correct.

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Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

- 1 letter in its tone and content?
2 A Again that reflected everybody at IVCA, not just
3 me.
4 Q Yes, I understand that. I'm just going through
5 the events, sir. And you'll also agree with me
6 that by August 8th there was notice given that a
7 price for export potatoes was going to come in on
8 August the 11th, you know that, or you say you
9 don't know that but that's what occurred. And
10 Prokam continued to sell potatoes below the
11 minimum price, that was well known in the
12 industry, sir. Mr. Guichon, as I understand from
13 his statement --
14 A It was well known in the industry maybe that IVCA
15 was selling below minimum pricing, right?
16 Everybody's dragging the grower into this, right?
17 I'm a grower. I'm not an agency. I'm not
18 nothing like that, right? No need to -- I
19 don't -- I can't wrap my head around this why
20 anybody would treat a grower like this. My
21 family has operated hundreds of acres and we've
22 given nothing but produce and added value to BC
23 market. We're not about rogue -- this is all
24 wrong.
25 Q Sir, you just said that it was well known in the
26 industry that IVCA was selling potatoes below
27 market price.
28 A Sorry, that's not what I meant. I meant, like,
29 whatever IVCA was doing, if that's what people
30 were saying, it wasn't the grower doing it; it
31 was IVCA doing it.
32 Q But, sir, everyone in the industry at that time
33 knew that Prokam through IVCA was selling
34 potatoes below the commission's minimum price;
35 correct?
36 A Why does it fall on the grower?
37 Q I'm not asking -- just stop for a minute. I'm
38 not asking you why; I'm not asking whose fault it
39 was. I'm putting to you that you knew full well
40 -- IVCA knew full well, everybody knew full well
41 that there was a minimum price for export
42 potatoes and Prokam and IVCA was selling below
43 that minimum price, that was well known, wasn't
44 it, sir?
45 A I did not know. That's agency business, sir.
46 Q Sir, you're going to tell me your evidence is
47 that you didn't know that there was some

70

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

1 pricing so I got nothing to do with any of that.
2 Like I said, you know -- and I'm not trying to be
3 smart or anything like that, Mr. Mitha, like, I'm
4 a grower and, you know, like I said, I'm out
5 there 4 o'clock in the morning and we're not --
6 some days we're not done until ten to midnight.
7 Q So August was a busy time for you in the farm?
8 A Oh, for sure.
9 Q Right. So even though you were getting these
10 emails what you're saying is you may not have
11 been paying a lot of attention to them?
12 A No, I slowly dropped off of these emails after
13 that. This is all office.
14 Q But hang on a second here, you did -- it was
15 copied to you so it went to your email; right?
16 A It did, and a lot of emails get copied to me and,
17 you know, most of the time I'm in a tractor or
18 wherever I am. If something is brought to my
19 attention I might look at it. Other than that I
20 rely on my agency.
21 Q Right. I understand what you're saying. You got
22 the email; you just may not have paid a lot of
23 attention to it; is that fair?
24 A I might not have even looked at it.
25 Q All right.
26 A You know, right when I look at this, it says
27 "minimum pricing week." Got nothing to do with
28 me.
29 Q In any event, you will see that Mr. Meyer
30 responds by saying "we'll let you know when I
31 know." You see that?
32 A Yes, and I'm not even copied in on that.
33 Q No, you're not. I understand that. I'm going to
34 take you to the next email exchange, which I
35 don't think you were copied on either, I'll have
36 a look, but you'll see that again we have an
37 email from Mr. Solymosi talking about conference
38 call bulk price red, yellow potatoes, the start
39 and the end of the conference, and the meeting
40 organizer, and includes a number of attendees;
41 right?
42 A Yes.
43 Q And there's a dialling number and "agenda: set
44 bulk price in red and yellow potatoes."
45 A Okay.
46 Q And then you'll see there's a response on August
47 8th from Mr. Gill to Mr. Solymosi saying:

71
 Bob Dhillon (a witness)
 Exam by Cnsl N. Mitha

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Good morning, Andre. I was speaking to Brian, IVCA, and he mentioned that discussion took place regarding shipping product out of province.

Now, at this point, Prokam was shipping potatoes out of the province, right, through Thomas Fresh? Yeah, we were, but I have no -- I'm not in on this email.

I know that. That's not the question I asked you. Leave aside the email.

Okay.

In August 2017 Prokam was shipping potatoes --

Yes.

-- outside of the province?

Yes.

Okay. And in any event, Mr. Gill says: "I am reaching out to you" -- he's talking to Mr. Solymosi:

I'm reaching out to you to gain an understanding of what the reasoning is for discussion about out-of-province pricing. My understanding is the commission has no jurisdiction over imported potatoes. Is that correct.

See that?

Yes.

All right. And then Mr. Solymosi responds also in August 8, 2017, saying:

Hi, Bob. Any regulated product grown within the regulated area of BC is subject to minimum pricing. All pricing is subject to the pricing policy. All pricing needs to be approved by the commission general manager. On imported products, products not grown in the regulated area, we have no jurisdiction.

So we can see what Mr. Solymosi is communicating to Mr. Gill and Mr. Meyer; right?

Would that be correct?

Well, whether it's correct or not, that's what was communicated. And you may not have known this, you may have known this, and that was my

94

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

1 They did not prohibit growing potatoes the
2 next year.

3
4 So let's just go through this.

5 First of all, he says:

6
7 It is not accurate that the export for
8 BCfresh was in no worse position because of
9 Prokam. BCfresh sells through the
10 summer/fall. Thomas Fresh indicated they
11 were not displacing BC produce.

12
13 Anything incorrect about that, sir?

14 CNSL C. HUNTER: I just want -- Mr. Mitha, what are
15 you asking? Is it incorrect that Mr. Guichon
16 said that to you or --

17 CNSL N. MITHA: Is that statement incorrect, in other
18 words --

19 CNSL C. HUNTER: But how would he know? None of this
20 is supposed to be anything that involves him.

21 CNSL N. MITHA: Well, he's in the industry. Does he
22 accept that's an accurate fact.

23 Q Whether or not Mr. -- whether or not Mr. Guichon
24 said it, is that an accurate fact, sir, that from
25 your perspective that the expert from BCfresh
26 would be in no worse position because of Prokam
27 because BCfresh sells in the summer and the fall
28 and Thomas Fresh said they were not displacing BC
29 produce. Was that your perspective as well?

30 A I think that's untrue. Thomas Fresh indicated
31 that it was replacing US product.

32 Q And then he says:

33
34 It is well known Prokam harvested and sold
35 after the date of the cease and desist
36 orders.

37
38 Is that true?

39 A Maybe a bag or two.

40 Q That was it?

41 A Yes.

42 Q The cease and desist orders didn't require you to
43 stop harvesting anything growing; right?

44 A Maybe they didn't but IVCA stopped giving --
45 stopped giving POs. They weren't communicating.
46 I had product in my cooler for ten days and I
47 couldn't get POs so we gave up.

12
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 take a moment, sorry. Document 5299 which is
2 Mr. Jaymie Collins' interview. Question number
3 4:

4
5 Do you recall any discussions with
6 Mr. Solymosi in January 2018 or any other
7 time about agency managers who were prepared
8 to work with Prokam.

9 A I do not have any recollections of such
10 discussions.

11
12 Do you know whether he spoke to Mr. Solymosi or
13 otherwise?

14 CNSL C. HUNTER: Mr. Mitha, you mean other than the
15 texts you just took him through.

16 CNSL N. MITHA:

17 Q Yes, other than from the texts?

18 A No.

19 Q The next question he's asked is:

20
21 Can you tell us your perspective about the
22 degree of co-operation you've witnessed
23 between BCfresh and the commission in order
24 to maintain BC Fresh's dominant market
25 position?

26
27 He says:

28
29 I don't think that is the case at all. I
30 don't see that at all. I do attend weekly
31 pricing calls and these calls are perfectly
32 appropriate. There's nothing improper that
33 occurs. The group of agency managers are
34 just trying to manage crop pricing and
35 there's a discussion of pricing.
36 Mr. Driediger does not control these
37 meetings and he's not the first in charge.
38 The commission is in charge of pricing.

39
40 Sir, you have not ever attended any pricing
41 calls; correct?

42 A No.

43 Q And so you don't have anything to say that what
44 he says is incorrect about pricing calls and who
45 controls pricing calls?

46 A I disagree with that. Again Andre has said that
47 he relies on BCfresh for all pricing and whether

13
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 and what the market is doing.
2 Q But he relies on BCfresh to provide information
3 about pricing; correct?
4 A Yeah.
5 Q And they're a dominant player in the market;
6 right?
7 A Yes.
8 Q So they would have information about what the
9 market pricing is as a result of their business;
10 right?
11 A I guess but I think every agency, if they're
12 doing their job, should be in tune with where the
13 market is and what should be happening.
14 Q As I say, you never attended any pricing calls;
15 correct?
16 A Correct.
17 Q I just want to go back to the document 5538 which
18 is the interview of Mr. Solymosi and take you to
19 questions 9 to 11. This is what Mr. Solymosi
20 says about the November 7th meeting:

21
22 There's also an allegation at a November 7,
23 27 meeting of the storage crop agency
24 managers which included Mr. Driediger,
25 Meyer, Ms. Posche, Jaymie Collins, Shelly
26 Harris. The cease and desist orders were
27 discussed and you made reference to Prokam
28 as a problem grower. The concern is that
29 this meeting resulted in a joint letter
30 signed by all agency managers that referred
31 to bad actors seeking to destroy the system
32 for their own personal benefit. And this
33 reference was a reference to Prokam so in
34 essence the allegations that you attended
35 this meeting and the purpose was to poison
36 the various agencies against Prokam. What
37 is your response to these allegations?

38
39 His answer is this:

40
41 We considered that what Prokam was doing
42 wrong ie, trying to control IVCA to benefit
43 itself and not taking direction from Brian
44 Meyer who managed the agency which is his
45 role. Bob Gill was employed by IVCA but was
46 acting in the interest of Prokam and not the
47 agency. I don't know if he had a position

14
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 with Prokam at the time. He was/is
2 Mr. Dhillon's brother-in-law. I had heard
3 from Brian Meyer that Bob Gill was putting
4 IVCA in a noncompliance position for
5 Prokam's benefit. There was significant
6 pressure being put on IVCA's general manager
7 to be in noncompliance. Prokam was a
8 director of IVCA and had a huge part of
9 IVCA's total volumes. Terry Michell was
10 likely the other party producer. We used
11 IVCA as an agency.

12
13 Sir, we've been through some of this evidence
14 before but of course you weren't at the meeting,
15 right, on November 7 and you have no independent
16 knowledge of what occurred at the meeting;
17 correct?

18 A Correct.

19 Q I'm not going to repeat all the evidence about --
20 I mean, unless you want to say something about
21 this, I'm not going to repeat all the evidence
22 we've been through about the disputes and what
23 was going on at the time, but this is his
24 response and I'll leave it to you if you want to
25 say anything about that.

26 CNSL C. HUNTER: Mr. Mitha, I'd like to object to the
27 characterization of what's written on this page
28 as evidence.

29 CNSL N. MITHA: Fair enough. At least this is what I
30 anticipate Mr. Solymosi will say. If this is
31 what he will say I'll leave it to you to -- I
32 mean, I don't want to repeat all of that evidence
33 that we went through yesterday and earlier today.

34 Q We've been through that and I think you've given
35 your evidence on that. If there's anything you
36 want to add, I'll give you that opportunity now.

37 A Add to ...

38 Q What Mr. Solymosi says about his response to
39 paragraph 10: We consider what Prokam was doing
40 was wrong, Bob Gill was a ploy, et cetera, et
41 cetera. If you want to say anything here I'll
42 leave it to you to add anything more than you've
43 already said. I think you've already said your
44 piece about that but if you want to add anything?

45 CNSL C. HUNTER: I don't believe there's anything in
46 that paragraph that is anything that Mr. Dhillon
47 would have personal knowledge of.

5
Bob Dhillon (a witness)
Exam by Cnsl N. Mitha

1 everyone face-to-face. It definitely helped
2 me see the bigger picture of what is
3 happening to the marketplace. Looking
4 forward to the fishing trip. Thanks. Brian
5 Meyer.
6

7 Do you see that?

8 A Yeah.

9 Q And then above that is an email from Mr. Murray
10 Driediger on November 10th also copying everybody
11 that attended and it says:

12
13 Yes, thanks, Andre, and this was long
14 overdue. I think we are all on the same
15 page with our support for the VMC to bring
16 the Prokam/Thomas Fresh infractions to
17 satisfactory conclusion. Would it help if
18 we're to sign a joint letter of some kind to
19 show industry support?
20

21 Do you see that?

22 A Yes.

23 Q So Mr. Driediger suggests a letter, a joint
24 letter of some kind; right?

25 A Yes.

26 Q And Mr. Solymosi responds:

27
28 I think a letter would be great to put in
29 front of the commission at the next meeting,
30 November 22nd.
31

32 Do you see that?

33 A Yes.

34 Q Okay. And then of course what we have is the
35 letter that we just saw at page 1261, so a letter
36 is then drafted, circulated, and there's emails
37 showing the letters circulated to the various
38 people at the meeting and they all signed it and
39 eventually it's presented to BCFIRB. This
40 appears to be how the letter came about. Do you
41 dispute that this is how the letter came about,
42 that Mr. Driediger suggested it and then it was
43 drafted and sent around? Do you take issue with
44 that?

45 A No, I agree with that. BCfresh, it was their
46 idea and Andre went with it, yes.

47 Q All right. I want to take you next to the

22

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

1 about this and I wonder if Mr. McDonell has a
2 view on this line of questioning. My
3 recollection is there were some without prejudice
4 discussions and I just am not -- I don't at this
5 precise moment recall which were which but I just
6 wanted to alert you and Mr. McDonell to that
7 issue.

8 CNSL R. MCDONELL: Yes, I think Ms. Hunter is correct
9 in that some of these communications took place
10 on a without prejudice basis. Was a without
11 prejudice to Prokam's then extant appeal to
12 BCFIRB as to the designation of BCfresh as the
13 agency for Prokam. I'm not suggesting that this
14 limits Mr. Mitha in any way in examining on these
15 communications now or that that fact that they
16 were without prejudice at that time to that
17 appeal which has now concluded impairs this
18 cross-examination in any way.

19 CNSL N. MITHA:

20 Q In any event, Mr. Dhillon, you don't recall the
21 offers that were made at the moment; right?

22 A I don't recall the numbers, no.

23 Q Is Mr. Driediger correct that from his
24 perspective you had zero interest in working with
25 for BCfresh; is that accurate?

26 CNSL C. HUNTER: I object to his being asked about
27 what Mr. Driediger's perspective was.

28 CNSL N. MITHA: Sorry, you're right. I misphrased the
29 question.

30 Q Is it fair to say that you had, right from the
31 outset, zero interest with working with BCfresh?

32 A I've said that.

33 Q Sorry?

34 A I've said that before, yes.

35 Q All right. So really whatever might have --
36 whatever negotiations might have taken place,
37 right from the outset you had a very negative
38 view of working with BCfresh and weren't prepared
39 to do so; is that fair?

40 A Well, at this point I think it was -- it just
41 didn't make sense. You know, we went to the
42 meetings but for what they were giving us, like I
43 said earlier, it didn't make sense in our farming
44 plan.

45 Q Well, that's not what I meant, sir. What I meant
46 was before you went to the meetings --

47 A Hmmmm.

23

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

1 Q -- because of historical events with BCfresh and
2 your father and Sam Enterprises --

3 A M'mm-hmm.

4 Q -- you were simply not prepared to work with
5 BCfresh; isn't that right?

6 A I don't -- yeah, correct.

7 Q Okay. He says -- I'm just going to continue to
8 finish what he says.

9

10 BCfresh told Prokam that if you market via
11 BCfresh they will need to build storage as
12 all of the growers have.

13

14 Is that -- do you recall that?

15 A Yes.

16 Q And is that accurate that that's what BCfresh
17 communicated to you?

18 A Yes.

19 Q

20 BCfresh told Prokam it can handle certain
21 early acreage and can move crop into BC and
22 western Canada because of no other supply.
23 If Prokam grows early not displacing product
24 from other growers BCfresh can place 100 to
25 150 acres.

26

27 Do you recall that, being told that?

28 A Yes.

29 Q And then:

30

31 Opportunity during later periods to sell and
32 share with other growers via delivery
33 allocation. Once DA 100 percent sales split
34 equally among growers Prokam's view other
35 growers step aside but that's not how it
36 works in a regulated system.

37

38 Do you recall that discussion? Do you recall a
39 discussion of that nature?

40 A No.

41 Q You're not saying it didn't happen; you just
42 don't recall it; is that fair?

43 A Yeah, I don't recall it.

44 Q All right.

45

46 Prokam also wanted the condition that
47 BCfresh would sell to Thomas Fresh but

38

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 A I mean, that's all at agency's level. I wouldn't
2 even know.
3 Q And your potatoes were in the ground at
4 October/November; correct?
5 A Yeah.
6 Q It was open to you to harvest them?
7 A In October/November?
8 Q Yes.
9 A No, we weren't. After that, IVCA stopped sending
10 purchase orders and we lost a bunch of potatoes
11 in the fields.
12 Q Sir, it was open to you to harvest them; correct?
13 A It might have been open for us to harvest them
14 but we weren't getting any cooperation from IVCA
15 I believe.
16 Q You'll agree with me it was open to you to
17 harvest them?
18 A It wasn't. If my agency is not giving me
19 purchase orders or direction, why would I harvest
20 them?
21 Q Okay. In 2018, '19 and '20, the lands that you
22 used for your potatoes you used for other crops;
23 correct?
24 A Yes.
25 Q You had a dispute with IVCA in early 2018
26 regarding some monies being held back from
27 Prokam; correct?
28 A Correct.
29 Q And you'll agree with me that my client
30 intervened and made sure that those monies were
31 not held back from Prokam; correct?
32 A Correct, because it was done illegally, very
33 illegally.
34 Q Put simply, he assisted Prokam; correct?
35 A Correct.
36 Q You're not aware of any animosity that my client
37 has against you, are you?
38 A Not aware of anything like that. I just believe
39 that if he would have reached out to me like he
40 did in 2015 all this could have been avoidable.
41 Q Now, do I understand your evidence that you
42 had -- you, yourself, Mr. Dhillon, had no issues
43 with Mr. Meyer and then Janice. Is that fair to
44 say?
45 A I had no issue as long as their jobs got done.
46 CNSL R. HIRA: Let's go to IVCA document 2924.
47 Ms. Hall will tell us the real number. If you

4

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 THE CHAIR: Sorry, Mr. Hira, 119 is not in part --
2 it's not in -- it's not our page reference. Can
3 you just tell us exactly where we can find this?
4 CNSL R. HIRA: Yes. It's in the IVCA production
5 delivered last week.
6 THE CHAIR: Okay.
7 CNSL R. HIRA: So it's volume -- I think it's --
8 THE CHAIR: I think volume 2.
9 CNSL R. HIRA: Yes, that's what Ms. Hall is signalling
10 to me.
11 THE CHAIR: Thank you.
12 CNSL R. HIRA: I'll wait for you to get there,
13 Mr. Chairman -- Mr. Chair. Are you there? May I
14 continue?
15 THE CHAIR: Sorry. Yes, please. I was on mute.
16 CNSL R. HIRA: Thank you.
17 Q You'll agree with me that Prokam, by virtue of
18 this agreement, was not entitled to sell directly
19 to a consumer?
20 A Yes.
21 Q You'll agree with me that Prokam was required to
22 sell its product through IVCA; correct?
23 A Through IVCA, yes.
24 Q And Prokam was required to abide by all orders of
25 the commission; correct?
26 A Yes.
27 Q All right. With that in mind, you'll also agree
28 with me that Prokam, during the -- you'll also
29 agree with me that Prokam had no delivery
30 allocation for Kennebec potatoes?
31 A For Kennebecs, no.
32 Q You'll also agree with me that between August and
33 September 2017 Prokam delivered to Thomas Fresh
34 many many tons of Kennebec potatoes?
35 A No. We delivered I think 1 ton under the
36 direction of the agency.
37 Q Right. Will you agree with me that in that 2017
38 you produced well in excess of your production
39 allocation?
40 A Under the orders of my agency, yes.
41 Q And as Mr. McDonnell took you to in the BCFIRB
42 decision you were producing approximately 9
43 percent of all the potatoes grown in British
44 Columbia?
45 A I don't know the numbers but if that's what it
46 says.
47 Q Thank you. And you will also agree with me and

10

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 allocation and of shipping to Thomas Fresh so
2 with -- and the hiring of Mr. Gill. With that in
3 mind, let's go to the "violation details" which
4 is at the bottom of the document.
5 Sir, you supported the hiring of Mr. Gill by
6 IVCA; correct?
7 A It was a suggestion.
8 Q You recommended him; correct?
9 A They took his resume and they made that call on
10 their own.
11 Q And you also knew that Mr. Gill was selling
12 mainland -- making mainland sales which are
13 Prokam potatoes to IVCA; correct?
14 A To Thomas Fresh?
15 Q Yes.
16 A I believe he sold some of mine and I believe he
17 sold some of the Island product too.
18 Q Right. And these are below the authorized
19 minimum price; correct?
20 A Again, you know, that's on the agency but
21 whatever they thought they could or could not do.
22 Q Right. But you knew he was selling below the
23 minimum price; correct?
24 A No, I wasn't selling below the minimum price
25 because we were exporting.
26 Q You knew those sales were below the authorized
27 minimum price; correct?
28 A Not export.
29 Q Just dealing with bullet point number 1 of
30 "violation details," you agree with me that you
31 supported the actions of Gill selling and
32 marketing potatoes below the authorized minimum
33 price?
34 A No, IVCA did. IVCA had hired him, not me.
35 Q You knew he was doing it; correct?
36 A Well, I knew he was doing what was told to him by
37 the agency.
38 Q And you also knew that by doing so he was putting
39 IVCA into a position of noncompliance with the
40 general order; correct?
41 A No, not at all. I don't know what happens in the
42 office there so, like I said, he's an employee of
43 IVCA, not Prokam. So what they had discussed and
44 what they have done and that you would have to
45 ask IVCA I would say.
46 Q I took you to the general -- sorry -- the grower
47 marketing agreement, the GMA; correct?

11
Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 A Yeah.
2 Q And you of course didn't have authority to
3 represent IVCA in the marketing and sales of
4 regulated product; correct?
5 A That I know, yes.
6 Q I'm sorry?
7 A What was the question?
8 Q Prokam and you did not have authority to
9 represent IVCA in the marketing and sales of
10 regulated products, did you, sir?
11 A No.
12 Q And you knew that all the regulated products are
13 to be sold through IVCA under the direction of
14 its general manager; correct?
15 A Yes.
16 Q So going to bullet point number 3, you don't
17 disagree with bullet point number 3, do you, sir?
18 And for the record, that's under "violation
19 details" document 1166.
20 A Yeah, I agree all customers or IVCA customers.
21 Q Thank you. And you told us that Prokam shipped
22 Kennebec potatoes in 2017 without having any
23 delivery allocation for those potatoes?
24 A Again under IVCA's authority, yes.
25 Q So you don't -- you agree, then, with the fourth
26 bullet point under "violation details" in
27 document 1166; correct?
28 A No. If a grower is asked by its agency to fill a
29 void the grower's going to do it. It's my
30 agency.
31 Q Right. So let's deal with the fourth bullet
32 point. You shipped -- Prokam shipped Kennebec
33 potatoes in 2017, September 2017, without having
34 a delivery allocation for Kennebec potatoes;
35 correct?
36 A It's really a question for IVCA I would say. Did
37 I have delivery allocation? No. Did I do it
38 under the authority of IVCA? Yes.
39 Q So, sir, you don't disagree with the fourth
40 bullet point, do you, sir?
41 A Well, I don't agree for the reason being, in my
42 views, if the agency asked for product to fill a
43 void and they asked the grower to do it, you
44 would think that the agency is doing it under the
45 general orders or whatever it has to do if
46 they're asking me to grow it.
47 Q Sir, let's go to the fourth bullet point. You --

93

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 shipments in excess of your agency approval --
2 sorry approved delivery allocation would be
3 monitored; correct?
4 A Correct.
5 Q And you will agree with me that in September --
6 August/September of 2017 Prokam was selling
7 product, regulated product, potatoes, well in
8 excess of its delivery allocation; correct?
9 A Correct, under IVCA authority.
10 Q You'll also agree with me that Prokam, in August
11 and September of 2017, was selling product below
12 the BC minimum price?
13 A Not in BC though. Now, whatever IVCA thought
14 they could do with the exports they were doing.
15 Q Sir, you'll agree with me that in August and
16 September of 2017 Prokam was selling product,
17 namely potatoes, below the BC minimum price.
18 CNSL C. HUNTER: I object to that question. It
19 misstates the evidence. There's no evidence that
20 Prokam was selling anything.
21 CNSL R. HIRA: All right. I'll reword it.
22 Q You knew Prokam potatoes were being sold by IVCA,
23 a company -- an agency that you're a director and
24 vice president of at below the BC minimum price
25 during August and September.
26 A I don't think they believed they were. I think
27 they were under the impression which came out
28 later anyways that they could.
29 Q Sir, let me put it to you again. There's a BC
30 minimum price; correct?
31 A In BC, correct.
32 Q You'll agree with me that IVCA was selling Prokam
33 product below the BC minimum price?
34 CNSL C. HUNTER: Mr. Hira, there's a little bit of a
35 distinction that I'm missing and perhaps I'm the
36 only one, but are you speaking of the minimum
37 price for BC or the minimum price in BC for
38 exports?
39 CNSL R. HIRA: I'm talking about the BC minimum price.
40 So I go back to my question.
41 Q You knew that IVCA was selling Prokam potatoes
42 below the BC minimum?
43 CNSL C. HUNTER: I'm sorry, I'm still unclear. Are
44 you talking about within BC or outside of BC.
45 Where are the potatoes in the question being
46 sold?
47 CNSL R. HIRA: The question is very straightforward.

4

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 THE CHAIR: Sorry, Mr. Hira, 119 is not in part --
2 it's not in -- it's not our page reference. Can
3 you just tell us exactly where we can find this?
4 CNSL R. HIRA: Yes. It's in the IVCA production
5 delivered last week.
6 THE CHAIR: Okay.
7 CNSL R. HIRA: So it's volume -- I think it's --
8 THE CHAIR: I think volume 2.
9 CNSL R. HIRA: Yes, that's what Ms. Hall is signalling
10 to me.
11 THE CHAIR: Thank you.
12 CNSL R. HIRA: I'll wait for you to get there,
13 Mr. Chairman -- Mr. Chair. Are you there? May I
14 continue?
15 THE CHAIR: Sorry. Yes, please. I was on mute.
16 CNSL R. HIRA: Thank you.
17 Q You'll agree with me that Prokam, by virtue of
18 this agreement, was not entitled to sell directly
19 to a consumer?
20 A Yes.
21 Q You'll agree with me that Prokam was required to
22 sell its product through IVCA; correct?
23 A Through IVCA, yes.
24 Q And Prokam was required to abide by all orders of
25 the commission; correct?
26 A Yes.
27 Q All right. With that in mind, you'll also agree
28 with me that Prokam, during the -- you'll also
29 agree with me that Prokam had no delivery
30 allocation for Kennebec potatoes?
31 A For Kennebecs, no.
32 Q You'll also agree with me that between August and
33 September 2017 Prokam delivered to Thomas Fresh
34 many many tons of Kennebec potatoes?
35 A No. We delivered I think 1 ton under the
36 direction of the agency.
37 Q Right. Will you agree with me that in that 2017
38 you produced well in excess of your production
39 allocation?
40 A Under the orders of my agency, yes.
41 Q And as Mr. McDonnell took you to in the BCFIRB
42 decision you were producing approximately 9
43 percent of all the potatoes grown in British
44 Columbia?
45 A I don't know the numbers but if that's what it
46 says.
47 Q Thank you. And you will also agree with me and

57

Bob Dhillon (a witness)
Cross-exam by Cnsl R. McDonell

1 delivery allocation for any varieties of potatoes
2 that you have DA for; right?
3 A Yes.
4 Q That was a yes, sorry?
5 A Yes.
6 Q Yes. And added to that you had -- am I correct
7 in saying you had no delivery allocation for
8 Kennebecs; right?
9 A Correct.
10 Q And you sold -- you shipped and sold Kennebec
11 volumes; right?
12 A Under IVCA's direction, yes.
13 Q Yeah. About 4,000 pounds?
14 A Roughly, yes.
15 Q You mentioned earlier some -- in 2017 some
16 potatoes left in the field. I think you said
17 yellows and Kennebecs.
18 A Yes.
19 Q At the time -- after receipt of the cease and
20 desist order. Do you remember that?
21 A Yes.
22 Q And so -- and I don't have my note. How much
23 acreage was left? Was it about 30 or 40?
24 A 30, 40.
25 Q Yeah. And at that point in time, had you already
26 exceeded your delivery allocation for yellows?
27 A Most likely.
28 Q Yeah. And you hadn't exceeded your DA for
29 Kennebecs because you didn't have any at that
30 point; right?
31 A Correct.
32 Q Now, what did you grow and ship in terms of
33 potatoes, if anything, in 2018?
34 A None.
35 Q None. 2019?
36 A None.
37 Q 2020?
38 A None.
39 Q 2021?
40 A We had grown about 20 some odd -- 20, 30 acres.
41 Q Is that what you sold through -- sorry. Was it
42 OGP, the Okanagan agency?
43 A Well, we didn't get the chance. We got flooded
44 but that was the plan.
45 Q And I'm very sorry to hear about that, sir. I
46 didn't know that until yesterday and I'm very
47 sorry to hear that you suffered a flood and lost

5

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 I'm looking at the BCFIRB decision if you need to
2 go there we can, specifically the February 28,
3 2019 decision, that there is no dispute that
4 Prokam grew Kennebecs without delivery
5 allocation?

6 A There's no dispute under the orders of my agency.

7 Q And you also agree with me that between August 23
8 and October 4, 2017, you sold approximately 100
9 short tons of potatoes between 2 and 34 cents
10 below the regulated price. Sorry, below the
11 minimum price.

12 A Not locally, not in BC. Maybe export.

13 Q Right. And there were 125 sales between July 30
14 and September 24 without commission
15 authorization?

16 A Agency -- I'm the grower so the agency had told
17 me that they had authorization so I got to abide
18 by what my agency says.

19 Q You also agree with me that you, either in your
20 role as principal of Prokam or as a director of
21 IVCA, did not seek approval from the commission
22 before producing or shipping regulated product
23 not covered by or in excess of your delivery
24 allocation?

25 A It's the responsibility of the agency.

26 Q But you did so; correct?

27 A Did what? Sorry?

28 Q Sorry?

29 A I did what, sorry?

30 Q That you, either in your role as the principal of
31 Prokam or as a director of IVCA, did not seek
32 approval from the commission before producing or
33 shipping regulated product not covered by or in
34 excess of your delivery allocation.

35 A Again that was -- that's on the -- that's on my
36 agency. Whether they did or not I have no idea.
37 I'm the grower so I was busy growing for what
38 they needed.

39 Q But you as Prokam shipped regulated product in
40 excess of your delivery allocation; correct?

41 A If the agency wanted me to, yes.

42 Q Well, let's take you to document 4104, the
43 February 2019 decision of the British Columbia
44 Vegetable Marketing Commission. Sorry, the
45 BCFIRB, I beg your pardon. See that, sir, the
46 front page of the decision?

47 A Yes.

6

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 Q If we go to the seventh page please, Ms. Hall,
2 paragraph 27.

3 Do you agree with this finding that
4 Mr. Dhillon, either in his role as the principal
5 of Prokam or as a director of IVCA, did not seek
6 approval from the commission before producing or
7 shipping regulated product not covered by or in
8 excess of Prokam's DA as required by the general
9 orders?

10 A As I said that falls on the agency, not the
11 grower.

12 Q You don't disagree with that paragraph, do you,
13 sir?

14 A Well, in my view, I did not, as a grower, need to
15 do such a thing because that falls on the agency.

16 Q Right. We'll come back to that. We go to the
17 next page, the last sentence of paragraph 29,
18 you'll agree that by the time the cease and
19 desist orders were issued, you had sold
20 approximately 348 tons of potatoes to Thomas
21 Fresh?

22 A After the cease and desist?

23 Q Yes. Sorry. By the time of the cease and desist
24 orders.

25 A I don't know the number. It may be. I'm not too
26 sure.

27 Q Well, let's look at the last sentence at
28 paragraph 28 at page 4 -- sorry, it's the page
29 4111 or 5010, Ms. Hall. So it's page 4111 of the
30 record, and I'm going to read that sentence:

31
32 By the time of the cease and desist orders
33 were issued Prokam had sold approximately
34 348 tons of potatoes to Thomas Fresh.

35
36 You don't disagree with that finding, do you?

37 A That's what they have and, like I said, I haven't
38 checked my numbers but, yeah. And it replaced
39 all US product, yes.

40 Q Sir, you'll also agree with me that you were a
41 big player in IVCA?

42 A One of them.

43 Q I'm sorry, I didn't hear you, sir.

44 A One of them.

45 Q But you'll agree with me that you acknowledge
46 that IVCA needed Prokam as a grower both
47 financially and for growth?

55

Bob Dhillon (a witness)
Cross-exam by Cnsl K. McEwan

1 properly.
2 Q That's fine, and yes it good enough because I
3 don't want to go anywhere near any advice that
4 you actually received. But let me take you then,
5 please, to page 3383. And again these are texts
6 between you and Mr. Meyer?

7 A Yeah.

8 Q And you'll see at the middle of this page
9 Mr. Meyer says this:

10
11 So Terry is talking with Ron to see if he
12 wants to help out or I cancelled the meeting
13 for a couple of weeks. Are we going to
14 cancel them until the fall?

15
16 And you respond "I say until the fall." Do you
17 see that?

18 A Yes.

19 Q And I'm going to suggest to you that was a
20 meeting with Mr. Solymosi?

21 A Yeah.

22 Q Yeah.

23 A So the agency wanted to push it off also.

24 Q Yeah. Well, sir, I'm here examining you. You
25 wanted to push it off. Whether the agency did or
26 not in addition is not material to me. You
27 wanted to push it off?

28 A Yeah. I'm sure I talked to the agency and asked
29 them what they wanted to do about the situation.

30 Q And you'll see Mr. Meyer sets out a couple of
31 options and you wanted it pushed to the fall if
32 it could be; correct?

33 A I say to the fall and he gave me a thumbs up,
34 that's all I see here, yeah.

35 Q And, sir, I'm going to take you over in the texts
36 again to page 3387. And I can tell you this is
37 May 31st. We can go back to the prior page if
38 you like but I can tell you it's May 31st in the
39 afternoon. And you'll see Mr. Meyer saying:

40
41 Okay. I'm cancelling the meeting at 4:00
42 with Andre. Going back to the island. Will
43 see if they will do the conference call:
44 Me, Ron and Terry.

45
46 Do you see that?

47 A I thought he was going to take care of it, yeah.

56

Bob Dhillon (a witness)
 Cross-exam by Cnsl K. McEwan

1 Q Well, okay, but you understood that that plan was
 2 executed and a meeting with Mr. Solymosi was
 3 cancelled; correct?

4 A Yeah. After I talked to him and then he said
 5 that he would talk about it with Ron and Terry,
 6 yes.

7 Q Yes. And, sir, you see the next page previously
 8 3389?

9 A Yeah.

10 Q And Ms. Hunter took you to this; correct?

11 A Yes.

12 Q And you'll see we're still the afternoon of May
 13 31st, 2017?

14 A Yes.

15 Q And it's you saying "keep on the down low, acres
 16 potato I got." See that?

17 A Yeah. It's a question, yes.

18 Q Yes. And the response is:

19
 20 The only people that know are me and Terry.
 21 When the noise people ask it's same business
 22 as last year.
 23

24 Do you see that?

25 A Yeah. That's what he said, yes.

26 Q Yeah. And you respond -- or is that your
 27 response with the wink. Whose emoji is that?

28 A I'm not sure. It might be mine.

29 Q Who did you take the noise people to be, sir?

30 A No, that's his text. He's -- Brian Meyer is
 31 referring to the noisy people.

32 Q I understand that, sir, and it's to you.

33 A Yes.

34 Q Who did you understand the noise people to be?

35 A I think he's referring to BCfresh and the
 36 commission.

37 Q Yes, yes. And so the meeting with Mr. Solymosi
 38 is cancelled and then you have an exchange about,
 39 I think it's fair to say, keeping quiet how much
 40 you plant; fair?

41 A That's a decision they made.

42 Q Well, I said there's a discussion about it, sir?

43 A A discussion about what?

44 Q This exchange.

45 A Yeah.

46 Q And you're part of it, sir.

47 A Yeah.

12

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 Prokam shipped Kennebec potatoes in September
2 2017 without a delivery allocation for those
3 potatoes; isn't that true?
4 A Call it gap filling or call it, you know,
5 whatever IVCA -- like I said, I didn't get up in
6 the morning and say hey, I'm going to put
7 Kennebecs in the ground. I was told to put the
8 Kennebecs in the ground by my agency so I did so,
9 so I don't see why this falls on the grower.
10 Q Sir, it's a very simple question. You will agree
11 with me that Prokam shipped Kennebec potatoes in
12 September 2017 without having a delivery
13 allocation for Kennebec potatoes. Do you agree
14 with me? Isn't that what happened?
15 A Yes. Yes, under the authority of IVCA.
16 Q Thank you. Now, you wanted to meet with Andre
17 around August 8, 2017; isn't that correct?
18 A I think there was something like that, yes.
19 Q And he told you he was busy and he was prepared
20 to meet with you later that week; correct?
21 A Possibly. Not too sure.
22 Q Let's go through that email exchange.
23 CNSL R. HIRA: If I may just have a moment, Mr. Chair
24 Donkers. I got ahead of myself. I need to find
25 an August 8 email exchange.
26 THE CHAIR: Yes, of course, Mr. Hira.
27 CNSL C. HUNTER: Mr. Hira, if it assists, it may be
28 document 861.
29 CNSL R. HIRA: Ms. Hunter, thank you very much. Could
30 you go to 861, please, Ms. Hall. If you could go
31 to the bottom of that, please. Ms. Hunter, once
32 again, thank you. I'm sorry, I got the dates
33 wrong.
34 Q Sir, you wrote to my client on June the 30th,
35 2017, wanting to meet with him; correct?
36 A Yes.
37 Q Meeting with him -- you wanted Mr. Solymosi to
38 meet with Mr. Gill and you; correct?
39 A Yes.
40 Q If you could go to the top of that document,
41 please. And he wrote back on Friday, June the
42 30th, 2017, saying that it wasn't possible to
43 meet on that date and suggested the very next
44 working day, Tuesday afternoon, given that Canada
45 Day was an intervening statutory holiday; isn't
46 that correct?
47 A Yeah.

13

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 Q And you of course did not pursue this any further
2 did you, sir?

3 A I believe there was some emails sent back and
4 forth by my agency at that point. I don't know
5 if there was a letter made or something like
6 that. It's a busy time of year for me, so I
7 think after we tried to set that up we weren't
8 having any luck. I think Tuesday I was -- we
9 were planting potatoes or picking potatoes and
10 then -- I'm not too sure. I think there must be
11 some emails between Andre and the agency after
12 that.

13 Q Sir --

14 A I don't know what happened after that to my
15 recollection.

16 Q Sir, giving evidence, you understand, is not a
17 guessing game; correct?

18 A This happened a while back, right, so I'm trying
19 my best here.

20 Q Sir, he offered to meet with you on Tuesday, July
21 4, 2017; correct?

22 A Correct.

23 Q And you'll agree with me that you never met with
24 him; correct?

25 A Like I said, this is a long time ago. I don't
26 know if there's any other emails or whether the
27 agency started talking to him or what happened.
28 It's a busy time of year for us so, you know, I
29 did reach out; I tried. Whether I got busy or he
30 didn't have time, I think Tuesday I didn't have
31 time, and then -- I don't know -- I don't know
32 what happened.

33 Q Perhaps you misunderstood my question, sir.
34 You'll agree with me that you did not meet with
35 Mr. Solymosi despite the offer from him to meet
36 with you?

37 A Well, the offer was from me to meet and whether
38 how or why it fell through I have no idea. Like
39 I think maybe the agency stepped in or -- or
40 something like that, I can't remember. Or the
41 agency put it off I think it was is because they
42 didn't have time, the agency believed.

43 Q Sir, it's a very simple question. Really simple.
44 Did you meet with Mr. Solymosi on July 4 or any
45 time thereafter between July 4 and let's say
46 October 10, 2017?

47 A It seems like we tried but I don't think we ever

14

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 did.
2 Q Sir, is your answer no, I didn't meet with
3 Mr. Solymosi?
4 A No. Well, obviously, I didn't -- we didn't end
5 up hooking up, no.
6 Q Thank you. So one of your complaints, as I
7 understand it, is that the investigation
8 conducted by Mr. Solymosi prior to the cease and
9 desist order was flawed. Have I put it
10 correctly?
11 A Yes.
12 Q And another one of your complaints is that he
13 didn't meet with you before issuing the cease and
14 desist order; correct?
15 A Yeah, he could have reached out; he could have
16 come by; he could have got our take on it.
17 Q All right. You'll agree with me that you had the
18 opportunity to meet with him and you chose not
19 to?
20 A I gave them that opportunity to meet with me. He
21 didn't give me no opportunity. I started that
22 chain of emails. I reached out tried to resolve
23 this. Now, whether after that my agency took it
24 over or what happened, my recollection isn't
25 clear.
26 Q And I took you to the cease and desist order
27 violation details and to the BCFIRB February 2019
28 decision; correct?
29 A Yeah.
30 Q And you'll agree with me that the -- that you
31 don't disagree -- let's put it another way. You
32 don't disagree with the violation details listed
33 by Mr. Solymosi; correct?
34 A I do disagree. The ones we just went through I
35 gave you my take on those.
36 Q I know you gave me your take but you did ship
37 Kennebec potatoes without delivery allocation;
38 correct?
39 A Under the orders of my agency.
40 Q Mr. Gill was making sales of Prokam potatoes
41 below the minimum price; correct?
42 A He was making them for all the growers.
43 Q You did help Mr. Gill get a position at IVCA;
44 correct?
45 A For what, sorry?
46 Q You helped Mr. Gill get a position at IVCA;
47 correct?

35

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 Q And there's no doubt you had far exceeded your
2 delivery allocation in your growth; correct?
3 A Yeah, upon IVCA's approval.
4 Q The last -- the second last topic is "how to deal
5 with problem growers"; correct?
6 A Correct.
7 Q And you'll agree with me that it's open at a
8 meeting like this for agency managers and the
9 general manager of the commission to discuss
10 problem growers; correct?
11 A Correct.
12 Q And there's nothing wrong if Mr. Meyer considers
13 Prokam a problem grower for him to bring that up,
14 is there, sir?
15 A If I was yes, nothing wrong.
16 Q Let's go to document 1281, very top. And this is
17 a document, an email from Mr. Meyer to all the
18 other agency managers and Mr. Solymosi saying "I
19 will sign it and send it to you Jaymie." Do you
20 see that, sir?
21 A Yes.
22 Q And you know what this is about, do you not, sir?
23 A Is this the letter that all the agencies made?
24 Q Correct.
25 A Okay.
26 Q And go to tab -- go to document 1307. It's a
27 November 10, 2017 letter?
28 A Yeah.
29 Q Sent to Mr. Solymosi as general manager of the
30 commission. Do you see that, sir?
31 A Yes.
32 Q It seems to be signed -- well, it is signed by
33 all the agency managers.
34 A Yes.
35 Q Including Brian Meyer?
36 A Yes.
37 Q On behalf of IVCA?
38 A Yes.
39 Q And the first paragraph thanks him for trying to
40 bring orderly marketing back to the industry. Do
41 you see that, sir?
42 A Yeah.
43 Q And you don't have a difficulty with orderly
44 marketing being brought back to the industry, do
45 you, sir?
46 A I don't think it ever left. I don't think ever,
47 you know, that it wasn't orderly.

36

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

- 1 Q The second paragraph deals with making sure that
2 everybody plays by the same rules. You don't
3 have a difficulty with that, do you, sir?
- 4 A No.
- 5 Q And it continues that growers who earn their
6 delivery allocations shouldn't be penalized by
7 those whose self interest is put above the best
8 interest of the industry. Do you see that, sir?
- 9 A Yes.
- 10 Q You don't have a problem with that, do you, sir?
- 11 A No.
- 12 Q And the third paragraph talks about bad actors
13 seeking to destroy the system for their personal
14 benefit and you don't have a problem with
15 regulating bad actors that are trying to destroy
16 the system for their own personal benefit?
- 17 A No.
- 18 Q I'm sorry?
- 19 A I agree.
- 20 Q And the last paragraph talks about stopping
21 illegal activity and ensuring that orderly
22 marketing is maintained. Do you see that?
- 23 A Yes.
- 24 Q You don't have a problem with that either, do
25 you, sir?
- 26 A Not at all.
- 27 Q And there's no mention of Prokam in this letter,
28 is there, sir?
- 29 A Well, there is a string of emails to this so
30 general -- or the CEO of BCfresh instigated this
31 and they -- I believe BCfresh wrote the letter,
32 they circulated it, and at that time, you know,
33 it's no secret who they're talking about I don't
34 believe. At the same time I had talks with
35 Jaymie; I had talks with Lillian. You know, they
36 were interested and. You know, Lillian, you
37 know, she was very interested and when I talked
38 to her, at the end of the day, she said, you
39 know, she feels for the situation that I'm in but
40 she doesn't want to go into a battle with BCfresh
41 here. Their agency can't afford it, nor do they
42 got the time to do so. So, you know -- so she
43 wanted -- she wasn't, you know, her first letter
44 wasn't even -- wasn't like this and then not
45 until -- of that time the vice chair, Peter
46 Guichon, who gave Andre direction that the
47 Okanagan letter looks weak and it should be

48

Bob Dhillon (a witness)

Exam by Cnsl N. Mitha

- 1 A Okay.
- 2 Q So in effect, then, although, initially the order
- 3 was only made by three people, it was then
- 4 confirmed later by a larger panel of the
- 5 commission; right?
- 6 A Correct, but I think they -- I think they made
- 7 that decision with Andre's thoughts on it, his
- 8 opinion.
- 9 Q All right. Now, so your concern is that decision
- 10 was tainted because Mr. Solymosi -- they were
- 11 following Mr. Solymosi's opinion?
- 12 A Yes, for sure, because even in the 2018 appeals
- 13 John Newell said that he relied on Andre to make
- 14 some decisions solely on this.
- 15 Q Well, you know that Mr. Solymosi is not a voting
- 16 member of the commission; right?
- 17 A He's not a voting member but his opinion really
- 18 matters. So his opinion was good and the other
- 19 commissioners such as John Newell made those
- 20 decisions solely on what Andre was saying.
- 21 Q And do you know which -- who the commission
- 22 members on that December 22nd appeal were? We
- 23 can go back and take a look at who the commission
- 24 members were. Do you know who the commission
- 25 members were?
- 26 A I'm not sure. Is that what you showed me
- 27 earlier?
- 28 Q Let's go back and take a look at who the
- 29 commission members were on the December 22nd,
- 30 2017 order. I'll just turn to that in a moment.
- 31 Sorry, I'm in the wrong tab, that's why, sorry.
- 32 So this is the December 22nd, 2017 decision. Do
- 33 you see that?
- 34 A Yes, I do.
- 35 Q I can't recall who the commissioners were. I'm
- 36 just trying to see if the -- oops, I'm too far.
- 37 It looks like it was signed by Mr. Al Krause and
- 38 these are minutes of the -- the next page 1400
- 39 are the minutes of the BC Vegetable Marketing
- 40 Commission conference call December 22nd. In
- 41 attendance were Alf Krause -- sorry?
- 42 CNSL C. HUNTER: Mr. Mitha, this is not the same
- 43 meeting where the deliberations took place, that
- 44 was December 14th I believe. And the minutes of
- 45 that meeting can be found at 1358.
- 46 CNSL N. MITHA: Thank you.
- 47 Q So it looks like these are the persons in

38

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

1 A I mean, that's all at agency's level. I wouldn't
2 even know.
3 Q And your potatoes were in the ground at
4 October/November; correct?
5 A Yeah.
6 Q It was open to you to harvest them?
7 A In October/November?
8 Q Yes.
9 A No, we weren't. After that, IVCA stopped sending
10 purchase orders and we lost a bunch of potatoes
11 in the fields.
12 Q Sir, it was open to you to harvest them; correct?
13 A It might have been open for us to harvest them
14 but we weren't getting any cooperation from IVCA
15 I believe.
16 Q You'll agree with me it was open to you to
17 harvest them?
18 A It wasn't. If my agency is not giving me
19 purchase orders or direction, why would I harvest
20 them?
21 Q Okay. In 2018, '19 and '20, the lands that you
22 used for your potatoes you used for other crops;
23 correct?
24 A Yes.
25 Q You had a dispute with IVCA in early 2018
26 regarding some monies being held back from
27 Prokam; correct?
28 A Correct.
29 Q And you'll agree with me that my client
30 intervened and made sure that those monies were
31 not held back from Prokam; correct?
32 A Correct, because it was done illegally, very
33 illegally.
34 Q Put simply, he assisted Prokam; correct?
35 A Correct.
36 Q You're not aware of any animosity that my client
37 has against you, are you?
38 A Not aware of anything like that. I just believe
39 that if he would have reached out to me like he
40 did in 2015 all this could have been avoidable.
41 Q Now, do I understand your evidence that you
42 had -- you, yourself, Mr. Dhillon, had no issues
43 with Mr. Meyer and then Janice. Is that fair to
44 say?
45 A I had no issue as long as their jobs got done.
46 CNSL R. HIRA: Let's go to IVCA document 2924.
47 Ms. Hall will tell us the real number. If you

38

Bob Dhillon (a witness)
Cross-exam by Cnsl R. Hira

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2 even know.
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4 October/November; correct?
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10 purchase orders and we lost a bunch of potatoes
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27 Prokam; correct?
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40 did in 2015 all this could have been avoidable.
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42 had -- you, yourself, Mr. Dhillon, had no issues
43 with Mr. Meyer and then Janice. Is that fair to
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47 Ms. Hall will tell us the real number. If you

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 affirm your testimony.
2
3

4 **BOB GILL, a witness,**
5 **affirmed.**

6 CNSL N. MITHA: Good afternoon, Mr. Gill. My name is
7 Naz Mitha. Can you hear me; okay?

8 THE WITNESS: I can. Good afternoon.

9 CNSL N. MITHA: Can you speak up just a little bit
10 because there's a court reporter that's recording
11 this. I just want to make sure your voice is
12 heard.

13 THE WITNESS: Okay.

14 CNSL N. MITHA: Thank you, that's better.

15 THE REGISTRAR: Thank you, Mr. Mitha. I was going to
16 ask him to speak up a little bit.

17 CNSL N. MITHA: Okay. Mr. Gill, I'm going to be
18 asking you some questions this afternoon and if
19 you have any -- if you don't understand any
20 questions please let me know and I'll see what I
21 can do to assist you or to rephrase them; okay?

22 THE WITNESS: Okay.
23

24 **EXAMINATION BY CNSL N. MITHA:**

25 Q You were hired by IVCA in approximately April
26 2017?

27 A Correct.

28 Q And you were hired as a salesperson to sell
29 Prokam's potatoes on the mainland?

30 A Correct.

31 Q You're the brother-in-law of Mr. Bob Dhillon who
32 is the principal of Prokam?

33 A Correct.

34 Q And it was agreed that half your salary can be
35 paid by IVCA and the other half paid by Sam
36 Enterprises?

37 A So, yeah, so they were separate payrolls.

38 Q But effectively for your work at IVCA half your
39 salary was paid by Prokam and half by Sam
40 Enterprises?

41 A No, I wouldn't say half, no. It was considerably
42 less.

43 Q Considerably less, sir?

44 A Yes.

45 Q Sir, you recall testifying in the appeal before
46 BCFIRB?

47 A Yeah. So what I mean by that is if you were to

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 look at my record of employment, like, when we
2 talked about a salary for the year there was --
3 like, I was let go in November so it wasn't a
4 full year salary.
5 Q I understand. All right. It may not have been a
6 full year salary but whatever your pay you were
7 getting half of your pay was paid by Sam
8 Enterprises and the other half was paid by IVCA;
9 correct?
10 A Correct.
11 Q Okay. And it was Mr. Dhillon who negotiated that
12 arrangement?
13 A With -- no. This was with IVCA so --
14 Q Right. And it was Mr. Dhillon who arranged and
15 agreed that Sam Enterprises would pay half your
16 salary at IVCA?
17 A Well, no, that's not what happened. What
18 happened was there was a dollar amount. I was
19 asked how much I wanted and I wanted the dollar
20 amount that I got paid.
21 Q I understand that, sir. I don't think you're
22 answering my question. IVCA agreed to pay half
23 of that dollar amount; correct?
24 A Yes.
25 Q And Sam Enterprises paid the other half; correct?
26 A Correct.
27 Q And it was Mr. Bob Dhillon who agreed that Sam
28 Enterprises would pay the other half?
29 A Okay, yes.
30 Q All right. Now, about the same time you were
31 hired, Mr. Brian Meyer was hired as general
32 manager at IVCA?
33 A Correct.
34 Q And you reported to him?
35 A Yes.
36 Q Now, prior to working for IVCA you had worked for
37 Sam Enterprises?
38 A I started in 2017.
39 Q At IVCA?
40 A Yes, and Sam Enterprises.
41 Q Oh, I see. So prior to working -- prior to 2017
42 you had not been in the farming business; is that
43 correct?
44 A Correct.
45 Q But you understood as an employee of IVCA there
46 were certain rules that had to be complied with
47 which was set by the commission?

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Bob Gill (a witness)
Cross-exam by Cnsl W. Stransky

- 1 A I did, yes.
2 Q I read at one point at the last hearing that you
3 submitted 18 in one day. Not to say that's
4 usual, but ...
5 A Yeah, no, well, I don't know if -- I can't tell
6 you how many a day but it was --
7 Q No, no --
8 A It was busy.
9 Q That's fair. And your process for each order, I
10 think you described to Mr. Androsoff was that
11 you'd get an order, verify with Mr. Dhillon that
12 he had the product, and then process it?
13 A Correct.
14 Q So you filled orders as they came in and with
15 respect to what Mr. Dhillon had?
16 A Correct.
17 Q And whatever orders you were able to fill, you
18 filled them?
19 A Correct.
20 Q So I just want to go to page 1542 in the record
21 for context. This is a letter from Ms. Hunter
22 dated February 1st, 2018. I just want to show
23 you this first paragraph here. So it reads:
24
25 Last year --
26
27 This is referring to 2017 at the time:
28
29 -- Prokam grew approximately 380 acres of
30 potatoes, which IVCA sold largely out of
31 province but also within British Columbia
32 prior to the end of October. The timing of
33 sales is important to Prokam's business
34 because Prokam does not presently have
35 storage facilities.
36
37 Then ask, would BCfresh be willing and able to
38 market and sell a similar volume of Prokam
39 potatoes with similar timing. Do you see that?
40 A I do, yes.
41 Q And what Ms. Hunter says in this letter, and we
42 can break it down, but that was true as you
43 understood it in 2017; correct?
44 A Yeah, based on this.
45 Q Yeah. So Mr. Dhillon did have 380 acres of
46 potatoes?
47 A I don't know exactly how many per se, but ...

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Bob Gill (a witness)
Cross-exam by Cnsl R. Hira

1 April and, let's say, October 2017, did you, sir?
2 A I did, yes.
3 Q You worked for somebody else too?
4 A I worked for Sam Enterprises selling unregulated
5 product.
6 Q I see. All right. Now, did you sell potatoes
7 when you were employed with IVCA produced by
8 anyone other than Prokam?
9 A I did not, no. When I had asked Mr. Meyer I
10 wanted to get into other commodities as well, I
11 was told that those were all his accounts to deal
12 with and his product.
13 Q Perhaps you didn't understand my question. I'll
14 try it again. Did you sell potatoes when you
15 were employed with IVCA produced by anyone other
16 than Prokam?
17 A No.
18 Q Thank you. Did you sell Prokam potatoes right up
19 until the time your employment terminated?
20 A Yes.
21 Q And so when you started on April 1st, 2017, you
22 didn't understand the workings of the vegetable
23 marketing commission?
24 A I did not, no.
25 Q You had no idea what the general orders were?
26 A I did not, no.
27 Q And you had no idea how minimum pricing worked?
28 A No.
29 Q And it's fair to say that you really didn't have
30 an understanding of those matters even as late as
31 August 2017? Is that a fair comment?
32 A You know, I'd say, I was progressing.
33 100 percent, I would say, no.
34 Q No, that's why you were writing to Mr. Solymosi
35 on August 8th; correct?
36 A I was looking for discussions, yes.
37 Q All right. So this 60-day contract, the price in
38 the 60-day contract was set before you started
39 working at Prokam; correct?
40 A It was, yes.
41 Q I'm sorry. Working at IVCA.
42 A Correct.
43 Q Correct?
44 A Correct.
45 Q You had nothing to do with setting the price?
46 A No, the price it was put to me. I tried to raise
47 it. You know, I was the one that was stepping

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Bob Gill (a witness)

Cross-exam by Cnsl W. Stransky

- 1 year. Do you see that?
- 2 A I do, yes.
- 3 Q And when we look at column A here, it shows that
- 4 in 2016/2017, Prokam exceeded its delivery
- 5 allocation for whites by 879 percent and coloured
- 6 potatoes 2,479 percent. Do you see that?
- 7 A I do, yes.
- 8 Q And then going to B, exceeded whites 624 percent?
- 9 A Yes.
- 10 Q And then russets minus 99 percent. That reflects
- 11 that Mr. Dhillon hadn't planted russets or hadn't
- 12 planted many russets that year; correct?
- 13 A Okay.
- 14 Q And then for coloureds, it exceeded 810 percent?
- 15 A I see that.
- 16 Q And then going forward -- I won't read them out
- 17 in the same way, but it goes down with respect to
- 18 whites to 202 percent and then minus 100, meaning
- 19 that no potatoes were shipped in accordance with
- 20 the delivery allocation for period D. And that's
- 21 reflected for each type of potato. Did sales in
- 22 2017 -- or sales in 2017 would have sort of
- 23 reflected the same pattern, would they not have?
- 24 A You know, if you're asking me now or are you
- 25 asking me for back then.
- 26 Q In 2017 when you worked at IVCA?
- 27 A I would not have seen this pattern. I wouldn't
- 28 know what this meant at the time, right. But I
- 29 would have suspected that, you know, the potatoes
- 30 they start, well, consistently at the same time
- 31 period.
- 32 So can you repeat what the question is.
- 33 Q Of course. So we went through what this table
- 34 shows with respect to 2016 and 2017, and I'm
- 35 asking, as you were the sales associate for
- 36 Prokam potatoes, does it mirror -- does this
- 37 chart mirror your experience in 2017 where you
- 38 sold many more potatoes in the earlier part of
- 39 the year and then fewer potatoes later in the
- 40 year?
- 41 A Yes.
- 42 Q And if we -- just for the purpose of this
- 43 question, if we applied these same percentages in
- 44 2017, what percentage of each of these sales
- 45 would be BC sales as opposed to prairie sales?
- 46 A Oh geez. I'm not sure.
- 47 Q No. You wouldn't have kept track of that while

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Bob Gill (a witness)

Cross-exam by Cnsl W. Stransky

- 1 Q Okay. You understood that the timing of sales
2 was important to Prokam's business?
- 3 A Yeah, in terms of this storage facility, yes.
- 4 Q Yes. And I mean, we can say it explicitly, but
5 because he didn't have storage facilities, you
6 could not keep the potatoes past -- it's stated
7 here October?
- 8 A Correct. I think I would add to that too. Now,
9 the number of acres that were planted in relation
10 to the sales and the market demand, I think
11 that's probably what this is saying, right, that
12 there's a demand for the product.
- 13 Q I'm sure that's what Ms. Hunter's trying to
14 communicate somewhere else in this letter. Just
15 with respect to this paragraph, there's this
16 question of the timing of sales and the
17 importance of selling all of the potatoes before
18 October; correct?
- 19 A Yes.
- 20 Q And we heard some evidence from Mr. Dhillon that
21 an advantage of his land is that it's early land
22 and he gets potatoes earlier; is that right?
- 23 A I'm not a grower, but I think that's correct in
24 terms of early land, yes.
- 25 Q Did you have any understanding of that in 2017?
- 26 A No.
- 27 Q Was it not communicated to you that he's able to
28 get potatoes on the market earlier or that there
29 was --
- 30 A You know what --
- 31 Q Sorry. Go ahead.
- 32 A At the time, I wouldn't have had the
33 understanding. It was a steep learning curve.
- 34 Q So you didn't understand that there was advantage
35 to selling earlier?
- 36 A I wouldn't have initially, no.
- 37 Q I want to go to page 847 in Exhibit 1. This is
38 the letter of June 14th from the commission, and
39 I want to go down to page 849 in this table here.
40 So I appreciate this is with respect to 2016 and
41 2017, but you'll see the chart "actual shipments
42 versus delivery allocation." Do you see that?
- 43 A I can, yes.
- 44 Q So as I understand it, at least, what this chart
45 indicates is that Prokam has a certain delivery
46 allocation for four types of potatoes and they
47 have a certain amount over four periods of the

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Bob Gill (a witness)
Cross-exam by Cnsl R. Hira

- 1 Q You're an accountant; correct?
2 A Correct.
3 Q You've been put into this job by your
4 brother-in-law; correct?
5 A With my -- I know exactly what I was getting
6 myself into. I was looking for a change.
7 Q This was a steep learning curve?
8 A Yes.
9 Q And --
10 A I agree with you. There definitely was a steep
11 learning curve for sure.
12 Q Right. And if we go to page 5 of Exhibit 14,
13 this is your comments regarding the May 18th,
14 2017 letter. You write, "why didn't we stop
15 this?" That is, I suppose, why didn't we stop
16 the weekly delivery allocation reporting for
17 monitoring purposes?
18 A No, I agree with what you're saying. I
19 understand what you're saying in terms of -- this
20 was my first crack at reading literature from the
21 commission. I had not seen that previously.
22 Like, these other bullet points, they were
23 definitely very complicated in nature for me.
24 Q Well, the reason why you wrote that is you knew
25 Prokam was shipping way in excess of its delivery
26 allocation; correct?
27 A I think at some point I had clued into that, yes.
28 Q But you clued into it the moment you read the
29 June 14th, 2017 letter from the commission,
30 right?
31 A No. I think it was part of the research, yes.
32 Q Mr. Stransky took you there. You clued into it
33 by that time if not earlier; correct?
34 A I would say, yes, correct.
35 Q And here you are trying to figure out a way to
36 stop reporting delivery allocation; is that fair
37 to say?
38 A No.
39 Q All right. Let's go to page 6. There's another
40 bullet point regarding defining delivery
41 allocation; correct?
42 A Correct.
43 Q And you don't like the definition and note the
44 definition of delivery allocation is changing
45 here?
46 A I'm just simply making a comment. I recall the
47 confusing part for me here was -- I kind of

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 Q You'll see the paragraph 5 or number 5 on page
2 841, it talks about a penalty for an agency or
3 grower that deliberately grows volumes far in
4 excess of their DA and traditional markets being
5 serviced. Do you see that?
6 A I do, yes.
7 Q And you saw this at the time?
8 A I would have read it, yes.
9 Q So this sounds like some concerns which is if you
10 don't comply you can have some problems, right,
11 because the commission can cancel your delivery
12 allocation, assessed costs, et cetera. Do you
13 see that?
14 A I do, yeah.
15 Q Did that raise any concern with you at the time?
16 A I don't even recall this but I would not have
17 known what any of that meant.
18 Q All right. So you do recall, though, reading
19 this letter, June 14, 2017, in some detail;
20 right?
21 A I do, yeah.
22 Q In fact, after you read this letter you prepared
23 a response to it?
24 A Yeah, this letter, I was asked -- this is one of
25 those tasks that were put on my plate from
26 Mr. Michell.
27 Q Okay.
28 A I was asked to put together a response that
29 incorporated the agency into this letter?
30 Q All right. And in preparing your response, did
31 you discuss these issues with Mr. Meyer?
32 A I think Mr. Meyer was new as well so I think he
33 was in the same boat as me.
34 Q The question is -- I asked you did you discuss
35 the preparation of the response with Mr. Meyer?
36 A Yeah. Well, what happened, we had a meeting, a
37 board meeting in Victoria to go over this letter.
38 Q And who was at the board meeting?
39 A The entire board was there.
40 Q Including Mr. Dhillon?
41 A Yes.
42 Q And so it was discussed in some detail at the
43 board meeting?
44 A It was, yes.
45 Q And people gave their views on how to respond to
46 this?
47 A Correct.

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 Q Including Mr. Dhillon?
2 A Correct. So I think what happened is we actually
3 went through the letter line by line and again
4 that letter was intended to be for discussion.
5 But I think what I recall happening here is
6 everybody gave some input and I think there was
7 some changes made to it and the board approved
8 the letter is I think how it went.

9 Q All right. I just want to take that step by step
10 so let me just start with this. You saw this
11 letter on June 14, 2017, and then at some point
12 before you prepared the response which was sent
13 -- and just for your information, we'll get to
14 it, but the response was sent on July 10; okay?

15 A M'mm-hmm.

16 Q So between June 14th and July 10 you had a board
17 meeting?

18 A Yes.

19 Q And all the board members were there and you
20 discussed this June 14th letter; you went through
21 it thoroughly and in detail?

22 A Yes.

23 Q All right. So, for example, the first paragraph
24 you can see says:

25
26 This letter addresses the need to hold
27 Prokam Enterprises Ltd. and IVCA accountable
28 to all licensed producers of BC grown
29 regulated vegetables for the appropriate use
30 of delivery allocation and the quote values
31 on which delivery allocation is established.

32
33 Do you see that?

34 A I do, yes.

35 Q And it says:

36
37 Both IVCA and Prokam are being given notice
38 that the commission is monitoring your
39 activity.

40
41 So this would have been discussed at the time?

42 A Yes.

43 Q And then the third paragraph says:

44
45 Delivery allocation is one of two critical
46 components of orderly marketing that are
47 essential for the system to be effective,

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 was some changes that had to be made and then he
2 wanted it via I'm going say Dropbox.

3 Q Well, let me do this. Let me just go back --
4 let's just go back to the draft. So, first of
5 all, what you did was you created a draft and you
6 sent a draft to Michell, Meyer, to Dhillon and
7 Wittal; right?

8 A Yes.

9 Q After you sent this draft on July the 7th, did
10 you get comments back from Mr. Michell and
11 Mr. Wittal, Mr. Dhillon, Mr. Meyer?

12 A No. I think this letter we took to -- the draft,
13 we took to -- so when we were at the boardroom
14 table they were literally just reviewing the
15 draft. There were just a couple of minor tweaks.
16 He agreed with the position.

17 Q So what happened was this letter was taken to a
18 board meeting and it was discussed?

19 A Yes.

20 Q Line by line?

21 A Yes.

22 Q All right. And the board members made their
23 comments?

24 A Yes.

25 Q So everybody knew what was going out, no question
26 about that. Everybody knew exactly what was
27 being said?

28 A Correct.

29 Q Including Mr. Bob Dhillon?

30 A Everybody on the board.

31 Q All right. Okay. And so going to take you to a
32 few pieces. This is the final letter that starts
33 at page 891. Do you have that on your screen?

34 A I do, yes.

35 Q And you will see the first paragraph says:

36
37 This letter is in response to the one
38 received by Prokam Enterprises Ltd. and by
39 the office of IVCA. There are seven points
40 that IVCA wishes to address.

41
42 Right?

43 A Yes.

44 Q Okay. And it goes on. It starts by saying:

45
46 It is clear to us and several other
47 interested parties that the present

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Bob Gill (a witness)

Exam by Cnsl N. Mitha

1 commission and persons that it favours are
2 in a position to show extreme prejudice to
3 those persons and agencies that do not bend
4 to their will and assimilate to the present
5 commission way of doing business.
6

7 Right?

8 A Yes.

9 Q So you're really starting off the letter, you'll
10 agree with me, sir, with a tone of saying we
11 don't like your rules because they favour other
12 people and they are prejudiced towards others,
13 that's what you're saying as a starting point?

14 A Just to be clear, like, I drafted the letter,
15 right, based on the views and information that
16 I'm collecting.

17 Q All right. Fair enough, sir. These are not your
18 personal views?

19 A Exactly.

20 Q They're views of the collective board including
21 those at IVCA and including Mr. Dhillon vis-a-vis
22 Prokam?

23 A Yes.

24 Q And when I --

25 A Sorry, may I just add. When I took this letter
26 there I had no idea that they would just simply
27 add and pass it off. I was expecting more of a
28 revision. Like the intent of this letter was --
29 I can tell you from my own perspective the intent
30 of this letter was to, like, get a meeting with
31 the commission based on all this information I
32 was seeing. I was not -- personally I was not
33 getting any answers from anybody at IVCA
34 regarding all this material that I've seen,
35 right. I was simply learning on my own here I
36 guess is what I would say, right.

37 Q Okay. But you will agree with me, sir, that the
38 first paragraph is really -- the tone of it
39 really is to say we don't like the commission's
40 rule -- and just to be clear, I'm not saying that
41 this is your view of the world. I appreciate
42 this is what you were instructed by the board to
43 prepare and they accepted this, but you would
44 agree with me that the first paragraph, the tone
45 of it is we don't like your rules because they
46 are extremely prejudicial to people like us;
47 right?

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Bob Gill (a witness)
Cross-exam by Cnsl R. Hira

**BOB GILL, a witness,
recalled.**

CROSS-EXAMINATION BY CNSL R. HIRA (continued):

Q Now, the attitude at IVCA was do the sales and ask for forgiveness later; correct?

A You can see I'm just showing -- judging from that email, that was the consensus. It was -- I was told that minimum pricing does not apply, and that's what I did.

Q Right. And that's why you used the term -- the phrase in your evidence with Mr. Androsoff "do the sales and ask for forgiveness later." That was the IVCA attitude?

A I would say, that's fair, yes.

Q That's fair?

A Yeah.

Q Did I hear you correctly?

A Yes.

Q Thank you. And let's be very clear, Mr. Dhillon was a director and vice president; correct?

A Correct.

Q Who's actively involved in the July 14th letter to the commission; correct?

A As all board members were.

Q He signed off on the letter; correct? I'm sorry. I didn't hear you, sir?

A Correct.

Q And he is part of the "do the sales and ask for forgiveness later" attitude; correct?

A That email was specifically from Terry. That's what he had told me.

Q I see. I see. And, of course, in that July 14th letter, there is no mention of Thomas Fresh is there?

CNSL R. ANDROSOFF: Mr. Chair, I just want to interject to assist Mr. Hira. The date of that letter that he's referring to, I believe, is July 10th, 2017.

CNSL R. HIRA: Thank you. I'm grateful.

Q You understand when I said, July 14th during the course of these questions, I was referring to the July 10th letter?

A Yes.

Q I was a bit fixated on Bastille Day. That's understandable, I hope. In any event, there is no mention of Thomas Fresh in that letter?

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Bob Gill (a witness)
Cross-exam by Cnsl R. Hira

- 1 A Correct.
- 2 Q And I'm just trying to understand here. There's
3 no mention of human rights violations in this
4 document, is there?
- 5 A No.
- 6 Q And there's no real mention -- there's no mention
7 of bias by commission members in this document,
8 is there?
- 9 A No.
- 10 Q So is it fair to say that those ideas were
11 developed by IVCA?
- 12 A This particular draft, I think the feedback I got
13 on it was it wasn't -- it was too weak. The
14 remaining -- the ideas of the bias, that came
15 afterwards.
- 16 Q I see. Okay. Let's go forward to document
17 number 3 in Exhibit 14. This is you.
18 Incidentally, I note in your emails you don't
19 sign off as IVCA sales associate, do you, sir?
- 20 A You know, it doesn't say it there. I'm not sure.
- 21 Q Well, we've seen that the first email that you
22 sent on June 22nd -- go back to it, page 1 -- you
23 hadn't signed off as IVCA sales associate, have
24 you, sir?
- 25 A I have not, no.
- 26 Q And if you go to page 3, the second email,
27 July 3rd, you haven't signed off as a sales
28 associate?
- 29 A I agree.
- 30 Q All right. And so you are trying to, as I
31 understand it, still understand how the vegetable
32 marketing commission works; correct?
- 33 A Correct.
- 34 Q And you believe that the May 18th, 2017
35 communication by the commission to all storage
36 crop agencies was an attempt to change the
37 general orders?
- 38 A I think at the time, yes. I was tasked with the
39 responsibility of the commission emails that were
40 coming through. Mr. Michell asked me to review
41 them and kind of point out if there was anything
42 new. And again, at the same time I was
43 familiarizing myself with the process as well.
- 44 Q In fairness to you, you have no background in
45 vegetable sales or regulated vegetable product
46 sales; correct?
- 47 A Correct.

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 ship; right?

2 A Correct.

3 Q And this one says Prokam shipments were greater
4 than its delivery allocation; it doesn't say --
5 the concern isn't that the planting was in excess
6 -- on the sentence I read to you -- on the
7 sentence I read to you it says "the shipments
8 were in excess." Do you see that? "The
9 shipments were significantly greater than the
10 delivery allocation." Do you see that?

11 A I do, yeah.

12 Q So what did Mr. Dhillon have to say about that?

13 A I don't recall.

14 Q All right. And then it goes down further. Where
15 I've highlighted, it says:

16

17 IVCA clearly has growth ambitions and Prokam
18 is intentionally planted far in excess of
19 its delivery allocation.

20

21 Now we're talking about planting; right?

22 A Right.

23 Q Then it says:

24

25 No marketing plan was submitted by IVCA
26 requesting approval for growth and a shift
27 in potato production into A and B periods.
28 This behaviour is in noncompliance.

29

30 And noncompliance is in capital letters; right?

31 A Right.

32 Q All right. So this must have caused you some
33 concern that --

34 A It did and it was everybody's view from what I
35 recall about that marketing plan from the
36 licensing application.

37 Q Right.

38 A So that was the view based on --

39 Q But even though that was the view, you still had
40 a concern about this, didn't you?

41 A Well, again, I was still putting the pieces
42 together. I tried asking questions whenever I
43 could to everybody and, you know, it was
44 definitely difficult getting any answers but this
45 was, yes, I remember this and the answer always
46 was is we have already been approved.

47 Q All right. In any event, you'll see that there's

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 a warning notice given to Prokam Enterprises Ltd.
2 and IVCA; right?
3 A Yes.
4 Q And then it also sets out what the consequences
5 of noncompliance are?
6 A Yes.
7 Q And you understood at the time and not only you
8 but everyone understood at the time the
9 consequences could be serious?
10 A Right.
11 Q Want to take you to some of the communication
12 that occurred after this and the first one is at
13 page 860 and this is an email from yourself on
14 June 29, 2017, and that's actually, for the
15 record, at page 859. You start an email on
16 Thursday, June 29th, 2017, 11:43 A.M. You send a
17 copy to Brian Meyer and Barb Dhillon. Now Barb
18 Dhillon is Bob Dhillon's spouse; right?
19 A Yes.
20 Q And the subject is "marketing plan"?
21 A Yes.
22 Q Why were you sending it to Barb Dhillon? What
23 role was she playing at this point?
24 A I'm not sure what the email address is attached
25 to that.
26 Q I see. So you've got her name here but you're
27 not sure -- so the email may have actually been
28 going to Bob Dhillon?
29 A Yeah, I think so.
30 Q So although the name is Barb Dhillon, it was
31 really intended to Bob Dhillon and it was sent to
32 Bob Dhillon?
33 A Yes.
34 Q And you say hi -- sorry. Then you say:
35
36 Hi, Brian. I think we should send an
37 official letter that a marketing plan is
38 currently being worked so that this does not
39 count against us. I realize we sent to him
40 questions and are waiting a response. All
41 they going to do is delay because we are not
42 compliant. We need a letter for our file.
43 What do you think.
44
45 So let me just ask you this. When you say, I
46 realize we sent him questions, who are you
47 referring to?

14

Bob Gill (a witness)
In chief by Cnsl R. Androsoff

- 1 submit the contracts to the commission for
2 approval?
- 3 A We did not, no.
- 4 Q Did you have discussions with anyone at IVCA
5 about whether to submit the contracts to the
6 commission for approval?
- 7 A I did not, no.
- 8 Q Okay. You gave evidence yesterday that you
9 acquired knowledge that the commission had a
10 general practice of setting minimum prices at
11 which regulated product could be sold. Do you
12 recall that?
- 13 A Yes.
- 14 Q And the conversation that you described with
15 Thomas Fresh Surrey, was that the first time that
16 you learned that minimum pricing applies to BC
17 sales?
- 18 A Yes, correct.
- 19 Q Okay. Were you aware in 2017 of how the
20 commission set and communicated minimum prices to
21 the industry?
- 22 A Yes. I believe the process was there were agency
23 manager meetings with the commission on a weekly
24 basis. I believe it was the week prior. The
25 meetings were held for the preceding week. And
26 then once the commission sets the minimum
27 pricing, it goes to the agency general manager.
28 And then what would happen from that perspective
29 is it would get transferred on to an IVCA price
30 list, and then from there Mr. Meyer would forward
31 it to me.
- 32 Q The calls -- the weekly calls that you described
33 with the commission, did you participate in those
34 calls?
- 35 A No, I did not.
- 36 Q Do you know who at IVCA did participate in those
37 calls?
- 38 A It would have been Mr. Wittal and Mr. Meyer. Up
39 to the time, I guess, when Mr. Wittal was no
40 longer there. It would have been Mr. Meyer.
- 41 Q I think you mentioned IVCA price lists as well.
42 Were you involved in creating those?
- 43 A I was not, no. They were just sent to me from
44 Mr. Meyer.
- 45 Q Okay. What was your understanding in April 2017
46 at the time that you caused IVCA to enter into
47 these contracts with Thomas Fresh Saskatoon and

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 pricing?
2 A This was a topic that I was working on and again
3 this was contradictory to what I was being told
4 from the agency.
5 Q And who at the agency was telling you anything
6 different?
7 A Mr. Michell; I asked Mr. Meyer. Both of them.
8 Q And what did they say to you, sir?
9 A They're telling me that the commission doesn't
10 have any jurisdiction over out-of-province
11 pricing.
12 Q But you see Mr. Solymosi says something different
13 to you?
14 A Like I say, I was still new here. I was still
15 gathering the information on my own. I don't
16 think I knew the knowledge at this point.
17 Q But you were concerned about the setting of the
18 export price; right?
19 A Yeah, I was wondering what it meant.
20 Q In fact you sent an email -- you'll see here's
21 another chain. It's the same email from Suzanne
22 Babcock. I'm at page 921 for the record and you
23 have an email from Suzanne Babcock on Tuesday,
24 August 8; correct?
25 A Yes.
26 Q And your response is "you flip it to Brian
27 Meyer."
28 A Yeah.
29 Q And you say:
30
31 Hi, Brian. How are you going to handle this
32 new change in policy by the commission.
33
34 So, first of all, you understood there was a new
35 change in policy.
36 A I was thinking -- like I say, I'm trying to get
37 some information, right, of what all this means.
38 Q Sure. But let me just understand something.
39 When you said "new change in policy" what you
40 understood is new change in policy is they're now
41 setting prices, minimum prices, for exports to
42 the prairies; right?
43 A I think I'm referring to these two categories.
44 Q The reds and the yellows?
45 A I didn't -- I don't know.
46 Q Well, sir, isn't this the first time the
47 commission was setting an export price, a minimum

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Bob Gill (a witness)

Exam by Cnsl N. Mitha

- 1 export price; right?
- 2 A Yes.
- 3 Q And that was what you meant when you said how are
- 4 you going to handle this new change in policy?
- 5 A Yes. How does it affect us; how does it affect
- 6 me.
- 7 Q Right, that's what I'm trying to get at. I'm not
- 8 saying you knew the answer. I'm just saying you
- 9 recognized wait a minute, there's a change in
- 10 policy here they're now setting for the first
- 11 time minimum prices for exports; right?
- 12 A Yeah.
- 13 Q And you knew all along you had to comply with
- 14 minimum prices in British Columbia; right?
- 15 A Yes.
- 16 Q And you're now saying to Brian Meyer hey, how are
- 17 we going to handle this new change in policy?
- 18 A Yes.
- 19 Q Okay. And he says "we'll let you know when I
- 20 know"; right?
- 21 A Yes.
- 22 Q And did you have discussion with Mr. Dhillon
- 23 about this?
- 24 A He's in the email loop.
- 25 Q Yes, I see that. Thank you. But did you have a
- 26 discussion with him separate and apart from that?
- 27 A I didn't have a discussion. I don't even know
- 28 what this means by this point.
- 29 Q What I'm saying is did you raise it with him?
- 30 Did he raise it with you? Wait a minute, what
- 31 are we going to do about this, because -- let me
- 32 take a step back. At this point in time IVCA and
- 33 Prokam were selling for export at a price lower
- 34 than the price set by the commission, right, for
- 35 exports?
- 36 A Correct.
- 37 Q And that's what raised your concern is hey, we're
- 38 selling below the minimum price, what are we
- 39 going to do about it. That was your concern;
- 40 right?
- 41 A Right.
- 42 Q And you raised that with Mr. Meyer?
- 43 A Yes.
- 44 Q And you raise it with Mr. Dhillon?
- 45 A Yes. And I raised it with Mr. Michell as well.
- 46 Q Okay. So you told them all about it and they
- 47 were telling you what in response?

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 president, VIP producer. Do you see that?
2 A I do, yeah.
3 Q Do you know if this was ever sent to the
4 commission?
5 A I'm not sure.
6 Q You don't know. Okay. What did you do with the
7 letter? What did IVCA do with the letter?
8 A I didn't do anything with the letter.
9 Q Was it ever discussed at a board meeting?
10 A I don't think so.
11 Q All right. Now, sir, you knew that because of
12 this new change in your words of the new pricing
13 policy that Prokam and IVCA shouldn't be selling
14 below the minimum price for export potatoes, that
15 was a concern you raised; right?
16 A Well, I relayed the concern of reliance on
17 commission emails. Now, what I mean by that is
18 again if there was a change coming IVCA should be
19 on it and when that email was sent to me I took
20 the time to read it, I did not fully understand
21 it, I was looking for direction of how that
22 applies to us.
23 Q And the direction you got was don't worry about
24 it, it doesn't matter?
25 A Well, the direction I got is that minimum price
26 does not apply to out-of-province pricing.
27 Q But didn't you think, sir, then that you should
28 send something to the commission to say that?
29 A Yes.
30 Q And did you suggest that?
31 A I didn't know. I was taking direction of what to
32 do here.
33 Q And did somebody tell you to send something to
34 the commission?
35 A Sorry?
36 Q Did somebody tell you to send anything to the
37 commission in response to that?
38 A No.
39 Q They told you just to ignore it?
40 A No. They told me to keep selling the way I'm
41 selling [indiscernible].
42 Q So I'm correct in saying that you continued to
43 sell below the minimum price that was set by the
44 commission, whether it's lawful or whether they
45 have jurisdiction, I'm not questioning that for
46 the moment, a price was set and you continued to
47 sell meaning you, IVCA and Prokam, continued to

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

- 1 sell below that minimum price?
2 A Yes.
3 Q All right. And it was Mr. Meyer, Mr. Michell and
4 Mr. Dhillon told you keep doing what you're
5 doing?
6 A It was Mr. Michell in particular.
7 Q All right. And Mr. Meyer and Mr. Dhillon were
8 aware of that?
9 A Yes.
10 Q They were aware of what Mr. Michell had told you?
11 A Yes.
12 Q And they didn't tell you anything different?
13 A No.
14 Q Okay.
15 A It was the consensus of everybody that I asked
16 that out-of-province pricing did not apply.
17 Q All right. So keep doing what you're doing and
18 you continued to do exactly the same?
19 A Correct.
20 Q Which is sell below the minimum price set by the
21 commission?
22 A Please understand here, I hope you appreciate,
23 I'm still the first year here.
24 Q No, no, listen, I'm not asking you whether --
25 A Okay.
26 Q -- what was done was right or wrong. I just want
27 to understand what the facts are. And the fact
28 is that Prokam and IVCA continued to sell
29 potatoes below the minimum price; correct?
30 A Yes.
31 Q All right. Below the minimum price for exports
32 is what I mean; right?
33 A Yes.
34 Q Now, I'm not going take you through it but I'll
35 invite you to agree with me that beginning
36 sometime around late July and August 2017 and
37 more so in September 2017 there began to be a
38 number of differences between Mr. Meyer and
39 Ms. Solotski and then yourself and Mr. Dhillon
40 about the order processing and how the order
41 should be processed; right?
42 A Yeah, there's emails I recall.
43 Q And the difference was that Mr. Meyer had set up
44 an order -- email orders at IVCA.ca whatever it
45 was and wanted all the orders to go through there
46 and that caused some tension and dispute; right?
47 A No.

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Bob Gill (a witness)

Cross-exam by Cnsl W. Stransky

1 A No, no, I would have responded back to this email
2 I think, if this is the same email we're
3 referring to.

4 Q I'm afraid I don't have the reference at hand,
5 but there's an email where you ask Mr. Solymosi
6 what the commission's jurisdiction is to regulate
7 exports sales. Does Mr. Androsoff want to
8 provide it?

9 CNSL R. ANDROSOFF: Mr. Stransky, I'm happy to provide
10 the page number if you would like.

11 CNSL W. STRANSKY: Sure. I'm happy to show the
12 witness it.

13 CNSL R. ANDROSOFF: It's page 913.

14 CNSL W. STRANSKY:

15 Q So here, yes, you send the response:

16

17 Can you confirm where I can find this in the
18 general orders.

19

20 A So what I was looking for here is I had been
21 getting inconsistent information from the agency.

22 Q M'mm-hmm.

23 A I'm just trying to -- I'm trying to gain the
24 knowledge here of what this means. I'm hearing
25 that there's no minimum pricing outside of BC.
26 And then I do get -- like, I am looking at this.
27 I'm trying to make sense of what this all means
28 at this point.

29 Q That's fine. So you ask a question with respect
30 to where that is in the general orders, so you're
31 asking what the commission's jurisdiction to do
32 it is; right?

33 A M'mm-hmm.

34 Q But with respect to what is actually being done,
35 you understand that Mr. Solymosi is saying that
36 all pricing is subject to the pricing policy, and
37 you agreed a moment ago that's with respect to
38 export and local sales?

39 A That's what it says there, yes.

40 Q So you would have understood -- again, we're
41 not -- we're not making any issue of the
42 jurisdiction to impose minimum pricing on
43 exports. That will be a matter for argument.
44 But you would have understood from this email or
45 you did understand from this email that the
46 commission was regulating all product grown in BC
47 including exports; correct?

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Bob Gill (a witness)
Cross-exam by Cnsl W. Stransky

- 1 A Yes, like I say, I'm trying to make sense of this
2 of why I'm getting conflicting information.
- 3 Q Well, we can go to 921. This might provide a
4 little bit more context. This email August 9th,
5 2017, so the next day, where the commission
6 confirms there are two categories added for reds
7 and yellows strictly for export to the prairies.
8 Do you see that?
- 9 A I do, yes.
- 10 Q And then you ask Mr. Meyer copying Mr. Dhillon
11 how we're going to handle this new change in
12 policy by the commission?
- 13 A Correct.
- 14 Q So you had the exchange with Mr. Solymosi the day
15 before?
- 16 A No, it probably would have been the day after.
- 17 Q So this is August 9th. I can show you the email
18 if you want to confirm.
- 19 A Okay.
- 20 Q This is August 8th.
- 21 A I see.
- 22 Q So you understood from Mr. Meyer there was a
23 call, there was going to be export pricing. You
24 emailed Mr. Solymosi to confirm and then later in
25 the afternoon -- I'll assume that this was
26 forwarded to you -- the commission publishes its
27 weekly price list, including a price for export
28 sales; correct?
- 29 A Correct.
- 30 Q And you understand that this should have some
31 change in what you're doing with respect to
32 export sales, so you ask Mr. Meyer; correct?
- 33 A Yeah, I'm looking for direction here.
- 34 Q And you're copying Mr. Dhillon on this exchange?
- 35 A Yeah, I always copy somebody just so that it's
36 just not me and Mr. Meyer.
- 37 Q No, that --
- 38 A [Indiscernible], yes.
- 39 Q Well, you'd be copying Mr. Dhillon here because
40 it's the sales of his potatoes to which this
41 would apply; right?
- 42 A Correct. I am wondering how this is going to
43 affect me, right.
- 44 Q Yes, no, of course. And then we go on 978. You
45 were shown this email previously. On
46 September 5th, so this is about a month later
47 Janice writes -- excuse me. Ms. Solotski writes:

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Bob Gill (a witness)

Cross-exam by Cnsl R. Hira

1 Mr. Hira permit the witness to finish his answer
2 before interjecting.

3 CNSL R. HIRA:

4 Q Sir, you hadn't put together the customer list;
5 is that fair to say?

6 A No.

7 Q You were tasked to do it and none had been
8 produced; correct?

9 A No. I recall this had to do with a manifest
10 sale, and I believe I was asking a question of
11 what that means.

12 Q You didn't know what a manifest sale meant?

13 A No.

14 Q And I take it your evidence regarding -- I take
15 it you have no idea what Mr. Meyer meant when he
16 said, this will help us slow down the -- sorry,
17 "this will help us and slow down the commission."
18 A I don't know what that refers to.

19 Q Okay.

20 A Is there a thread to this email that I can see?

21 Q Sir, we go to the next document, which is IVCA
22 document -- I'm sorry. Go to IVCA document 129,
23 which is page 95 or -- page 95 on the document,
24 page 96 on the PDF. There's an email sent to you
25 by Mr. Meyer. I notice that Mr. Meyer in his
26 emails sometimes, not all the time, has his
27 position as general manager noted; correct?

28 A Correct. He has a signature, yes.

29 Q Thank you. And this is an email providing you
30 with last year's price list; correct?

31 A Correct.

32 Q And instructions that you cannot sell at last
33 year's price list; correct?

34 A I just -- I don't recall this email.

35 Q Okay. You did receive it, didn't you, sir?

36 A It says it there, yes.

37 Q But you have no recollection about it?

38 A I don't recall this.

39 Q All right. So let's go forward to August 8th.
40 Mr. Stransky took you there. It's document 914
41 in the common book. We're at 913. And let's
42 stay at 913. You'll see that my client on
43 August 8th responded to your query, and if you
44 need to see your query, it's at 914. Do you need
45 to see your inquiry of him?

46 A No, I recall this email.

47 Q You asked about imported product; correct?

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Bob Gill (a witness)
Cross-exam by Cnsl R. Hira

- 1 A Correct.
- 2 Q And as Mr. Stransky pointed out, he not only
- 3 addressed what you asked about, which was
- 4 imported product, but made it very clear that any
- 5 regulated product grown in BC is subject to
- 6 minimum pricing; correct?
- 7 A That's what it says. Yes, correct.
- 8 Q And you understood that; correct?
- 9 A I understood what it was saying here, but I was
- 10 getting conflicting messages from the agency.
- 11 Q So you understood what my client was telling you;
- 12 correct?
- 13 A I understood what I said there but then I also
- 14 asked that question so I can [indiscernible] it
- 15 out to the general order.
- 16 Q Sir, let's deal with the first email. You
- 17 understood what my client was saying; correct?
- 18 A Correct.
- 19 Q And to be clear, and maybe we need to go to 914,
- 20 Ms. Hall, the email from my client was copied to
- 21 your general manager, correct, Brian Meyer?
- 22 A Correct.
- 23 Q And if we go back to 913, you write back to my
- 24 client "where can we find this in the general
- 25 orders?" Correct?
- 26 A Correct.
- 27 Q You had the general orders; correct?
- 28 A I would have had a copy, yes.
- 29 Q You had access to your general manager; correct?
- 30 A Correct.
- 31 Q So why didn't you talk to your general manager
- 32 regarding where you could find this in the
- 33 general orders?
- 34 A Well, every question I have asked the general
- 35 manager I would never get an answer to. That's
- 36 the reason I reached out to Mr. Solymosi to begin
- 37 with.
- 38 Q I see. So did you ask Mr. Meyer, where do I find
- 39 this in the general orders?
- 40 A I did not ask him. I asked him about what that
- 41 policy meant and he never responded to me. He
- 42 couldn't answer the question.
- 43 Q Did you open up the general orders?
- 44 A I have the general orders. I have a copy of it,
- 45 yes.
- 46 Q Did you go through part 7 which deals with agency
- 47 responsibilities?

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 export price; right?
2 A Yes.
3 Q And that was what you meant when you said how are
4 you going to handle this new change in policy?
5 A Yes. How does it affect us; how does it affect
6 me.
7 Q Right, that's what I'm trying to get at. I'm not
8 saying you knew the answer. I'm just saying you
9 recognized wait a minute, there's a change in
10 policy here they're now setting for the first
11 time minimum prices for exports; right?
12 A Yeah.
13 Q And you knew all along you had to comply with
14 minimum prices in British Columbia; right?
15 A Yes.
16 Q And you're now saying to Brian Meyer hey, how are
17 we going to handle this new change in policy?
18 A Yes.
19 Q Okay. And he says "we'll let you know when I
20 know"; right?
21 A Yes.
22 Q And did you have discussion with Mr. Dhillon
23 about this?
24 A He's in the email loop.
25 Q Yes, I see that. Thank you. But did you have a
26 discussion with him separate and apart from that?
27 A I didn't have a discussion. I don't even know
28 what this means by this point.
29 Q What I'm saying is did you raise it with him?
30 Did he raise it with you? Wait a minute, what
31 are we going to do about this, because -- let me
32 take a step back. At this point in time IVCA and
33 Prokam were selling for export at a price lower
34 than the price set by the commission, right, for
35 exports?
36 A Correct.
37 Q And that's what raised your concern is hey, we're
38 selling below the minimum price, what are we
39 going to do about it. That was your concern;
40 right?
41 A Right.
42 Q And you raised that with Mr. Meyer?
43 A Yes.
44 Q And you raise it with Mr. Dhillon?
45 A Yes. And I raised it with Mr. Michell as well.
46 Q Okay. So you told them all about it and they
47 were telling you what in response?

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

- 1 sell below that minimum price?
2 A Yes.
3 Q All right. And it was Mr. Meyer, Mr. Michell and
4 Mr. Dhillon told you keep doing what you're
5 doing?
6 A It was Mr. Michell in particular.
7 Q All right. And Mr. Meyer and Mr. Dhillon were
8 aware of that?
9 A Yes.
10 Q They were aware of what Mr. Michell had told you?
11 A Yes.
12 Q And they didn't tell you anything different?
13 A No.
14 Q Okay.
15 A It was the consensus of everybody that I asked
16 that out-of-province pricing did not apply.
17 Q All right. So keep doing what you're doing and
18 you continued to do exactly the same?
19 A Correct.
20 Q Which is sell below the minimum price set by the
21 commission?
22 A Please understand here, I hope you appreciate,
23 I'm still the first year here.
24 Q No, no, listen, I'm not asking you whether --
25 A Okay.
26 Q -- what was done was right or wrong. I just want
27 to understand what the facts are. And the fact
28 is that Prokam and IVCA continued to sell
29 potatoes below the minimum price; correct?
30 A Yes.
31 Q All right. Below the minimum price for exports
32 is what I mean; right?
33 A Yes.
34 Q Now, I'm not going take you through it but I'll
35 invite you to agree with me that beginning
36 sometime around late July and August 2017 and
37 more so in September 2017 there began to be a
38 number of differences between Mr. Meyer and
39 Ms. Solotski and then yourself and Mr. Dhillon
40 about the order processing and how the order
41 should be processed; right?
42 A Yeah, there's emails I recall.
43 Q And the difference was that Mr. Meyer had set up
44 an order -- email orders at IVCA.ca whatever it
45 was and wanted all the orders to go through there
46 and that caused some tension and dispute; right?
47 A No.

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Bob Gill (a witness)
Cross-exam by Cnsl R. Hira

- 1 A There is.
2 Q Is it mentioned by name, sir?
3 A If we're talking about the same letter, yes.
4 Q Okay. If I go there, I will stand appropriately
5 corrected. It's document 891. I'm sorry. I am
6 appropriately corrected. It's noted right there
7 at page 894. Thank you. There is no mention
8 that the sales -- we can go to page 894, and it's
9 mentioned in the third line; isn't that correct,
10 sir?
11 A Correct.
12 Q And there's no mention that these sales are being
13 done at below the minimum price; correct?
14 A No.
15 Q Thank you. And dealing with minimum price,
16 Mr. Yuen from Fresh Direct was apparently being
17 sold regulated product at below the minimum
18 price. At least that's what you learned;
19 correct?
20 A Correct. He'd asked me to price match.
21 Q Right. And that was around August 3rd, 2017;
22 correct?
23 A I don't recall a date, but I know the email's in
24 there.
25 Q All right. Did you -- so I'm asking you, why
26 didn't you report that to the commission?
27 A I forwarded that email -- I'm thinking I would
28 have forwarded it to Mr. Meyer and then from the
29 agency is where that complaint should be
30 initiated.
31 Q I see. Did you bring it to Mr. Meyer's
32 attention, suggest to him that he should report
33 it to the commission?
34 A I -- at one point when I brought it to him, I
35 think what he was telling -- well, as I recall
36 the situation he would tell me is if you keep
37 bumping into it and, you know, sell it but keep
38 the documentation is the extent of the
39 conversations we had.
40 Q Sir, did you tell Mr. Meyer this should be
41 reported to the commission?
42 A I did not specifically, no.
43 Q So your evidence is that Mr. Meyer told you to
44 sell below the minimum price; is that correct?
45 A He asked me to have the documentation to attach
46 to a purchase order.
47 Q You had a certificate of authority from the

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Bob Gill (a witness)

Cross-exam by Cnsl R. Hira

1 commission; correct?
2 A Yes.
3 Q And that, amongst other things, required you to
4 abide by the rules of the commission; correct?
5 A Correct.
6 Q And so you were knowingly selling below the
7 minimum price; correct?
8 A I was selling outside of the province below
9 minimum price, yes.
10 Q I'm talking about the sales to FreshPoint [sic].
11 A Sorry I --
12 Q I was talking about those sales.
13 A I thought you said, Fresh Direct.
14 Q I'm sorry. Fresh Direct. You're right.
15 Mr. Yuen at Fresh Direct. Those are sales within
16 British Columbia; correct?
17 A Correct.
18 Q But you knowingly did below the minimum price;
19 correct?
20 A No, I don't believe I did. I did not match the
21 price on that product.
22 Q Oh, okay.
23 A As I recall.
24 Q Okay. Did you report your belief that BCfresh
25 was apparently selling below the minimum price to
26 the commission?
27 A I did not know.
28 Q And we know that you deleted a number of purchase
29 orders; correct?
30 A Correct.
31 Q 15 of them; correct?
32 A I think. Sure. I'll go with it.
33 Q Well, it could have been more, couldn't it?
34 A Could have been, yes. Like I've said before, in
35 no way shape or form was that ever going to be --
36 was it intentional by any means.
37 Q Well, it was intentional in the fact that you got
38 on the computer and deleted them?
39 A It was intentional -- I had a truck waiting so
40 what I did is -- I had to get the truck out so I
41 had to create another order.
42 Q Sir, you went on the computer and intentionally
43 deleted them; correct?
44 A Not intentionally, no. I deleted the order
45 because I had to create a new order, and then
46 what I need to do is I had to get the original
47 order out of the system.

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Bob Gill (a witness)
Exam by Cnsl N. Mitha

1 determined to learn this system.
2 Q Okay. But you do agree with me that things got a
3 little heated towards August and September?
4 A Not with me. I mean, I was --
5 Q Well, no, but just with the order entry process
6 Mr. Meyer started to get into it. He wanted all
7 the orders -- going through orders at IVCA.ca;
8 Mr. Dhillon was saying it's not appropriate to
9 make that change at this point in time. You
10 recall all that?
11 A I do.
12 Q All right. And would it be fair to say that
13 Prokam continued to do orders the way it wanted
14 to and it wasn't really complying with what
15 Mr. Meyer was asking at that time in September?
16 A No.
17 Q So what happened as a result of these disputes?
18 A Well, the order entry system got moved back to
19 the island.
20 Q Got moved back -- I didn't catch that, sorry.
21 A To the island, back to the IVCA office.
22 Q And so Prokam stopped doing the orders. Is that
23 what happened?
24 A Correct.
25 Q And when did that occur, sir?
26 A So what happened was I believe -- I'm going to
27 say the middle of August.
28 Q Right.
29 A Is when my access to the order entry system was
30 removed.
31 Q I see, okay. So let me just -- so here's I guess
32 what I'm trying to understand. So let me just
33 take you through an example. Here's an email
34 from August 16, 2017. Do you see that on your
35 screen?
36 A I do, yeah.
37 Q From Brian Meyer, he says --
38 A Yes.
39 CNSL R. ANDROSOFF: Mr. Mitha, I'm sorry I don't wish
40 to interrupt but I wonder if you could just
41 identify the page number you're taking the
42 witness to --
43 CNSL N. MITHA: My apologies again. Page 938. Thank
44 you.
45 Q There's an email from Mr. Meyer at the bottom of
46 page 938 on August 16, 2017, where he writes:
47

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Bob Gill (a witness)

Cross-exam by Cnsl W. Stransky

- 1 the 60-day forward contract we're hoping to
2 have put in place.
3
4 You see that?
5 A Yes.
6 Q And then just above, Janice says March 10th:
7
8 Thanks Paula, I forwarded it to the farm as
9 well as the acting manager.
10
11 A Correct.
12 Q And the acting manager you said was Ron Wittal?
13 A Correct.
14 Q And the farm was Bob Dhillon; is that right?
15 A Correct.
16 Q And Mr. Dhillon's copied there. So if we go to
17 page 2902 of the same exhibit -- Mr. Androsoff
18 showed you this as well -- it's the draft forward
19 contract signed March 2nd that Thomas Fresh
20 forwarded.
21 A Yeah.
22 Q So from those emails -- from that contract, it's
23 clear that this idea of a 60-day forward contract
24 had been raised between IVCA, Prokam, and
25 Thomas Fresh before; right?
26 A Correct.
27 Q And we can see here there's a form of contract
28 that covers grade, size, colour, type, and then
29 purchase price at the bottom there; correct?
30 A Correct.
31 Q And this contract, the one signed March 2nd, that
32 would reflect discussions between Bob Dhillon and
33 Tom Pollock and Thomas Fresh before you started,
34 would it not?
35 A Correct.
36 Q So when you phoned Thomas Fresh, you didn't know
37 at the time that this contract had been proposed
38 and sent?
39 A Before calling? No.
40 Q No. So Mr. Dhillon negotiated in part this
41 contract, but after you were hired didn't tell
42 you that it was sent to him?
43 CNSL R. ANDROSOFF: I object to that question. I
44 don't think there's any evidence in the record
45 that Mr. Dhillon negotiated in part this
46 contract.
47 CNSL W. STRANSKY: But I proposed that to Mr. Gill and

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Bob Gill (a witness)

Cross-exam by Cnsl R. Hrabinsky

1 CROSS-EXAMINATION BY CNSL R. HRABINSKY:

2 Q Mr. Gill, my name is Robert Hrabinsky. I'm legal
3 counsel for the commission.

4 You understand that Thomas Fresh Surrey is a
5 wholesaler that's licensed by the commission;
6 correct?

7 A Correct.

8 Q And you understand that Thomas Fresh Saskatoon
9 and Thomas Fresh Calgary operate as wholesalers;
10 correct?

11 A Correct.

12 Q And you understand that Thomas Fresh sells to
13 some retailers that are serviced directly by at
14 least one British Columbia agency; correct?

15 A I wouldn't know that, no.

16 Q Do you have any idea which retailers Thomas Fresh
17 sells to?

18 A I don't know.

19 Q Okay. You gave evidence that after the price was
20 fixed for the first 60-day forward contract that
21 you tried to bump up the price with Thomas Fresh.
22 Do you recall that?

23 A I do, yes.

24 Q And you were unsuccessful in your efforts to bump
25 up the price with Thomas Fresh?

26 A Originally, yes.

27 Q And when you became aware of the minimum price,
28 wouldn't you agree with me that it would be
29 better for Prokam if you were able to sell
30 potatoes to Thomas Fresh at that higher minimum
31 price?

32 A Yeah, I think the higher minimum price would
33 yield more to the agency as well.

34 Q I'm sorry. I didn't mean to cut you off,
35 Mr. Gill.

36 A That's okay.

37 Q And you'll agree with me that you never once told
38 Thomas Fresh that you cannot sell at a price that
39 is lower than the minimum price; correct?

40 A Out of province, correct.

41 Q Let me come at this again. I'm suggesting to
42 you, Mr. Gill, that you never once told
43 Thomas Fresh that you could not sell to them at a
44 price that is lower than the commission price; is
45 that right?

46 A Well, no. In Thomas Fresh Surrey, that was very
47 clear.

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Bob Gill (a witness)
Cross-exam by Cnsl W. Stransky

1 he accepted it.
2 CNSL R. ANDROSOFF: I don't recall you doing that,
3 Mr. Stransky.
4 CNSL W. STRANSKY: My question was, this contract
5 reflected negotiations between Mr. Dhillon,
6 Mr. Pollock, and Thomas Fresh, and Mr. Gill said,
7 yes.
8 THE WITNESS: Oh, no. Sorry. I did not understand
9 what you meant.
10 CNSL R. ANDROSOFF: I just don't recall you using the
11 word "negotiate," Mr. Stransky. I thought you
12 used the word "discussions," but I could be
13 mistaken.
14 CNSL W. STRANSKY: That's fine.
15 Q In any case, this contract had been sent over as
16 of March 10th and provided to Ron Wittal and
17 Bob Dhillon?
18 A Can I go back to that email?
19 Q Of course. So you remember Ms. Irvine forwarded
20 it to Ms. Solotski, and Ms. Solotski forwarded it
21 to Mr. Wittal and Mr. Dhillon on March 10th?
22 A That's what it says. Okay.
23 Q I also remember you this morning saying that you
24 negotiated a price for the contracts with Thomas
25 Fresh Saskatchewan by looking up IVCA's sales
26 history; is that right?
27 A Yes.
28 Q So you are saying you negotiated the price?
29 A Yeah. So Thomas Fresh wanted the 22 cents a
30 pound, so after that I went into the system.
31 I've got -- I did my research to see what sales
32 were at the previous year. I tried to bump up
33 the price. I couldn't -- I couldn't get nowhere.
34 But what we did is we discussed increasing the
35 volumes.
36 Q Well, we go to 2902 and the volume is 55 loads;
37 is that right?
38 A Yes. So above and beyond this, there was no
39 contract or anything there. There's the
40 possibility of increasing volumes if we would
41 have.
42 Q Okay. So your evidence is that you negotiated
43 the possibility of further sales?
44 A Correct.
45 Q But accepted the contract as it had been
46 presented to Mr. Dhillon and Mr. Wittal?
47 A Yes.

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Bob Gill (a witness)

Cross-exam by Cnsl R. Hira

- 1 asking him, what does this mean? And it turns
2 out he was actually conversing with somebody
3 totally different, but if you're looking for
4 sales business cards for me, I mean, there's
5 emails or should be.
- 6 Q Sir, let's go back to the Thomas Fresh contracts.
7 Is it fair to say that you held on to those
8 contracts?
- 9 A As requested to do so, yes.
- 10 Q Sorry. As requested to do so by whom?
- 11 A Mr. Wittal, initially.
- 12 Q All right. And again, you'll agree with me that
13 you have no document from Mr. Wittal saying, dear
14 Mr. Gill, I know you've signed contracts with
15 Thomas Fresh, please hold on to them, don't
16 forward them to IVCA, or words to that effect?
- 17 A I don't, no.
- 18 Q You have no such document/letter/email, do you,
19 sir?
- 20 A No.
- 21 Q So just so that I understand this, the two
22 contracts that you've identified and any other
23 contracts that you've signed with Thomas Fresh,
24 am I correct that you held on to them and did not
25 provide them to IVCA?
- 26 A I did not provide them. If I was asked to, I
27 would have, so no.
- 28 Q Thank you. And at no point in time did you seek
29 Mr. Meyer's approval when he was general manager
30 before you signed a contract, any contract, for
31 Thomas Fresh?
- 32 A He was -- Mr. Wittal was the acting manager at
33 the time. Mr. Meyer and I were hired on the same
34 day, so this would have been his first month
35 in -- at the office there. I don't believe he
36 was -- like, he was still in training is what my
37 understanding was.
- 38 Q Well, at no point in time did you get his
39 approval before entering into any contract with
40 Thomas Fresh. Do you agree with that, sir?
- 41 A I do, yes.
- 42 Q Now, you say you were tasked with coming up with
43 a response to the June 2017 letter from the
44 commission; is that correct? And you've also
45 given evidence with Mr. Mitha that the board --
46 that you drafted something for the board;
47 correct.

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Bob Gill (a witness)

Cross-exam by Cnsl R. McDonell

- 1 members who have interest in agencies are
2 commission members. The subject -- you say that
3 gives rise to a bias; is that right?
- 4 A Well, again, these are not my words where I've
5 actually signed off on the letter, right, but the
6 general consensus around that was the --
7 addressing the issue of bias.
- 8 Q Bias inherent in the fact that a commission
9 member has an interest in an agency; correct?
- 10 A Yes.
- 11 Q Right. And that's something you heard other
12 people say; it's not necessarily -- as I
13 understand it, you're not telling me that's your
14 belief?
- 15 A Correct.
- 16 Q Right. And anything else you can tell us about
17 your statement that persons or commission members
18 or staff may favour BCfresh or is it just the
19 bias issue?
- 20 A That's all I recall.
- 21 Q Okay. You'll recall you were shown some, what we
22 call, the 60-day forward contracts this morning?
- 23 A Correct.
- 24 Q I should know this but I don't recall. Who
25 drafted those?
- 26 A They were drafted by Thomas Fresh.
- 27 Q Right. And that document came from Alberta?
- 28 A Alberta and Saskatchewan, yes.
- 29 Q Right. And in your experience, have you ever
30 seen such a contract in British Columbia in use
31 in this industry?
- 32 A I have not, no.
- 33 Q When did you first learn that such contracts
34 needed to be forwarded to the commission for
35 approval?
- 36 A It was probably within the readings that I had
37 undertaken. I don't recall exactly when.
- 38 Q Spring 2017?
- 39 A No, I was still pretty new then.
- 40 Q You don't recall when?
- 41 A I don't recall. Maybe summer.
- 42 Q Summer 2017. All right. And I think it's common
43 ground these contracts were not forwarded to the
44 commission; correct?
- 45 A Correct.
- 46 Q And when you learned that such contracts were
47 required to be forwarded to the commission, why

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Bob Gill (a witness)
Re-exam by Cnsl R. Androsoff

1 Q Okay. Then let me come at it this way. You
2 never once told Thomas Fresh Saskatoon or Alberta
3 that you could not sell product to them at a
4 price that is less than the commission ordered
5 minimum price; correct?

6 A I did not, no.

7 Q And this is in spite of the fact that you believe
8 it would be better for the growers if you were
9 able to sell for a higher price; correct?

10 A You're getting the highest price would definitely
11 yield more, of course.

12 Q Okay. Mr. Gill, I put it to you that Thomas
13 Fresh Saskatoon and Alberta would not purchase
14 product from you at the minimum price because it
15 has to compete with the British Columbia agency
16 that is able to sell directly to retailers at
17 that minimum price; correct? Thomas Fresh needs
18 to have a space for its margin. Would you agree
19 with that?

20 A Yeah, I can see that, yes.

21 CNSL R. HRABINSKY: Thank you, Mr. Gill. I have no
22 further questions.

23 THE CHAIR: Thank you, Mr. Hrabinsky. Now, we'll go
24 back to Mr. Androsoff.

25

26 **RE-EXAMINATION BY CNSL R. ANDROSOFF:**

27 Q Mr. Gill, just a few questions. Just building on
28 what Mr. Hrabinsky just asked you about. Was it
29 your sense that Thomas Fresh Alberta and Thomas
30 Fresh Saskatchewan were purchasing potatoes grown
31 by Prokam as an alternative to purchasing from
32 another BC agency or was there another
33 alternative?

34 A My -- I think my --

35 CNSL R. HIRA: Mr. Commissioner, you know, we've had a
36 lot of evidence about feelings and sense. This
37 commission of inquiry should be concerned about
38 facts. This man's sense or opinion is not
39 relevant. If he's got some actual facts and some
40 documents, then I have no objection to the
41 question.

42 CNSL R. ANDROSOFF: Mr. Chair, I didn't ask for
43 Mr. Gill's feeling or sense; I asked for his
44 understanding. And in my submission, if
45 Mr. Hrabinsky was permitted to ask the questions
46 that he just did, I should be permitted to follow
47 up in the same fashion.

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Marcel Andre Solymosi

Cross-exam by Cnsl R. Basham

1 CNSL R. BASHAM: -- growers, the Indo-Canadians.
2 A Well, we deal with a licenced producer who has --
3 owns the operation, and that's the producer who
4 is -- has the production allocation for that
5 licence entity.
6 Q I don't know --
7 A So --
8 Q -- [indiscernible] the question you answered.
9 I'm asking you --
10 CNSL R. HIRA: Just a moment. Can you let him finish?
11 He was at "so."
12 A So are you asking about producers who are granted
13 the production allocation?
14 CNSL R. BASHAM:
15 Q How about just making it simple? The people that
16 Dawn spoke to, the growers, as she calls them.
17 A That would be them.
18 Q Beg your pardon?
19 A That would be those people who are the registered
20 licenced producers and owners of the greenhouses
21 that are producing the regulated greenhouse
22 crops.
23 Q Can you agree with me that growers generally do
24 not wish to speak ill of the Commission for fear
25 of reprisals. That's your understanding?
26 A I -- I -- I don't understand that. No.
27 Q Well, Dawn told you that, didn't she? Didn't
28 Dawn tell you that? You told me just -- early
29 today?
30 A Yeah. She told me that.
31 Q So you did know. Dawn did tell you. And Dawn
32 was in 2019 to the spring of 2020, so you knew at
33 least from then, didn't you?
34 A Correct.
35 CNSL R. BASHAM: Okay. Can I just have two minutes,
36 please, Mr. Donkers? I just want to see if
37 there's anything else I want to ask.
38 THE CHAIRPERSON: [Indiscernible].
39 CNSL R. BASHAM:
40 Q [Indiscernible] had to put to you, but I couldn't
41 find it earlier. I just found it. This is
42 Exhibit 7. Okay. I'm going to ask you to look
43 at Exhibit 7, which is a supplementary list of
44 the commissioners. It's a meeting dated June 24,
45 2019 at 1:30. Do you have that? Do you have it,
46 Mr. Solymosi?
47 A I do, yes.

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Marcel Andre Solymosi

Cross-exam by Cnsl R. Basham

1 Q This is the meeting at which the moratorium was
2 imposed, correct?

3 A That is correct.

4 Q So now you can agree with me that the people who
5 attended included John Newell?

6 A The Panel members who were Debbie Etsell, John
7 Newell, Blair Lodder, Mike Reed, Brent Royal, and
8 then Eric Schlacht.

9 Q Right. And then -- you were there, of course?

10 A I was.

11 Q So were those the people who voted for the
12 moratorium? Etsell, Newell, Lodder, Reed, Royal?

13 A That would be correct.

14 CNSL R. BASHAM: Thank you, Mr. Solymosi. I don't
15 have any more questions.

16 THE CHAIRPERSON: Thank you, Ms. Basham. Mr. Mitha?

17 CNSL N. MITHA: Thank you, Mr. Chair. I don't have
18 anything arising from that.

19 THE CHAIRPERSON: Mr. Hira?

20 CNSL R. HIRA: I was under the impression that Mr.
21 McDonnell may need a few minutes.

22 THE CHAIRPERSON: Thank you. Mr. McDonnell?

23 CNSL R. McDONELL: Yes. No, no, Mr. Chair. Thank
24 you, I do not.

25 CNSL R. HIRA: I would like five minutes, including
26 the right, as I'm allowed, to talk to my client
27 before re-examination, just to make sure that we
28 get this done in five minutes.

29 THE CHAIRPERSON: All right.

30 THE RECORDER: Off the record for five minutes.

31 THE CHAIRPERSON: Yes, thanks, Joanne.

32

33 (WITNESS STOOD DOWN)

34

35 (PROCEEDINGS ADJOURNED)

36 (PROCEEDINGS RECONVENED)

37

38 THE CHAIRPERSON: Okay, back on the record?

39 THE RECORDER: Yes, we're back on.

40 THE CHAIRPERSON: Thank you.

41

42 **MARCEL ANDRE SOLYMOSI**, a
43 witness, recalled.

44

45 THE CHAIRPERSON: So are you ready?

46 CNSL R. HIRA: Yes. I have a few questions. Let's
47 see whether I can't do it in five minutes. I'm