

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

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

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

TRANSCRIPT EXCERPTS OF THE COMMISSIONERS

**J. KENNETH MCEWAN, Q.C.,
WILLIAM E STRANSKY, and
ALISON PIENAAR**

McEwan Cooper Dennis LLP

900-980 Howe Street

Vancouver, British Columbia V6Z 0C8

Tel.: 605-283-7740

Email:

kmcewan@mcewapartners.com

wstransky@mcewanpartners.com

apienaar@mcewanpartners.com

**COUNSEL FOR THE
COMMISSIONERS JOHN NEWELL,
MIKE REED, BLAIR LODDER, CORY
GERRARD, AND PETER GUICHON**

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

Video Conference
February 11, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING

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- 1 imposed in the summer of 2017.
- 2 CNSL N. MITHA: Well, perhaps those questions can be
3 asked and if somebody objects to the -- you know,
4 you not having a foundation, then you can go back
5 to laying the foundation but discussing economic
6 theory in a vacuum seems to me goes pretty far
7 beyond the terms of reference.
- 8 CNSL R. HRABINSKY: Mr. Chair, if I may too, I'm
9 hearing my friend speak of what the Commission's
10 objectives were, et cetera and I have approached
11 this entire supervisory review on the basis that
12 the terms of reference focus specifically on the
13 -- Mr. Solymosi as general manager and the
14 Commission members have been named as defendants.
15 I have not been participating on behalf of the
16 Commission to explain or justify steps that the
17 Commission took generally. So I do not think
18 it's appropriate for my learned friend to be
19 questioning this witness on the basis that this
20 is an examination of the Commission's policies or
21 -- or rules.
- 22 CNSL C. HUNTER: All right. Why don't I move to
23 another area.
- 24 Q Mr. Solymosi, the rules with respect to delivery
25 allocation are set out in the general orders,
26 correct?
- 27 A Correct.
- 28 Q And the Commission does not regulate planted
29 acreage and does not prevent growers from
30 overplanting to produce marketable product in
31 excess of delivery allocation, correct?
- 32 A Correct.
- 33 Q There's no restriction at all on overplanting?
- 34 A The -- that's where the principles of the general
35 orders would come into play where you're expected
36 to plant within a reasonable amount to ensure you
37 can fill your delivery allocation and service the
38 market that the -- has been approved and serviced
39 by that agency over time.
- 40 Q You gave evidence yesterday that from your
41 perspective the purpose of price is to maximize
42 return to growers. Do you recall that?
- 43 A Purpose of price is to ensure that we regulate
44 B.C. product marketed by B.C. agencies to get the
45 best return for B.C. producers.
- 46 Q Yes, but -- and the Commission's motto is
47 "Growers working for Growers", correct?

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

**Videoconference
February 7, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 6)**

Board:

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Nazeer Mitha
Wanda Gorsuch**

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**J. Kenneth McEwan
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Robert McDone11

Robert Hrabinsky

**Chairperson
BCFIRB Hearing Counsel
BCFIRB Hearing Counsel
Liaison
Panel secretary
Panel secretary**

Prokam Enterprises, Ltd.

**MPL British Columbia
Distributor Inc.**

A. Solymosi

VMC Commissioners

BCfresh Vegetables Inc.

**BC Vegetable Marketing
Commission**

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Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

1 have experienced good or bad, but, like -- it's
2 basically to get some attention to have some
3 discussion.

4 Q All right. And you say, for example:

5
6 The present commission consistently bogs the
7 system with red tape policies and
8 restrictions. The delicate balance between
9 governance and the right to earn a living
10 marketing directly to large retailers such
11 as Loblaws Canada has now tipped so much
12 that commerce is being paralyzed.

13
14 Right?

15 A Right.

16 Q That's a criticism of the commission; right?

17 A I see what you're saying.

18 Q That's a fair statement; right?

19 A True.

20 Q And at some point again -- I'm just looking for
21 this specific paragraph, there's even an
22 allegation that what they're doing -- here it is
23 -- on page 895 under heading item number 6, the
24 second paragraph at the bottom, it says:

25
26 Why are proposals so hard to access? Why is
27 approval required from the commission for
28 every step of the process. The policies are
29 monopolizing the industry and are considered
30 by many borderline prejudicial human rights
31 violations.

32
33 A Yeah.

34 Q It's pretty serious criticism of the commission's
35 rules; right?

36 A I think the intent there was grower -- grower
37 versus grower equality, along those lines.

38 Q All right. But when you accuse the commission of
39 engaging in borderline prejudicial human rights
40 violations, that's a pretty strong statement;
41 right?

42 A Yeah, that was -- I was tasked to make a strong
43 letter.

44 Q And that's what you were told to do by the board
45 including Mr. Dhillon?

46 A The board and -- yes, everybody on the board.

47 Q Including Mr. Dhillon?

1 A Yes.

2 Q All right. In any event, this letter is sent;
3 right?

4 A Yes.

5 Q Now, sir, at some point you learn this concept of
6 the commission having a minimum price for
7 potatoes being sold; right?

8 A Yes.

9 Q And you understood that IVCA and Prokam had to
10 comply with that minimum price; right?

11 A Yes.

12 Q I'm going to take you to page 978, sir, and
13 there's an email exchange I want to take you
14 through. And initially there's an email on
15 September 5th, 2017, at 8:47 A.M. from Janice and
16 she writes, September 5:

17

18 Bob, on this POD to TF Surrey you have added
19 36 cases of red creamers, 50 pound cartons.
20 Could you provide a price as it was not part
21 of the original order and I don't want to go
22 by the minimum price as you have special
23 pricing with TF. Janice Solotski.

24

25 Do you see that?

26 A I do, yes.

27 Q And you respond the same day and this time you
28 copy Bob Dhillon and Brian Meyer on your response
29 email; right?

30 A Yes.

31 Q And you say:

32

33 Hi, Janice. TF Surrey is a BC customer who
34 minimum pricing applies. Please use the
35 minimum pricing for this customer always as
36 we have to abide by the price set by the
37 commission.

38

39 So fair enough by this point in time you
40 understood that if the commission set a minimum
41 price you couldn't sell below that minimum price;
42 right?

43 A Well, when I got this particular email it was
44 very odd I found. If I recall correctly this
45 says September 5th so order entry would have been
46 done at the agency and it was an order that I
47 upsold so I think I would have sent in the PO

1 what they needed to do, right. They're in talks
2 with the commission all the time.

3 Q Let's look at 850, please, sir. Now, do you see
4 "warning notice" there? We'll move the page up
5 for you a bit. And you see it's issued to
6 Prokam, right, and IVCA?

7 A Yes.

8 Q But not just IVCA; correct? See that?

9 A No, it was to both.

10 Q Yeah, it was to both, sir.

11 A It was to both of us but the obligation falls on
12 your agency. The obligation falls on the agency.

13 Q Well, sir, the second one "intentionally planting
14 in excess of Prokam's delivery allocation will be
15 monitored." You see that? Did the agency do the
16 planting or did you do the planting?

17 A I did the planting; they told me what to plant.

18 Q Yeah.

19 A So -- yeah.

20 Q And, sir, I'm going to take you in your texts to
21 page 3408. And, sir, I can tell you this text --
22 we're going to move up the page a bit for you.
23 Do you see June 14, 2017, at 8:19 A.M.?

24 A Yeah.

25 Q And I can tell you just -- rather than go back to
26 the document -- the email stamp on the document
27 we were just at is 7:56 A.M. on June 14th, okay,
28 so that's why the letter was emailed to you. See
29 that?

30 A Okay.

31 Q And so I take it that within half an hour of
32 having it you'd read it. You see that?

33 A I didn't -- yeah. Whether I read it or -- like,
34 I just text Brian there, right.

35 Q Well, you read it, sir. The text tells us that.

36 A I told him after you read the letter from the
37 commission call me so --

38 Q That's "you're famous"; right?

39 A Yeah. So, you know, whether I read the letter or
40 not I'm not sure but ...

41 Q Sir, that's your answer is that you may not have
42 read the letter? You just wrote that text
43 without reading it? Is that what you're really
44 telling Mr. Donkers?

45 A I'm saying that I told him to read the letter
46 from the commission and to call me.

47 Q And you're famous?

Bob Dhillon (a witness)
Cross-exam by Cnsl K. McEwan

- 1 A If you read the -- I don't know what I meant by
2 that but I got -- I just got it. "I'm so happy
3 I'm on page 3. Phone me after." Whatever that
4 means.
- 5 Q Sir, I'm on your text. Why is it so difficult
6 for you to simply accept you read the letter?
- 7 A Because I'm trying to answer as honestly I can
8 and it's a while ago so I'm trying to do the best
9 from my recollection.
- 10 Q And, sir, you kind of wink, you kind of took it
11 pretty lightly. You thought it was funny to get
12 that letter I take it?
- 13 A No, I didn't think it was funny at all. I told
14 -- I text the agency and I told him, I go "read
15 it" and "call me."
- 16 Q I'm going to take you to page 3410, sir. And at
17 page 3410 you'll see that Mr. Meyer is saying
18 "Bob, we also need that grower agreement signed."
19 Do you see that?
- 20 A Yes.
- 21 Q And you'll recall Mr. Hira took you briefly to
22 your growers agreement signed with IVCA?
- 23 A Yes.
- 24 Q And I take it we're talking about the same
25 agreement?
- 26 A Between me and the agency, yes.
- 27 Q And so they're having to chase you into June to
28 get it signed; is that fair?
- 29 A I don't think so. They were maybe behind the
30 ball.
- 31 Q I see. So you're telling me -- you're committed
32 that this is their -- just their responsibility.
33 You don't even have a responsibility to sign it
34 and get it back to them?
- 35 A Well, the way I see it here he's asking that I
36 need to sign it, right, so I'm sure I did. There
37 was no problem with me -- whether -- you know, to
38 sign it. I had no issue with that. They were my
39 agency.
- 40 Q I'm going to take you ahead, sir, if I might, to
41 3414. And towards the bottom of this page you'll
42 see you say "Something come from the commission
43 today?" Do you see that, question mark?
- 44 A Yes.
- 45 Q And just ask if you cast back what are you
46 expecting to come from the commission, if you can
47 recall?

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.

Bob Dhillon (a witness)
Cross-exam by Cnsl K. McEwan

- 1 Q No, sir, I think you're quite pithy response is
2 sufficient for me to ask these questions. See
3 that?
- 4 A Yeah.
- 5 Q You had no intention of disclosing what you were
6 producing and putting into the marketplace?
- 7 A No. I think it's getting taken out of context.
8 It's just like how he said earlier, you know,
9 about the noisy people, right. He's referring to
10 the commission also, right, so he's -- you know,
11 so he's taking the same attitude, right. So if
12 the agency is telling me one thing, you know,
13 maybe my language is wrong but it's obvious what
14 he's telling me, right.
- 15 Q I'm not -- I'm not here about you using bad
16 words, sir; I'm here about the meaning. And with
17 the greatest of respect your commitment not to
18 take responsibility for anything is something
19 that will come up in argument. You had this
20 direct communication about sending in tonnage
21 reports so the delivery allocation could be
22 monitored and your response was no.
- 23 A Not necessarily. I did give it to him.
- 24 Q And then you say:
25
26 I see lawyer AM. Can you send me that?
27
- 28 A Yeah. And I gave him the -- they have the
29 reports, right. If I'm producing they have my
30 tonnage reports each week, so if he's telling me
31 it's supposed to be there at 5:00 o'clock well,
32 do so. They have all the information.
- 33 Q Yeah. Well, you say "they"; he says "we." He
34 says "we have to send in tonnage reports each
35 week" and then there's your response. Are you
36 responding as IVCA or as Prokam or who?
- 37 A Just me.
- 38 Q Yeah. And that causes you to want to see your
39 lawyer and be sent whatever he's referring to;
40 right?
- 41 A No, not really. He had all the information that
42 he needed for that report. They have it on their
43 database.
- 44 Q Well, sir, I'm not going to go into it in detail
45 but we see what difficulties IVCA is having with
46 purchase orders and other information in August.
47 You recall Mr. Hira taking you through that in

1 some detail?

2 A I recall that. And even after I said that he
3 said "yeah, I will," so I don't know what he said
4 after that. But it's just the way me and Brian
5 talked around texts, right.

6 Q Is it -- is it -- is it fair to call a producer
7 who responds to regulatory requirements like that
8 a rogue producer in your view?

9 A No, I'm not a rogue producer. Like I said, he
10 had the information. He could have given -- it
11 was just a comment, you know. He wants to send a
12 tonnage report all power to him. He can do that
13 at any time. He has that all in his database.

14 Q But let's --

15 A Maybe it wasn't the right answer, I admit, you
16 know, maybe I shouldn't have said that, but that
17 doesn't change the fact that he has all the
18 information to make those reports.

19 Q And then, sir, we go down the text a little
20 further and you carry on. Mr. Meyer says, "yeah,
21 I will," I take it meaning send you the
22 information.

23
24 Who was it sent to? Why did Terry know
25 about it but not me he. Has access to all
26 emails. Why doesn't vice?

27
28 See that?

29 A Yeah.

30 Q That "why doesn't" you as vice president of IVCA;
31 correct?

32 A Yeah. But I'm also making a point because, you
33 know, it wasn't sent to me and it just, you know,
34 I always did that is because if vice or director
35 had any meaning there, you know, I would have got
36 this also.

37 Q Yeah, sir, I've heard you say that, but I just
38 want to make sure the record's clear. You're
39 saying I'm the vice president of IVCA.

40 A Yeah.

41 Q Right?

42 A Meaning it had no value or else they would tell
43 me about it also.

44 Q And I'm going to ask you to go, please, to 3422.
45 And you will see you say to Mr. Meyer:

46
47 And the email from Andre to date. Terry

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

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

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

Bob Dhillon (a witness)
Cross-exam by Cnsl K. McEwan

1 you look, sir, what your agency is saying is --
2 and I'm just going to read it to you for the
3 record and then a few questions and second
4 sentence:
5

6 As general manager I will remove your access
7 to the order entry system as of 9:00 A.M.
8 Thursday, August 17, 2017. We will be
9 notifying all IVCA customers that all orders
10 will be sent to orders@ivca.ca complete with
11 customer purchase order.
12

13 Do I have that correct so far, sir?

14 A Yeah.

15 Q

16 If the customer still wants to CC you, we
17 are okay with that. Head office IVCA needs
18 to have a proper papertrail on all orders.
19

20 Did I read the next portion correctly?

21 A Yeah.

22 Q And so what Mr. Meyer was saying was the agency
23 needs to have a proper papertrail; correct?

24 A Yeah, and they got it after this. Even though it
25 was proper before but they were saying that it
26 wasn't and then after this point I believe they
27 did everything.

28 Q Well, Mr. Meyer was saying we need to have a
29 proper papertrail as the agency, that was the
30 simplicity of the question. You can agree with
31 that?

32 A And there was.

33 Q Well, I didn't ask you that, sir, but I'm going
34 to say this: The one time you have to concede
35 you tried to internally exercise your authority
36 as vice president you were opposing those changes
37 being made; correct?

38 A Yeah, and if it had any value, he wouldn't have
39 come up with this email basically shooting
40 everything down and saying it's what the agency
41 wants, right. So if it's what the agency wants
42 that's, you know, we gave up computer at this
43 end --

44 Q Yes, sir, I'm concerned about Mr. Bob Dhillon
45 right now.

46 A M'mm-hmm.

47 Q You, the vice president of IVCA, was opposing all

- 1 orders being sent to orders@ivca.ca. Do I have
2 that correct?
- 3 A Yeah. I was making a point.
- 4 Q Yeah.
- 5 A And whenever I put that title out there my point
6 was I always put that there just to clarify on
7 these emails because later like this one it had
8 absolutely no weight in their decisions.
- 9 Q I'm not sure you're understanding the thrust of
10 my question, sir. I'm not concerned with whether
11 they listened to you or not. I'm concerned with
12 what you were conveying. What you were conveying
13 was opposition to all orders being sent to
14 orders@icva.ca [sic]; correct?
- 15 A [Indiscernible] opposite. I was doing that for
16 the reason being because it was a busy time of
17 year and it wasn't a good time to make big
18 changes but they wanted to make the changes so
19 they made the changes, and I had no problem with
20 it.
- 21 Q Big changes being all the orders going in an
22 orderly way to your agency.
- 23 A That was a change. That wasn't how it was done
24 before.
- 25 Q Yeah.
- 26 A So it was --
- 27 Q That's not how it was happening. That's fair;
28 right?
- 29 A Yeah, so it was a big change.
- 30 Q Yeah. And it was a change that you were prepared
31 to exercise your authority as vice president of
32 the agency to try and stop being made?
- 33 A Just to prove a point and then afterwards it got
34 -- we gave up all computer at this end and then
35 it was all done.
- 36 Q And then, sir, we -- I won't go back over it but
37 Mr. Hira took you through the various emails in
38 August about purchase orders and the need for
39 proper purchase orders and the fights that ensued
40 about that. You recall going through that with,
41 Mr. Hira?
- 42 A Yeah.
- 43 Q Yeah. So while you say you rely entirely on the
44 agency to the extent you could you tried to stop
45 the agency from having proper paperwork?
- 46 A No, not at you all, I did not. They set it up
47 originally out here that the paperwork would be

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

Video Conference
January 31, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING
excerpt of Paul Mastronardi's evidence

ORIGINAL

1 difficult to understand in light of my
2 finding about the Commission is yet to
3 make a decision on MPL's agency
4 application.
5

6 The Commission now has the benefit of
7 December 22nd supervisory decision and
8 it's supporting direction which speak
9 directly to managing apprehension of
10 bias and conflict of interest and
11 concerns. The Commission is
12 incorporating the supervisory directions
13 into its processes but this transition
14 will take time.
15

16 I agree with the Commission that
17 procedural fairness concerns that by MPL
18 has justification in this appeal
19 proceeding are largely speculative and
20 anticipatory of an agency decision that
21 is yet to be made.
22

23 It goes on to say:
24

25 In light of my conclusions above, I find
26 the allegations in procedural fairness
27 are insufficient grounds upon which to
28 hear this appeal and the appeal is
29 dismissed.
30

31 Now, as I understand, there was a judicial review
32 application of this that was made initially by
33 MPL; correct?

34 A Sorry. On the technical term, I'm trying to
35 figure out what you're calling --

36 Q Oh, fair enough.

37 A The July review that I had with FIRB?

38 Q No. So with respect to this decision from FIRB
39 on January 20, 2021 -- let me take a step back.
40 The Commission made a decision on October 30th
41 saying we're not going to extend the grower
42 transfer date of October 30th; do you recall
43 that?

44 A Yes.

45 Q And MPL sought an appeal of that decision to
46 BCFIRB?

47 A Yes.

1 Q And BCFIRB has now made a decision here on
2 January 20th to say we're dismissing that appeal?

3 A Yes.

4 Q And I believe MPL sought to take this decision to
5 court to ask the court to review BCFIRB's
6 decision. Are you aware of that?

7 A I believe we stopped that.

8 Q Yes. You started it and then it stopped. That
9 was my point.

10 A Yeah.

11 Q At one point it was filed, but it was then
12 stopped; is that right?

13 A Correct.

14 Q Okay. Now, you recall being interviewed on
15 November 23, 2021, and asked a bunch of
16 questions. I want to take you to that interview
17 report and just go through some of the answers
18 you provided in that report. Okay.

19 A Sure.

20 Q So this is the interview report prepared after
21 our discussion with you on November 23rd. And in
22 particular -- just give me a moment here. Let's
23 start with bias conflict of interest and
24 misfeasance. You see that heading there?

25 A Yes.

26 Q All right.

27

28 In response to questions about
29 allegations of improper conduct and/or
30 conduct constituting misfeasance,
31 particulars provided were that Paul
32 Mastronardi -

33

34 And I apologize, I spelled your name incorrectly
35 on this document and my apologies. I realize
36 that now, but in any event.

37

38 -- Paul Mastronardi spoke with Steve
39 Newell, CEO of Windset Farms who is also
40 John Newell's brother who is president of
41 Windset Farms and Greenhouse Growing
42 Foods in October 2018.

43

44 In other words, you had a discussion with Steve
45 October 2018.

46

47 [AS READ]

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

Video Conference
January 31, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING
excerpt of Paul Mastronardi's evidence

ORIGINAL

1 CNSL N. MITHA: I understand that. And I'm just
2 asking what he knows today, of course. And what
3 MPL knows as of today in filing this claim. And
4 I believe, Ms. Basham, particulars were exchanged
5 in the course of an application concerning MPL's
6 notice of civil claim. So particulars are
7 demanded and provided by MPL in the course of
8 that.

9 CNSL R. BASHAM: To some extent, yes. But there's
10 still an issue as to whether further particulars
11 are going to be provided. This isn't about the
12 notice of civil claim. As you well know in a
13 civil claim there are all sorts of other
14 procedures available which have not been dealt
15 with.

16 CNSL N. MITHA: All right. I'm not arguing with you
17 on that. I'm just asking what he knows today.

18 Q Mr. Mastronardi, one of the things that came up
19 in your interview was your counsel had at the
20 time indicated that they had conducted certain
21 investigations and had evidence as a result of
22 their investigation, but they were not at that
23 time prepared to disclose. Can you tell me if
24 there's any evidence that your counsel has
25 investigated that is still not being disclosed or
26 is still being held?

27 CNSL R. BASHAM: Just a minute. I'm going to have
28 to object to the way the question is being asked.

29 CNSL N. MITHA: Okay.

30 CNSL R. BASHAM: Asking what counsel did or did not
31 do, that's privileged. You gave us a list of
32 questions that you wanted to ask and you wanted
33 us to tell you whether privilege was claim for
34 answers to these questions. And I believe
35 Ms. Irving has already told you that the specific
36 questions you asked are not being objected to and
37 that answers to those questions would be given to
38 you.

39 The question that you're now asking is what,
40 if anything, counsel did to investigate and I'll
41 object to that. That's privilege. That's
42 counsel brief. But go ahead and ask the
43 questions that you gave us in a letter in
44 response to us saying to you what are the
45 questions you want to ask and we'll tell you
46 whether we'll bring an objection. And I think
47 Ms. Irving has already told you that we will

1 answer those questions that you specifically sent
2 to us by way of a letter. I don't object to
3 that.

4 CNSL N. MITHA: All right. Maybe I did not phrase
5 my question accurately and I - I'll try to
6 rephrase it in a way that it's not relating to
7 privilege.

8 Q I have already asked you, Mr. Mastronardi, just
9 so you know, I've asked you the very questions
10 that I sent to Ms. Irving by letter and you have
11 answered all those questions.

12 Now, in our interview when I asked the same
13 question, your legal counsel at the time said "we
14 have some answers to those questions, but we're
15 not going to tell you because those answers are
16 based on investigations done by counsel." So
17 what I'm asking you today is - I'm not asking you
18 what your counsel did. I'm not asking you what
19 advice you got. I'm not asking you what
20 information they obtained. What I'm asking you
21 is, is there still any further particulars which
22 MPL is choosing not to disclose because they
23 arise as a result of legal counsel's
24 investigations?

25 CNSL R. BASHAM: We object to that question. My
26 position is as follows, Mr. Mitha. You want to
27 ask certain questions. We - I think we've
28 provided you the answers, have we not? If we
29 haven't, go ahead and ask this witness the
30 questions you specifically asked.

31 I am not going to let this witness answer
32 questions about what counsel may or may not have
33 done by way of their investigations to make out
34 their case for the client. That's clearly
35 counsel privilege. I'm not going to let him
36 answer that question.

37 But I'm going to let him answer the specific
38 questions that we asked you to tell us what you
39 wanted to ask and we would provide answers. As I
40 understand it - Ms. Irving may speak up on this -
41 that has been done. So why don't you just ask
42 those questions. I'm not going to let you just
43 generally ask him what, if anything, counsel has
44 done. That's not a proper question.

45 CNSL N. MITHA: And with respect, Ms. Basham, I was
46 not asking him what counsel had done. Let me
47 say - let me respond by this - saying this.

1 Counsel in the last interview already said and
2 has waived the answer to this - except if there's
3 any privilege to this question, it's been waived.
4 And the question is, do you have any particulars
5 which arise as a result of counsel's
6 investigations? The answer in the interview was,
7 "yes, we do." By answering yes, we do have
8 further particulars based on counsel's
9 investigations, that's been waived. To the
10 extent that question was privileged, it's been
11 waived because counsel answered the question.

12 So I'm asking today -- so I'm asking him today
13 the same question, do you have any other
14 information which is based on counsel's
15 investigations which you're choosing not to
16 provide? That question has been answered in the
17 interview. And I'm asking whether as a result of
18 the discussions today, is there anything left
19 that counsel has investigated which MPL does not
20 want to disclose? I think that question is, A,
21 not privileged, B, to the extent any privilege
22 exists has been waived.

23 CNSL R. BASHAM: I disagree. I don't know what that
24 context was because I wasn't counsel at the time.
25 What I do know is that we specifically asked you
26 what questions you wanted to get answers to. You
27 gave us a number of questions, which we've
28 answered. So I am not willing to tell you siting
29 here whether there are other particulars that
30 counsel are relying, because I don't know. I
31 don't know what was being referred to at the
32 interview that you had with -- I presume it was
33 Mr. Weatherspoon. And to the extent I may or may
34 not take steps -- steps may or may not be
35 undertaken right at this point to determine
36 further particulars as they may exist. That's
37 not something that you're entitled to ask him.
38 I'm not going to let him answer that question.
39 But you can go ahead and ask specific questions
40 that you put to us that we said we would answer.
41 Why don't you just do that?

42 THE CHAIRPERSON: Mr. Mitha, if I might.

43 CNSL N. MITHA: Yes.

44 THE CHAIRPERSON: Thank you. Mr. Mastronardi, what
45 the panel would like to know -- what the panel
46 needs to know is there any further information
47 that you're aware of that you haven't shared with

1 us today.

2 PAUL MASTRONARDI: Not that I recall.

3 THE CHAIRPERSON: Thank you.

4 CNSL N. MITHA: Thank you.

5 Q Mr. Mastronardi, I'm now sharing with you the
6 interview report of Mr. Solymosi. Do you see
7 that on the screen?

8 A Yes.

9 Q I'm going to take you to the portion that deals
10 with MPL. It deals with a number of issues. I'm
11 just going to take you to the questions and
12 answers he was provided.

13
14 Q Have you seen MPL's NOCC and that's the
15 notice of civil claim?

16 A Yes.

17

18 Number 27:

19

20 Q MPL provided it's application for agency
21 status to the Commission on September 10,
22 2020. It was not dealt with at this
23 time. Why is that?

24 A Close to the time MPL submitted its
25 application there was a moratorium on
26 agency applications. This was lifted in
27 October 2020 and panel was struck. The
28 Commission contacted applicants. The
29 panel sent requests for further clarity.
30 The Commission is working on amending
31 general orders for agency applications.
32 At the time put the application on hold
33 while the amendments were dealt with.
34 This was completed in March 2021. That
35 is the amendments.

36

37 Next:

38

39 Q Mr. John Newell, the brother of Steve
40 Newell, was a member of the Commission at
41 the time?

42 A Correct.

43 Q To your knowledge did he ever express any
44 negative views about MPL at or around the
45 time MPL was making application?

46 A Confirm John Newell, Steve Newell's
47 brother was a member of the Commission at

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

**Videoconference
March 29, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 12)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

Alfred Krause (a witness)
Exam by Cnsl N. Mitha

1 correct?
2 A Correct.
3 Q And he had reviewed them with yourself and
4 Mr. Guichon; right?
5 A Well, I would -- I know that Andre and I were --
6 spoke very widely on it trying to have a best way
7 to have everyone resolve the issue. And
8 direction was given, and he worked on the
9 direction to look at the cease and desist which
10 would then come up to the board.
11 Q All right.
12 A Now, you're asking was Mr. Guichon involved in
13 that. That was not the discussions I remember.
14 No, I don't remember him having that discussion
15 with Andre and myself.
16 Q All right. Now, sir, as I understand, the cease
17 and desist orders were issued on October the 10th
18 and by that point in time, by October 10th, the
19 only two commission members that had approved the
20 cease and desist orders were yourself and
21 Mr. Guichon. Do you recall that?
22 A No.
23 Q But you do recall approving -- you recall --
24 A Oh -- oh yes.
25 Q You recall having discussions with Mr. Solymosi
26 about the cease and desist orders?
27 A Oh yes.
28 Q All right. You just don't recall whether
29 Mr. Guichon was involved or not; is that fair?
30 A That is fair. I mean, he may have been on one
31 call, but I do not recall that. Because it was
32 more pretty clear cut that they did not have a
33 delivery allocation plan and they weren't even
34 following any guidance on pricing.
35 Q All right. Do you recall seeing the cease and
36 desist orders before they were issued?
37 Physically seeing them either seeing --
38 A I believe so.
39 Q All right. And approving them, sir?
40 A The four points, right, is what we're talking
41 about on the cease and desist mainly?
42 Q Yes, the cease and desist orders made against
43 Prokam in particular but the others as well?
44 A Yes.
45 Q All right. Just give me a moment. I think those
46 are my questions. Just give me one moment.
47 Sir, at the time in October 10th, the whole

Alfred Krause (a witness)
Cross-exam by Cnsl W. Stransky

- 1 Q And following that meeting you were -- produced
2 some documents. And after your interview, you
3 and Andre decided that something had to be done
4 to get the situation under control?
- 5 A Correct.
- 6 Q And what you settled on doing was issuing the
7 cease and desist orders?
- 8 A Yeah, that was the final, final straw, the final
9 thing, but I mean, there's a lot of history
10 there, so anyway.
- 11 Q No, no, of course, and I'm glossing over it in
12 the interest of time. I'd love to review it in
13 full and give you a chance to comment on it, but
14 we'll jump straight into it, so to speak.
- 15 A Yes.
- 16 CNSL W. STRANSKY: Apologies. I'm just going to bring
17 up a document. It will take a moment.
18 Apologies. My computer keeps crashing as I try
19 to do this.
20 I'm very sorry. Mr. Mitha, can I impose on
21 you to bring up the first exhibit in the common
22 book of documents.
- 23 CNSL N. MITHA: Certainly. What page did you want?
- 24 CNSL W. STRANSKY: Page 110. Every time I open it, my
25 Adobe crashes.
- 26 CNSL N. MITHA: Yes. I'll get it on screen right now.
27 Is that the one you wanted.
- 28 CNSL W. STRANSKY: Sorry, 1110.
- 29 CNSL N. MITHA: Sorry. Okay. Is that the one you
30 wanted?
- 31 CNSL W. STRANSKY: Yes. Thank you.
- 32 Q So this is the email that Mr. Solymosi sent you
33 on August -- or October 5th attaching the draft
34 cease and desist orders he drafted. Can you see
35 that?
- 36 A Yes.
- 37 Q And then he says at the very bottom:
38
39 I'd like to send off the letters by Tuesday
40 at the latest.
41
42 Do you see that?
- 43 A I do.
- 44 Q And so I gather from this document that you and
45 him had already discussed the fact that you were
46 going to send these out; is that right?
- 47 A Yes, that is correct.

Alfred Krause (a witness)
Cross-exam by Cnsl W. Stransky

1 Q And if we could go to one of the cease and desist
2 orders at 1117?

3 A Yes.

4 Q Now, this is the draft Mr. Solymosi sent you. If
5 we go down to 190, then that's the actual text of
6 the CDO. And I wanted to spend a second just
7 talking about the terms and the purpose behind
8 them. So the first bullet here says that:

9

10 IVCA is expected to renew and enforce the
11 following orders.

12

13 And it says:

14

15 All shipments of Kennebec potatoes from
16 Prokam are to stop.

17

18 Then it says:

19

20 IVCA has determined there's a market
21 opportunity that supports a new entrant
22 application.

23

24 You see that?

25 A I do, yes.

26 Q And that's something Prokam and IVCA should have
27 done already before they started shipping
28 Kennebecs; is that right?

29 A That was the marketing plan that was asked for at
30 the beginning, yes, each thing.

31 Q You might not remember this, but Prokam didn't
32 have delivery allocation for Kennebecs?

33 A That's correct.

34 Q The third bullet, it says:

35

36 All purchase transport issues from customers
37 that have dealt with Bob Gill are to be
38 submitted in compliance with IVCA protocol
39 and as directed by IVCA general manager.

40

41 You see that?

42 A Yes.

43 Q And again, that's something that Prokam and IVCA
44 should have been doing already; is that right?

45 A That's correct, yes. Yeah. Prokam and IVCA had
46 made an agreement that Bob Gill would be a
47 selling agent, I think is the term. I'm not

Alfred Krause (a witness)
Cross-exam by Cnsl W. Stransky

1 exactly -- and he was not following pricing
2 protocol.

3 Q And then the last bullet says:

4
5 IVCA general manager will ensure all
6 purchase orders and invoicing is in
7 compliance with established minimum price.
8

9 And that's, again, something that should have
10 been done anyway.

11 A Correct.

12 Q And you mentioned this in, I believe, your
13 evidence with Mr. Mitha, but the idea behind
14 these orders was to give IVCA the tools to get
15 Prokam under control, so to speak?

16 A So to speak, yeah.

17 Q Yeah. It wasn't the intention of this cease and
18 desist order to punish Prokam or sanction Prokam?

19 A That's correct.

20 Q And then on this -- we saw the date October 5th
21 in the morning. At this time, Mr. Guichon wasn't
22 aware of the investigation you'd done or your
23 trip to the Island?

24 A No.

25 Q And it was after you and Mr. Solymosi
26 discussed -- agreeing to get these out that you
27 thought to add him to the discussion?

28 A That's correct. After the meeting, we knew we
29 needed to do something and we had further -- we
30 had a discussion with Mr. Guichon.

31 CNSL W. STRANSKY: And, Mr. Mitha, if you could go to
32 page 1124.

33 This is a letter from Mr. Solymosi to Peter
34 Guichon saying:

35
36 I want to bring you up to speed on a
37 compliance issue we need to address.
38

39 And details that you met and that he had drafted
40 these orders.

41 A Yeah, it's pretty clear.

42 Q And in Mr. Solymosi's evidence, my note was that
43 Peter was brought in because he was vice chair
44 and there was a thought that he should be updated
45 on the situation. Is that your understanding as
46 well?

47 A That was my understanding.

Alfred Krause (a witness)
Cross-exam by Cnsl W. Stransky

1 Q And I mean, in the context of this call, there
2 wasn't any suggestion that Mr. Guichon would be
3 in a conflict of interest to be updated on these
4 matters?

5 A The decision had already been made by Andre and
6 myself that this is where we needed to head
7 because of board meetings in the past. And it
8 was just another assistance in making sure we
9 were reflecting the right way or understanding
10 the situation and how we could approach this. In
11 the end, we didn't want Prokam to throw away
12 potatoes, but we also wanted them to market them
13 properly.

14 Q No, of course. And if we could just sort of
15 confirm the first part of that evidence. If we
16 could go on to page 1135.

17 CNSL W. STRANSKY: I'll just use the time as Mr. Mitha
18 scrolls to apologize to him again.

19 CNSL N. MITHA: No problem.

20 CNSL W. STRANSKY:

21 Q So this is another email from Mr. Solymosi to
22 yourself and Mr. Guichon, and he says:

23
24 I want to send these out. Attached are the
25 final drafts. Let me know if I need to
26 change anything over the weekend.

27

28 You see that?

29 A Correct.

30 Q And there were no -- there were no changes
31 suggested by yourself or Mr. Guichon to the
32 drafts Mr. Solymosi vetted?

33 A No, none, as I recall.

34 Q Thank you. And moving on, I just wanted to ask
35 you some questions about the December show cause
36 decision.

37 CNSL W. STRANSKY: So sorry, Mr. Mitha.

38 CNSL N. MITHA: No problem.

39 CNSL W. STRANSKY: If you could bring up page 1377.

40 CNSL N. MITHA: Sure.

41 Q So you were brought to this document earlier.
42 It's the minute notes from the meeting on
43 December 14th. This is the section on IVCA,
44 Prokam, and Thomas Fresh. And if we could go to
45 the next page, 1378, in the middle there it says:

46

47 All commissioners were present for the

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

**Videoconference
April 1, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 14)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

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

1 his answers, with respect.

2 THE CHAIR: Thank you, Mr. McEwan. I didn't hear
3 that, that he wasn't able to complete his
4 response.

5 THE WITNESS: Yes.

6 THE CHAIR: Could you give him a chance again, please.

7 THE WITNESS: Thank you. Yeah, up above "I don't
8 know." Scroll back a bit. I can just tell you.
9 The word "approve," as I said in my statement to
10 Mr. Mitha, I said, "approve" at this hearing, but
11 what I meant by "approve," was consented to them
12 being sent out. There was no vote with the three
13 of us, so it was just the consensual thing to
14 send it out. And then, you'll have to bear with
15 me for a minute. I saw something else there too.
16 To do with the grower, there was a -- you
17 questioned as a grower and -- to be a commission
18 member, you have to be a grower, so I'm having a
19 tough time distinguishing between the two.
20 Obviously, I have a grower background, but as a
21 commissioner -- and it's the same thing for being
22 on the board, you have to be a grower to be on
23 the board of an agency too. So I wanted to
24 clarify that. That was in my mind when I was
25 giving these answers. Thank you.

26 CNSL C. HUNTER:

27 Q Thank you, Mr. Guichon. Now, after the cease and
28 desist order was issued, you participated fully
29 in commission discussions about Prokam?

30 A No.

31 Q And you voted on matters relating to the cease
32 and desist orders until you recused yourself
33 before the vote of the December 14th meeting?

34 A No. I didn't -- I didn't do any voting on
35 details of Prokam.

36 Q Your evidence is, you didn't participate in votes
37 about the Prokam cease and desist order?

38 A I did not vote, no. On the cease and desist
39 orders? No.

40 Q I was asking -- after the cease and desist orders
41 were issued, did you participate in any votes
42 about the cease and desist orders between
43 October 10th, 2017, when they were issued, and
44 the December 14th, 2017 meeting when you recused
45 yourself?

46 A No votes, no.

47 Q I'm going to take you to Exhibit 23, page 10.

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

**Videoconference
March 30, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 13)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

1 the screen, sir.

2 A Yes, I can.

3 Q It says:

4

5 The issue of Mr. Guichon having been
6 motivated by personal self-interest or the
7 interests of BCfresh growers arose in the
8 context of his evidence at the 2018 BCFIRB
9 hearing. When asked about the reason for
10 the urgency in issuing the October 2017
11 cease and desist orders, Mr. Guichon
12 volunteered that it was the concerns he had
13 in his capacity as a BCfresh grower that
14 drove his decision to approve as a
15 commissioner of the cease and desist orders.

16

17 And then a portion of the transcript from your
18 previous hearing is set out and the answer:

19

20 A Well, I guess, no. We never -- we didn't
21 talk about any notice, but I think time was
22 of the essence. We had only found out about
23 this 22 cent thing and we didn't, we
24 couldn't figure out why we couldn't sell
25 potatoes into Alberta at our price and we
26 realized we being BCfresh, realized
27 something was going on.

28

29 Q Now, you're here as a commissioner?

30

31 A I've been asked questions of every facet so
32 I talked about -- I identified BCfresh right
33 now as I was talking, so.

34

35

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1 A Yeah. As soon as I see a contract for 22
2 cents a pound and they've been selling all
3 year, I'm not very happy about it.
4

5 So that is the portion of the transcript that is
6 set out in the letter to establish in part the
7 allegation that you were motivated by personal
8 self-interest or the interest of BCfresh growers.
9 So that is the allegation. I'm going to back to
10 the answer that you provided now, okay? And the
11 question that you were asked is:
12

13 Q Please go to page 10 of Prokam's July 23rd
14 letter. There's an allegation of missing
15 documents, et cetera. That isn't the
16 correct allegation. Page 10 is what we just
17 saw which was the portion of the -- the
18 portion -- the portion of the transcript.
19

20 And I believe your answer and I put it in the
21 wrong place. You say:
22

23 This is not accurate. The export for
24 BCfresh was in no worse position because of
25 Prokam. BCfresh sells through summer/fall.
26 Thomas Fresh indicated all along we're not
27 displacing BC produce. This is the claim
28 made at the hearing BCFIRB 2018. What
29 bothered everyone was the 22 cent price
30 because that left money on the table. All
31 cease and desist orders said was report
32 sales. The cease and desist orders did not
33 say stop harvesting and selling. It is well
34 known that Prokam harvested and sold after
35 the date, cease and desist orders. All
36 Prokam had to do was report. A commission
37 was concerned about information not flowing
38 to the agency the way it should have. That
39 was the biggest reason for the cease and
40 desist orders. It had not prohibited
41 growing potatoes next year.
42

43 Is that accurate, that's your answer to the
44 allegation of the July 23rd transcript piece that
45 we read?

46 A It is. There's probably -- something should be
47 added or I guess I thought maybe there was more

- 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

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

**Videoconference
April 8, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 5)**

Board:

**Peter Donkers
Nazeer Mitha
Wanda Gorsuch**

**Sara Theisson
Erica Champion**

**Claire E. Hunter, QC
Ryan Androsoff
Kelly Firth, A/S**

Rose-Mary Basham, QC

**Ravi Hira, QC
Ashleigh K. Hall**

**J. Kenneth McEwan
William Stransky**

Robert McDone11

Robert Hrabinsky

**Chairperson
BCFIRB Hearing Counsel
BCFIRB Hearing Counsel
Liaison**

**Panel secretary
Panel secretary**

Prokam Enterprises, Ltd.

**MPL British Columbia
Distributor Inc.**

A. Solymosi

VMC Commissioners

BCfresh Vegetables Inc.

**BC Vegetable Marketing
Commission**

COPY

Bob Dhillon (a witness)
In chief by Cnsl C. Hunter

- 1 with IVCA.
- 2 Q Of the 30/40 acres that you had left after
3 October 10th, do you have a sense of how many of
4 those were of marketable quality?
- 5 A They were all marketable.
- 6 Q And what happened to them after the cease and
7 desist order was issued?
- 8 A They were left in the ground.
- 9 Q And why was that?
- 10 A There was no communication with IVCA, they
11 wouldn't give us any POs, so the last PO we tried
12 to get from them took ten days, and the quality
13 was not very good by then. That relationship was
14 just not there and we gave up and we stopped
15 harvesting because we had no avenue to sell them.
- 16 Q I'm going to ask you just a couple of questions
17 about Nupinder Bajwa. She's your sister; is that
18 right?
- 19 A Yes, she is.
- 20 Q And you were here -- you were in attendance at
21 the hearing when she gave evidence on Monday?
- 22 A Yes.
- 23 Q You recall she was asked about whether you had
24 taken equipment from Bajwa Farms and about the
25 financial relationship between Prokam and Bajwa
26 Farms?
- 27 A Yes.
- 28 Q What can you tell us about the financial
29 relationship between Bajwa and Prokam over the
30 last year?
- 31 A She's my sister. We've helped her out where she
32 needs help. My dad's -- you know, we lent her
33 equipment and, you know, we worked together with
34 her to get her through this.
- 35 Q There was an allegation that you had taken
36 equipment from Bajwa Farms. What do you say
37 about that?
- 38 A You know, that just BCfresh -- I think that email
39 came from Murray Driediger and I don't know where
40 he's getting his source of this story from but
41 that's untrue. Like I said, we worked together
42 and no one took anybody's equipment. That's just
43 ridiculous that I would go in there and take all
44 the equipment. Again I think that was just
45 BCfresh/Murray Driediger running my name through
46 the dirt.
- 47 Q And what about finances? There was a suggestion

1 harvested, produced and shipped in excess of your
2 delivery allocation for any varieties of potatoes
3 that you have DA for; right?
4 A Yes.
5 Q That was a yes, sorry?
6 A Yes.
7 Q Yes. And added to that you had -- am I correct
8 in saying you had no delivery allocation for
9 Kennebecs; right?
10 A Correct.
11 Q And you sold -- you shipped and sold Kennebec
12 volumes; right?
13 A Under IVCA's direction, yes.
14 Q Yeah. About 4,000 pounds?
15 A Roughly, yes.
16 Q You mentioned earlier some -- in 2017 some
17 potatoes left in the field. I think you said
18 yellows and Kennebecs.
19 A Yes.
20 Q At the time -- after receipt of the cease and
21 desist order. Do you remember that?
22 A Yes.
23 Q And so -- and I don't have my note. How much
24 acreage was left? Was it about 30 or 40?
25 A 30, 40.
26 Q Yeah. And at that point in time, had you already
27 exceeded your delivery allocation for yellows?
28 A Most likely.
29 Q Yeah. And you hadn't exceeded your DA for
30 Kennebecs because you didn't have any at that
31 point; right?
32 A Correct.
33 Q Now, what did you grow and ship in terms of
34 potatoes, if anything, in 2018?
35 A None.
36 Q None. 2019?
37 A None.
38 Q 2020?
39 A None.
40 Q 2021?
41 A We had grown about 20 some odd -- 20, 30 acres.
42 Q Is that what you sold through -- sorry. Was it
43 OGP, the Okanagan agency?
44 A Well, we didn't get the chance. We got flooded
45 but that was the plan.
46 Q And I'm very sorry to hear about that, sir. I
47 didn't know that until yesterday and I'm very

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

**Videoconference
March 30, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 13)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

- 1 potatoes to Thomas Fresh outside at BC at
2 22 cents a pound. Does that ring a bell?
- 3 A Yes, it does. Although I have nothing to do with
4 the pricing calls, but if it's 40 cents, that
5 would have come from the agency managers and
6 Andre setting prices for those numbers.
- 7 Q Fair enough. I'm not so concerned about the
8 dollar value number, you know, of cents per
9 pound. I'm not more concerned about the
10 authority of the commission to set prices for
11 exports. The allegation is that the commission
12 doesn't have the legal authority because they're
13 provincial and the federal legislation requires
14 certain things be done before the commission can
15 set prices for exports. That's what the
16 allegation is and those are the questions I'd
17 like to ask you about. I'd like to ask you about
18 questions about what you know about the authority
19 of the commission, a provincial body, to set
20 prices for export outside of BC; okay?
- 21 A Okay.
- 22 Q So, sir, in 2017, or even earlier, what was your
23 understanding as to whether the commission had
24 authority or didn't have authority to set prices
25 for exporting of potatoes grown in BC?
- 26 A The commission has always under the assumption
27 and that we had pricing authority. I can
28 take you -- I can go way back to my early days,
29 back to the challenge that the greenhouse had
30 against the commission on levies and that was the
31 Drost decision and they, in fact, ruled that.
32 And I went to the BC Court of Appeal and they, in
33 fact, ruled that the commission did have the
34 authority to collect levies and set
35 interprovincial pricing. So then --
- 36 Q Let me just stop you there before you go further.
37 Is that something that's commonly referred to as
38 the I5 decision?
- 39 A Yes.
- 40 Q So you were aware of that and that decision, sir,
41 we can look it up, but my recollection is it was
42 in around 2003. Does that ring a bell?
- 43 A I think the original case was 2003 and then the
44 appeal court stood by the decision in 2005.
45 That's what all I remember about that.
- 46 Q All right. But that decision was to do with
47 levies. Did you simply presume that because they

- 1 had the authority to set export levies they could
2 also set prices for export of potatoes; is that
3 right?
- 4 A In the written decision, it said, levies and
5 interprovincial pricing.
- 6 Q Okay. So, sir, there was a bunch of evidence
7 given by George Leroux in this hearing about the
8 fact that there were parliamentary committee
9 meetings in 2008, in March 2008 where there was
10 discussion about setting of levies,
11 extraprovincial levies. You were on -- you were
12 a member of the commission in 2008; right?
- 13 A Yes.
- 14 Q Do you recall that being a big issue at the time
15 in 2008?
- 16 A No. I don't recall it being an issue at all. We
17 got a set of minutes, I think it was sometime in
18 2006, and it was just a year after the other
19 decision. And I don't know how it came about,
20 but in our minutes there was just -- there was
21 just a small section on that part of the meeting
22 that said that we may be -- we may, that's what
23 it says, may be able to be challenged on what it
24 is.
- 25 Q Okay. I just want to go to that if you just give
26 me a moment. I'll pull that up, just give me a
27 second. All right. Sir, I'm going to take you
28 to this document. Let me just enlarge it so that
29 we got that. Can you see this document, sir?
- 30 A Yes.
- 31 Q And you'll see the heading is "Minutes of BC
32 Vegetable Marketing Commission Regular Meeting
33 held September 7, 2006"?
- 34 A Yes.
- 35 Q All right. And I'm just going to take you to --
36 so it says, "BC Vegetable Marketing Commission
37 Notice of Meeting and Agenda" and it sets out
38 various items that are going to be discussed; do
39 you see that?
- 40 A Yes.
- 41 Q And it indicates that George Leroux, the chair
42 was there and indicates that you attended?
- 43 A Yes.
- 44 Q I'm going to take you to item 3.4. Sir, you'll
45 see item 3.4?
- 46 A Yes.
- 47 Q It says, "federal orders." Do you see that?

1 A Yes.

2 Q It says:

3

4 Federal orders are required in order to
5 implement the commission's delegated federal
6 authority. The current federal orders may
7 be out of date and requiring revision. The
8 federal government is also proposing a
9 simplified system which, when approved, will
10 no longer require federal orders. The
11 recommended procedure is to proceed
12 simultaneously on both initiatives --

13

14 And then there's a motion that:

15

16 The federal orders be brought up to date and
17 that a submission be prepared requesting
18 exemption from the requirement for further
19 federal orders.

20

21 Do you see that?

22 A Yes.

23 Q Do you recall receiving that brief at the time,
24 sir?

25 A That was -- we didn't receive a brief, that's
26 part of the minutes.

27 Q Okay. So if it was part of the minutes, would it
28 not have been discussed at the meeting, sir?

29 A Probably either George Leroux or Jack Russell
30 just gave us an update on that.

31 Q All right. And what did you understand from
32 that?

33 A Well, I understood that the current federal
34 orders may be out of date. What I understood
35 from that is that our legal counsel, the chair,
36 and I guess it was Tom Demma at that time -- no
37 George Leroux, sorry, were going to investigate
38 it further and keep the commission updated.

39 Q Did you ever look at the submissions made from
40 George Leroux to the parliamentary committee in
41 2008?

42 A I haven't seen the list until this hearing.

43 Q That's the first time you saw them was at this
44 hearing?

45 A Yes.

46 Q All right. Well, let me just put to you this,
47 sir. You saw the allegations in the notice of

- 1 civil claim and I can take you back if you need
2 to look at it again, but the allegation, quite
3 simply, is that you knew or you ought to have
4 known or you were recklessly and willfully blind
5 to the fact that the commission did not have the
6 legal jurisdiction to set export pricing without
7 proper gazetting and registration. So just stop
8 there for a minute. Do you understand the notion
9 of gazetting and registering?
- 10 A No. I didn't, but I understand a bit of it now,
11 but I didn't at that time.
- 12 Q Well, maybe you didn't understand the technical
13 aspects, but I guess the underlying question to
14 that is did you understand that the commission
15 did not have jurisdiction to set prices for
16 exports of potatoes grown in BC in 2017? Was
17 there any concern in your mind about that?
- 18 A Not really, because we -- we're relying on our
19 legal counsel. FIRB was involved. Everybody was
20 involved and we were not relying on the federal
21 order at that time, we were relying on a
22 provincial order. And to my knowledge, and
23 that's what I've been led to believe is that
24 we've been doing that ever since -- ever since
25 day one, right up until -- right up until 2018
26 when we -- after the last hearing, FIRB ruled
27 that we didn't, in fact, have that.
- 28 Q Right.
- 29 A But up until that, everybody operated thinking
30 that we did.
- 31 Q Okay.
- 32 A And it's a legal term, it's a way that thing is
33 interpreted, from my understanding, with our
34 legal and FIRB all along. They thought we were
35 in compliance.
- 36 Q I don't want to get into what your legal counsel
37 may have told you. I'm not seeking to waive
38 privilege over it, but I just want to take you --
39 just give me a moment and I just want to take you
40 to -- give me a second, sorry. All right. Here,
41 I'm going to take you to this document. Are you
42 able to see this document on the screen, sir?
- 43 A Yes, I can see it.
- 44 Q Do you need it expanded or can you see it okay?
- 45 A No, that's fine.
- 46 Q Okay. So this is the cease and desist order.
47 I'll start at the first page and it's page, for

Peter Guichon (a witness)
Exam by Cnsl N. Mitha

1 the record, page 1162 of Exhibit 1, and you'll
2 see it's dated October 10th and it's addressed to
3 Brian Meyer and Terry Michell and it's a cease
4 and desist order; all right?

5 A Yes.

6 Q And what I want to take you to is the cease and
7 desist order and specifically -- just give me a
8 second, sorry, I just saw it here, the violation
9 details?

10 A Yes.

11 Q And it says:

12
13 Prokam enterprises and Bob Dhillon have
14 knowingly supported the actions of Bob Gill
15 in marketing and selling of potatoes without
16 commission authorization at pricing below
17 the authorized minimum price.

18
19 That's the first violation detail that's listed.
20 You can see that?

21 A Yes.

22 Q So you understood here the concern was that
23 Prokam and Bob Dhillon are marketing potatoes
24 below the minimum export price that was set;
25 right?

26 A Yes.

27 Q Right. And the allegation, sir, quite simply is,
28 that violation is improper because the commission
29 did not have the authority to set minimum export
30 price. And you knew that and you ought to have
31 known that, and therefore, this key allegation,
32 for example, is just invalid. That's the
33 allegation. And I want to put to you, what was
34 your knowledge about whether the commission could
35 set this minimum price and whether this
36 allegation has any validity?

37 A As I said before, sir, the commission was under
38 the understanding and we had the legal -- we had
39 FIRB, we had Mr. Leroux, we had everybody, and
40 they've done their homework. We've never been --
41 no commission member has ever been on a pricing
42 call. We thought because they were -- the
43 purpose, our purpose, was to regulate BC-grown,
44 call it potatoes in this case, in the province of
45 British Columbia, that we did have minimum
46 pricing authority.

47 Q All right. And therefore, you would say that if

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

**Videoconference
April 1, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 14)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

1 thought the commission had jurisdiction over
2 anything grown in BC and sold anywhere.

3
4 See that?

5 A Yes.

6 Q And is that accurate?

7 A No.

8 Q Okay.

9 A I heard what I said 2012. It should have been
10 prior to that.

11 Q Was that a reference to the 2002 decision that
12 you've been referring to as the I5 decision?

13 A No. It says:

14
15 At the time, I didn't know what gazetting
16 ever meant.

17
18 I heard of that back in 2012. That should have
19 been probably 2007 or '08.

20 Q Okay. So when you say:

21
22 At the time, I didn't know what gazetting
23 even meant.

24
25 What time are you talking about?

26 A I would say, right when the -- we started getting
27 minutes regarding the kerfuffle back east. It
28 would be 2006 -- wherever I saw the word
29 "gazetting" for the first time. I didn't
30 understand what it meant or the ramifications of
31 it.

32 Q And when you say:

33
34 Everyone thought that cease and desist
35 orders were within commission jurisdiction.

36
37 And then in the next line at the bottom:

38
39 I thought the commission had jurisdiction
40 over anything grown in BC and sold anywhere.

41
42 Do I understand your evidence that that
43 understanding came from the 2002 decision of
44 Mr. Justice Drost?

45 A Yes. That, and then when it was appealed, it
46 went to the BC Court of Appeal, and two or three
47 judges there found that Judge Drost's decision

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

- 1 was in their favour or in the commission's
2 favour, I should say.
- 3 Q And tell me what --
- 4 A Not since that, it was beyond that -- beyond the
5 2008, the hearing that Mr. Leroux and Mr. Collins
6 and Mr. Hrabinsky attended. Beyond that, our
7 legal counsel was of the firm belief that --
- 8 CNSL K. MCEWAN: I'm sorry, Mr. Chair. And Ms. Hunter
9 certainly wasn't asking for an answer as to what
10 legal counsel was advising, but I think in
11 fairness, it should be shut off without that
12 answer.
- 13 THE CHAIR: Correct. Thank you, Mr. McEwan.
- 14 THE WITNESS: Okay.
- 15 CNSL C. HUNTER:
- 16 Q Mr. Guichon, do I understand that it was the
17 decision of Justice Drost and then the court of
18 appeal decision that gave you the view from which
19 you took the view that the commission had
20 jurisdiction over anything grown in BC and sold
21 anywhere?
- 22 A No. Not just that.
- 23 Q All right. What other information, and I'm not
24 asking about advice from counsel, but what other
25 information did you have that in 2017 on which
26 you relied in forming the view that the
27 commission had jurisdiction over anything grown
28 in BC and sold anywhere?
- 29 A The pricing calls that happen every Tuesday
30 between 2009 and 2017, the commission general
31 manager -- and there was two or three different
32 ones through that period of time -- along with
33 the agency managers set the minimum prices for --
34 and we were not, to my knowledge, we were not
35 relying on the federal orders; we were relying on
36 the provincial orders, which the purpose was to
37 regulate BC grown product in BC and sold
38 wherever.
- 39 Q All right. And the idea that you were not
40 relying on the federal orders; you were relying
41 on the provincial orders. Tell me what that view
42 was based on?
- 43 CNSL K. MCEWAN: Other than legal advice?
- 44 Q Yes, other than legal advice.
- 45 A Well, other than legal advice, well, the general
46 manager, obviously, talks to legal, and that was
47 our -- that was our take on the advice we had.

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

Video Conference
February 9, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING

COPY

Marcel Andre Solymosi
Exam by Cnsl N. Mitha

1 Wanda, I believe I found what I needed. See
2 attached.
3
4 Do you see that?
5 A Correct.
6 Q And I believe what you attached is below, so is
7 this what you attached?
8 A Correct.
9 Q All right. And what did you learn from attaching
10 this?
11 A This is related to --
12 Q And "this," when I say -- for the record, it's at
13 page 1200, 1-2-0-0. Sorry, go ahead.
14 CNSL R. HIRA: Sorry, there are -- Mr. Mitha, there
15 are two documents. If you look at 1197, there
16 are two documents that are referred to. One is a
17 gazette. The second is a Supreme Court of Canada
18 decision.
19 CNSL N. MITHA: Yes, I see that.
20 CNSL R. HIRA: And --
21 CNSL N. MITHA:
22 Q Are those the two things you attached, sir?
23 A Correct.
24 CNSL N. MITHA: All right.
25 CNSL R. HIRA: You might want to go to 1204.
26 CNSL N. MITHA:
27 Q And what was the -- where did you find that
28 information to attach?
29 A I think it was in our office.
30 Q All right. And so these are the things that you
31 attached, is that right?
32 A That's correct.
33 Q All right. And so what was your understanding as
34 a result of attaching this? What did you
35 understand?
36 A My understanding was that this was related to
37 levies, and the -- the -- I guess levies and the
38 authority that the BC Vegetable Marketing
39 Commission had to collect levies on B.C.
40 production marketed by B.C. agencies in the I5
41 corridor.
42 Q All right. And how did that relate to the
43 Commission's authority to set prices for exports,
44 with or without gazetting?
45 A It led me to believe that we can rely on our
46 provincial authority to set minimum pricing if
47 the purpose of that -- of issuing minimum pricing

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

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

**Videoconference
March 28, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 11)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

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.

- 1 forward?
- 2 A He was -- I remember him doing most of the
- 3 briefings on it, yes.
- 4 Q And the issue was identified that, in order to
- 5 exercise the commission's federal authority to
- 6 regulate -- to collect levies for interprovincial
- 7 trade, a federal order was required?
- 8 A That was the understanding. That was where they
- 9 felt that there was a vulnerability, correct.
- 10 Q Yes. And what the commission agreed to do at
- 11 that time was to proceed on two fronts to make an
- 12 order but also to try to get a change to the
- 13 regulation to remove the requirement for the
- 14 future; correct?
- 15 A Yes.
- 16 Q You discuss at that meeting and during this
- 17 period with the commission that the commission
- 18 was not presently complying with the requirement
- 19 to issue a federal order in respect of levies;
- 20 correct?
- 21 A That's why we were trying to fix it.
- 22 Q Yes. And it was discussed that the commission
- 23 was not gazetting or registering interprovincial
- 24 levies?
- 25 A That's an interesting thought. I don't know
- 26 whether that would have been in the common
- 27 understanding of the commissioners at that time,
- 28 Claire. They would have understood there's a
- 29 vulnerability and that the orders might not be
- 30 valid and could be challenged. Whether they knew
- 31 the specifics of that, I can't speak to.
- 32 Q Whether they knew the specifics or not, the
- 33 possibility -- the vulnerability as you put it,
- 34 the possibility that the commission was not
- 35 complying with the regulation, that was a matter
- 36 the commission took seriously from the very
- 37 beginning as soon as it was raised; correct?
- 38 A I would say, commission staff and myself and FIRB
- 39 did. Did the rest of the commissioners have the
- 40 same sense of vulnerability or seriousness, I
- 41 can't answer that. But insofar as I represented
- 42 the commission with the general manager and the
- 43 assistant general manager, we took it seriously.
- 44 Q And the fact that the issue had been raised and
- 45 that you took it seriously was discussed with the
- 46 full commission at least at this meeting;
- 47 correct?

George Leroux (a witness)
Cross-exam by Cnsl W. Stransky

- 1 Q So at the very end of Ms. Hunter's
2 cross-examination, she suggested to you that your
3 speaking notes would have been sent to all the
4 commission members. Do you remember that from a
5 moment ago?
- 6 A Yes, but I said, I wasn't sure that that was the
7 case. I couldn't -- I couldn't confirm that is
8 what I said a few moments ago.
- 9 Q Yeah, so I'll just bring you to this -- to the
10 email you sent Mr. Mitha so it explains or you
11 explain here that you have a notebook system that
12 tracks what you do each day.
- 13 A Yeah.
- 14 Q And then you confirm that you were out of the
15 country from November 7 until the beginning of
16 March of 2008?
- 17 A M'mm-hmm.
- 18 Q And so that was immediately before you went to
19 Ottawa to --
- 20 A Right. Arriving home on 3rd or 4th of March and
21 being told I was going to Ottawa for a week or
22 two. I was more than thrilled.
- 23 Q I can imagine that. At the end of this email,
24 you just say, given that you were away for four
25 months and that you'd started preparing for the
26 meeting on March 6, it's possible your speaking
27 notes weren't reviewed by the directors of the
28 VMC. And that while you're away, it's likely the
29 matter was being handled by Tom Demma,
30 Rob Hrabinsky, and Jim Collins?
- 31 A That's correct. That's what I said, likely the
32 matter, yes.
- 33 Q Yes.
- 34 A And the question of whether the commissioners or
35 Peter, in particular, actually received those
36 notes, my practice would be to include them, but
37 I just don't know whether that was the case here
38 and since I scrubbed, you know, all my emails for
39 BC Veg before 2010, I don't have it so I can't
40 say. I can't confirm that.
- 41 Q Of course. And those are my questions. Thank
42 you, Mr. Leroux.
- 43 THE CHAIR: Thank you, Mr. Stransky.
44 Mr. Mitha?
- 45 CNSL N. MITHA: Before we go further, Mr. Stransky,
46 did you want to enter that email as an exhibit?
47 I don't think we've entered that yet as an

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

**Videoconference
March 29, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 12)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

Alfred Krause (a witness)
Exam by Cnsl N. Mitha

1 be making a decision, and we had further
2 discussions when they were out of the room to
3 make sure that we were not making decisions on
4 any bias potential from the storage crop
5 component of our board. And I felt very good
6 confidence in our greenhouse sector board members
7 to make sure that we were making a final decision
8 that was relevant and clear on what was
9 transpired that last season of potato growing by
10 Bob Dhillon and the marketing by Bob Gill.
11 Q All right. So if I can summarize what your view
12 was and is, which is that you thought it was
13 acceptable for these three storage crop
14 individuals who were involved in the storage crop
15 to be involved in the discussions because they
16 provided information that may have been
17 pertinent; is that fair?
18 A Clarification, correct.
19 Q And, sir, the same thing happened earlier. So
20 this is December 2017. I'm going to take you to
21 some earlier minutes. Just one second here.
22 Sorry. I just missed the page. I have to
23 find the page. Just give me a second here.
24 A No problem.
25 Q Just give me a moment. Sorry.
26 A Okay.
27 CNSL N. MITHA: Claire, can you help me out. I had a
28 note and it was the October 25th, 2017 minutes of
29 the commission, and I seem to have lost the page
30 number. It may have been in a different set of
31 documents.
32 CNSL C. HUNTER: There's a conference call minute at
33 Exhibit 23 on page 10.
34 CNSL N. MITHA: Okay. That's October 25th, 2017?
35 CNSL C. HUNTER: Yes, that's right.
36 CNSL N. MITHA: Yeah, I'm just looking for the
37 materials from Exhibit 23, and I don't seem to
38 have that handy. I thought I did, but ...
39 CNSL C. HUNTER: Do you want me to share that?
40 CNSL N. MITHA: Yeah, if you don't mind. Thank you.
41 CNSL C. HUNTER: Sure.
42 CNSL N. MITHA: Thank you.
43 Q All right. Mr. Krause, you will see we have
44 minutes of the commission telephone conference
45 call on October 25th, 2017. Now, just to place
46 this in context, remember the cease and desist
47 orders were issued on October 10th, 2017, and the

Alfred Krause (a witness)
Cross-exam by Cnsl C. Hunter

- 1 was dated, do you? When it was signed?
- 2 A I would not, no.
- 3 Q Okay. All right. Thank you. I'm going to
- 4 take --
- 5 A No, I just want to iterate that the paragraph you
- 6 were reading out --
- 7 Q Yes.
- 8 A Yeah. You know, unfortunately there would be no
- 9 board if you were wanting to ask those questions
- 10 to anyone. So obviously, the whole point of this
- 11 was that the board is made up of two very
- 12 distinct parts, which I think is what made the BC
- 13 Vegetable Marketing Commission a fair commission.
- 14 Half of them made up by greenhouse and half made
- 15 up by storage crops. And so because every potato
- 16 grower or vegetable grower is going to have to be
- 17 selling their product through an agency or
- 18 something, you know, there is potential to be
- 19 viewed as a bias. Therefore, I think the
- 20 commission was set up in a way that it could
- 21 deflect that bias by then making sure decisions
- 22 were made by the vegetable or the greenhouse
- 23 sector versus to try to keep -- to make sure that
- 24 that we were trying our best to be unbiased in
- 25 decision-making. Does that make sense to you?
- 26 Do you understand the board? Do you understand
- 27 how the board works.
- 28 Q I hope I understand a little bit about it. Let
- 29 me just ask it to you this way and see if you
- 30 agree with me. My understanding is one of the
- 31 ways that the commission dealt with the sort of
- 32 structural challenges of some of the members
- 33 being storage crop and some of the members being
- 34 greenhouse is that panels were appointed to make
- 35 decisions.
- 36 So if there was a decision to be made
- 37 involving a storage crop issue, you would make a
- 38 panel of the greenhouse commissioners, and the
- 39 chair was independent. And then you might get
- 40 independent from the storage crop commissioners
- 41 because they knew about the industry, but the
- 42 decision itself would be made by the greenhouse,
- 43 the nonconflicted members; is that right.
- 44 A That sounds reasonable, yes. Thank you.
- 45 Q And is that how -- is that the manner in which it
- 46 operated when you were chair?
- 47 A That is how we wanted to operate it, yes.

1 review of the binder of evidence and all
2 submissions from each party and BCVMC staff
3 on the matter that were submitted up to and
4 including September 13th. On completion of
5 this review, Peter, Cory, and Hugh recused
6 themselves from the meeting.

7

8 You see that?

9 A Yes.

10 Q And you've already said that occurred?

11 A That's correct.

12 Q And I just want to talk briefly about the
13 commission's practices on conflict of interest at
14 this time. So I'm going to propose something to
15 you. I'll ask if you agree with it. Having
16 commissioners elected from the industry, if they
17 have the necessary expertise relevant to it. Do
18 you agree with that?

19 A Yes.

20 Q So storage crop members know about storage crop
21 issues; greenhouse members know about greenhouse
22 issues?

23 A That's correct.

24 Q And the idea is -- I think as reflected in these
25 minutes is that while a member from the storage
26 crop sector wouldn't sit on a panel or make a
27 decision with respect to a storage crop issuer or
28 agency or grower, it was at least your view that
29 it was important for them to be available for
30 questions that the greenhouse members might have?

31 A That is correct.

32 Q And that was done before the, in this
33 hypothetical, the greenhouse members would go
34 deliberate on the decision at hand or vote on it?

35 A Correct.

36 CNSL W. STRANSKY: And then, Mr. Mitha, if you could
37 go to page 1406.

38 Q So I'm not sure you were brought to this, but
39 there was the meeting of December 14th, and then
40 you will see here an email from Mr. Solymosi
41 dated December 21st to John Newell, yourself,
42 Blair Lodder, Eric Schlacht, and Jos Moerman as
43 well as Mike Reed. So these were the -- these
44 were the commissioners who sat on the panel with
45 respect to the actual cease and desist order or
46 the show cause decision?

47 A That's correct.

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

1 Q And then this email reflects that there is going
2 to be a conference call to discuss the draft of
3 the decision document to review it and make the
4 decision. You see that?

5 A Yes.

6 Q And that -- if you can recall, did that call
7 occur?

8 A I believe so. I remembered that.

9 Q If we could jump back to page 1400. So this is
10 the -- these are the minutes of that conference
11 call on December 22nd, and it reflects that you
12 called the meeting, the panel reviewed a written
13 summary of the analysis, tentative thoughts,
14 comments, and observations. And then on
15 satisfaction that the document was accurate, they
16 continued deliberations and entered a vote. And
17 then the meeting adjourned at 2:50. Do you see
18 that?

19 A Yes. Thank you.

20 Q No, of course.

21 A I was missing that component that I thought we
22 had done. Thank you.

23 Q No, I saw that you -- I thought that you referred
24 to it, but I noted that you hadn't been taken to
25 it.

26 CNSL W. STRANSKY: And those are my questions. Thank
27 you very much, sir.

28 THE CHAIR: Thank you, Mr. Stransky.

29 CNSL N. MITHA: The next will be Mr. Hira.

30 THE CHAIR: Mr. Hira.

31

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

33 Q Mr. Krause, my name is Ravi Hira, and I'm
34 Andre Solymosi's lawyer. What I'd like to do is
35 just cover the role of the commission, then cover
36 the -- what you learned from the investigation
37 and the cease and desist orders and then deal
38 with whether there was any animosity to Prokam.

39 A Okay.

40 Q All right. So the commission. The primary goal
41 of the commission is to get a good return for
42 growers; is that a fair statement?

43 A Yes.

44 Q And the way that is achieved is by regulating BC
45 growers and BC agencies?

46 A Yeah.

47 Q Is that a fair statement?

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

**Videoconference
March 30, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 13)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

Peter Guichon (a witness)
In chief by Cnsl K. McEwan

- 1 draft the letter.
2
3 Do you see that?
4 A Yes, yes.
5 Q So, sir, would this be consistent with your time
6 at the commission that generally it would either
7 be the general manager or perhaps the chair
8 dealing with counsel?
9 A That's correct.
10 Q Right. But you would -- you knew throughout that
11 they would have it available?
12 A Yes.
13 Q And you would expect that was put before you
14 would reflect matters that were properly grounded
15 in the commission's jurisdiction?
16 A That's correct.
17 CNSL C. HUNTER: I'm sorry to interrupt. It's just
18 that we seem to be on a different page on the
19 screen than the pages you've been referring to.
20 I'm just not sure which page that was.
21 CNSL K. MCEWAN: Ms. Hunter, that was from page 1136,
22 four lines from the bottom down to one line from
23 the bottom.
24 CNSL C. HUNTER: Thank you.
25 CNSL K. MCEWAN:
26 Q And, Mr. Guichon, I understood you to say that
27 this came before you and you agreed to the cease
28 and desist orders being sent out?
29 A That's correct.
30 Q And at the time, did you have any concern or
31 thought that they were invalid?
32 A No.
33 Q And, Mr. Guichon, prior to receiving the email
34 chain we've been referring to that starts at
35 1135, did you have any involvement in an
36 investigation of Prokam or IVCA?
37 A No, I didn't.
38 Q Mr. Guichon, who is or was John Les?
39 A John Les was the former chair of Farm Industry
40 Review Board.
41 Q Do you recall any meeting when he was the chair
42 of the Farm Industry Review Board, any meeting in
43 2015 where conflicts of interest were discussed?
44 A Yes, I do.
45 Q Can you give what you recall?
46 A It was sort of customary for either members of
47 FIRB to meet with commission personnel, usually

Peter Guichon (a witness)
In chief by Cnsl K. McEwan

1 it was with the president or -- sorry, chair or
2 vice chair and general manager. But on this
3 occasion, they wanted to have a face-to-face
4 meeting with -- FIRB, I should say, they, wanted
5 a face-to-face meeting with the commission and
6 that occurred in June of 2015, I believe, in
7 Aldergrove. It was -- the meeting was called by
8 FIRB and they wanted to meet and that was Alf --
9 Alf Krause's first year as chair. Anyways, there
10 was quite a few commission members present and I
11 think most of FIRB was there, maybe not all of
12 it, I don't recall, but it was -- I think -- I
13 think the commission could have sent things -- it
14 was their meeting, but they wanted to basically
15 just have a general talk about the industry and
16 how things were going. So in the meeting, the
17 issue was raised about, you know, we're having
18 trouble. We're a half board of greenhouse
19 growers and a half board of vegetable growers and
20 then there's a processing member with dealing
21 with conflict of interest and how he thought our
22 questions was -- how he thought or his board
23 thought that we should be handling it. So yeah,
24 there was a discussion and I remember him saying,
25 you know, he says, I understand sensitivity
26 around conflict of interest, but, he says, but I
27 want the decision, right. And so, you know, we
28 said, some of us said, well, that's hard to do
29 when some of the expertise might be on the other
30 side of the table, other side of the panel. And
31 he said, in no uncertain terms I want you to have
32 the people involved that understand the issue at
33 hand. And he says, I'm not saying the vote, you
34 can't vote, and he knew that but he was very
35 adamant about having people, at least available,
36 to answer questions on these issues and in his
37 mind or his conveyancing to us, that was fine.
38 So that's the way Alf proceeded from there and
39 the previous general manager did the same thing,
40 previous to Alf, Tom.

41 Q And you gave evidence to Mr. Mitha, sir, that on
42 December 14th, you were at the meeting, the
43 come-back hearing concerning the cease and desist
44 order?

45 A Yes.

46 Q And at that time, did you act consistent with
47 what you had understood from Mr. Les and

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

**Videoconference
March 30, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 13)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

1 the matter that were submitted up to and
2 including December 13, 2017.

3
4 Then it carries on to say:

5
6 On completion of this review, Peter, Cory,
7 and Hugh recused themselves from the meeting
8 to avoid any appearance of conflict of
9 interest in the deliberations and any final
10 decision to be made by the commission.

11
12 So as I read this, sir, what has appeared to have
13 happened is that the commission as a whole
14 discussed the issues of the cease and desist
15 orders, discussed the topics that we just
16 summarized on Prokam. We didn't summarize what
17 we see on the document regarding Thomas Fresh and
18 that we read out on the record concerning IVCA
19 and then you also reviewed all of the evidence
20 and all of the submissions from each of the
21 parties, and then only after the review did you,
22 Cory, and Hugh recuse yourselves. Is that an
23 accurate summary of the sequence of events, sir?

24 A No. That's accurate, but I'd like to talk about
25 my involvement.

26 Q Yes?

27 A Before this meeting, I talked to Mr. Krause and I
28 said, 6.2 is to do with the cease and desist
29 orders. He said it was "his stake," and we
30 talked about this before. He said that he would
31 like -- he said, me for sure, but I don't know if
32 he was indicating about Cory and Hugh to stay
33 there until the deliberations start and just be
34 available for questions, to answer questions and
35 no input. So that's what I did at that meeting.

36 Q Okay. And so when you say, "questions," do you
37 recall questions being asked of you, sir, by any
38 of the commissioners? Do you recall what was
39 discussed?

40 A No. They were discussing stuff but I didn't say
41 a word and there was no questions. It's
42 pretty -- I think the way it was written was
43 pretty straightforward, the way I saw it, so I
44 didn't anticipate any questions and didn't.

45 Q Are you saying you recall that, in fact, none of
46 the commissioners asked you any questions about
47 it; is that right?

1 A No, they didn't.
2 Q So who was doing the review, was it Mr. Solymosi
3 or others?
4 A Mr. Solymosi was presenting it but, you know, Alf
5 was the chair so Andre was doing the presentation
6 of those four points or that part of the meeting
7 anyway.
8 Q Okay. All right. Thank you. Going to take you
9 to a different document. Just give me a moment.
10 Sir, I'm showing you another set of minutes. Can
11 you see them on the screen? I'm just going to
12 enlarge it for you.
13 A Yes.
14 Q All right. So these are minutes, sir, of
15 October 25th, 2017. Now, just to place in this
16 context, remember the cease and desist orders
17 were issued on October 10th, 2017; right?
18 A Yes.
19 Q And we're now at October 25, 2017; do you see
20 that?
21 A Yeah.
22 Q And in this particular matter, it shows you
23 attended by telephone as vice chair and
24 Mr. Krause was not there as chair; correct?
25 A Yes.
26 Q And presumably as vice chair you would have
27 chaired that meeting?
28 A No, I didn't chair that meeting. Andre chaired
29 that meeting. If you look where it says, call to
30 order, below that, it says, "the meeting was
31 called to order at 4:05." And all of the other
32 minutes, it says in there who called the meeting
33 to order.
34 Q Okay.
35 A I believe Andre chaired that meeting. Possibly,
36 if I hadn't have been on the via telephone, I
37 might have chaired it, but I was on the phone and
38 I talked to Andre before that and he said he
39 would chair it.
40 Q All right. Thank you. And you'll see that the
41 issue is set out as being:
42
43 The cease and desist orders were issued
44 October 10, 2017, to IVCA, Prokam, and
45 Thomas Fresh. Invited each party to appear
46 before the commission to address the alleged
47 violations. This hearing has been set up

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

**Videoconference
April 1, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 14)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

- 1 Mr. Dhillon?
2 A Yeah. And I think he was refused, but none
3 of the other agencies stepped up to take
4 him, so I felt I had a fiduciary
5 responsibility as a commission member to
6 find him a good place, and whether it worked
7 out or not in the end, I don't know that.
8 But at least I didn't have a problem with
9 having some preliminary discussions with the
10 rest of the greenhouse members on our board
11 who are maybe not as familiar with that, so.
12 Q All right.
13 A And I wouldn't have cared if it was -- if he
14 was going to another agency either, but at
15 this point in time, there was no agency for
16 Mr. Dhillon to go to. It appeared in front
17 of the commission, so I wanted to leave that
18 door open, and I'd welcome him. I'd welcome
19 Bob Dhillon with BCfresh with open arms.
20 Q All right. So your evidence is that at the
21 meeting on December 14th, you considered or
22 you provided input on the appropriateness of
23 BCfresh as an agency for Mr. Dhillon and
24 Prokam; correct?
25 A I didn't talk about BCfresh about the
26 appropriateness.
27 Q Yes.
28 A No. I talked about trying to find him a
29 place to market his product this year.
30
31 Were you asked those questions, and did you give
32 those answers?
33 A Yes. I gave those answers, but as a commission
34 member, I had a responsibility that he wind up
35 somewhere. But my own personal opinion, I didn't
36 want him going to BCfresh.
37 Q Were the answers that you provided in the excerpt
38 from the transcript that I just read true?
39 A Can you scroll back to it, please. That's good.
40 Yes, I think that's all true, but -- yeah.
41 Q I'm going to take you down to page 2298 of the --
42 continuing your evidence of 2018 at line 37.
43
44 Q And this is the second page of a letter from
45 Miller Thomson if you look at the first
46 page.
47 A From who?

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

Video Conference
February 9, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING

COPY

- 1 Q I heard your testimony to Mr. Mitha that your
2 understanding was that the Commission could
3 regulate B.C. agencies in matters that affected
4 B.C. agencies and B.C. growers, is that right?
- 5 A That is correct.
- 6 Q And that was even where something like minimum
7 pricing might have extraterritorial reach?
- 8 A Correct.
- 9 Q And then finally, I just had some brief questions
10 on the -- or two of the decisions you've been
11 brought to today. Those are the show cause
12 decision and the reconsideration decision. We'll
13 start with the show cause decision. Apologies.
14 So this is page 1400. It's the minutes of
15 the BC Marketing Commission conference call on
16 December 22nd. Apologies. One moment.
- 17 All right, sir, I'm at page 1358, and this
18 is the meeting of December 14th, 2017. Do you
19 see that?
- 20 A Correct, yes.
- 21 Q And then going to page 1362, this is with respect
22 to IVCA, Prokam, Thomas Fresh cease and desist
23 orders?
- 24 A Yes.
- 25 Q And I won't read through the summary here, I'll
26 just take you to these two paragraphs where I'm
27 indicating. It states:
- 28
29 All commissioners were present for the
30 review of the binder and evidence, and all
31 submissions from each party and staff on the
32 matter were submitted up to and including
33 December 13th. On completion of this
34 review, Peter, Corey and Hugh recused
35 themselves from the meeting to avoid any
36 appearance of a conflict of interests in the
37 deliberations and any final decision.
- 38
39 Do you see that?
- 40 A Yes.
- 41 Q And those minutes accurately reflect what
42 happened?
- 43 A The minutes are accurate.
- 44 Q And then finally, I want to take you to the
45 reconsideration decision, and so I'm at page 1513
46 of the common book. It's titled "Variance
47 Application and Extension, February 1st." Do you

1 see that?

2 A Yes.

3 Q And I just want to ask generally, was there any
4 change to the Panel between this decision and the
5 original decision of December 22nd, 2017?

6 A There was no change.

7 Q Thank you. Then finally, I have a few short
8 questions on the Fresh For You application, as I
9 think it's been called in this proceeding. So
10 I'm in a bundle of documents that was circulated
11 by our office this morning. I'd propose that
12 it's marked as the exhibit. And then -- so you
13 can see here this is an email dated March 19th to
14 -- and I'll just say generally, these are
15 individuals associated with greenhouse agencies
16 in B.C.?

17 A Yes, that would be the greenhouse agencies and I
18 believe the BC Greenhouse Growers Association.
19 So they're part of the distribution list when we
20 get a -- when we get a request for production
21 allocation, the request is circulated with this
22 [indiscernible], which consists of the agencies
23 -- greenhouse agencies and the BC Greenhouse
24 Growers Association.

25 Q Yeah. So you predicted my next question. This
26 is an application for production allocation with
27 an agency sponsor of Country Fresh Produce, yes?

28 A That is correct.

29 Q And this application, I think you know, is by Mr.
30 Ravi Cheema and his company, Fresh For You?

31 A That is correct.

32 Q And then this is part of an email chain, just
33 going to the response above it. On March 24th,
34 Armand Vander Meulen emailed you and stated:

35
36 I have concerns about this application and
37 request it be discussed at the next
38 continued meeting of the Commission. I
39 think clarity around the marketing plan is
40 needed.

41
42 Do you see that?

43 A Yes.

44 Q And then moving up, you respond:

45
46 Okay, forwarding to Suzanne. Will set up a
47 call.

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

**Videoconference
March 29, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 12)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

Alfred Krause (a witness)
Exam by Cnsl N. Mitha

1 decision of the -- the final decision of the
2 commission about -- that we just saw was in
3 December 22nd, 2017. So this is a conference
4 call taking place on October 25th. And as you
5 can see, the persons in attendance via telephone
6 included Mr. Guichon, Reynolds, et cetera, and
7 you were not in attendance on this day; correct?

8 A Doesn't say I am, so I would have to say,
9 correct.

10 Q All right. And if you are not in attendance,
11 then Mr. Guichon as vice chair would likely have
12 chaired the meeting in your absence; right?

13 A That's where it would have started, correct.

14 Q And you can see that in this particular case --
15 can you move down just a little bit on item 2.
16 Thank you.

17 You can see that the issue -- one of the
18 issues discussed is the cease and desist orders
19 that were issued October 10th, 2017, to IVCA,
20 Prokam, and Thomas Fresh:

21
22 -- invited each party to appear before the
23 commission to address the violations. This
24 hearing has been set up for October 30th.
25

26 And there was further discussion. You can see at
27 item 3. If you could go down to item 3. You can
28 see the discussion has been redacted out of the
29 process -- out of the minutes. But, sir, we can
30 see certainly that here, you know, Mr. Guichon,
31 Mr. Reynolds, and Mr. Gerrard didn't recuse
32 themselves from this meeting. Was there any
33 concern on your part concerning conflict of
34 interest with then dealing with these issues at
35 this time?

36 A I don't recollect that but -- recollect that but
37 I do know that if there was a decision to be
38 made, they would have not involved themselves in
39 that decision-making process. That is how I
40 would have seen it.

41 Q Now, sir, you do recall -- thanks, Claire, you
42 can take that off the screen.

43 So you do recall that prior to the cease and
44 desist orders being made, you had a meeting with
45 IVCA on October 3rd, 2017. Yourself and
46 Mr. Solymosi met with -- met with Mr. Meyer and
47 Mr. -- what's his name?

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

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March 30, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 13)**

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Peter Guichon (a witness)
In chief by Cnsl K. McEwan

1 Mr. Krause?
2 A Is that the December 14th?
3 Q That's right.
4 A Yes.
5 Q If I can ask, sir, that up on the screen be put
6 page 1512. And I've, again, got a clean copy as
7 needed, Chair Donkers, for the witness.
8 THE CHAIR: Yes. Go ahead, Mr. McEwan.
9 THE WITNESS: I just wanted to add something to my
10 last answer.
11 CNSL K. MCEWAN: Mr. Guichon would like to complete
12 his last answer. I'm sorry, that's my fault,
13 Mr. Guichon.
14 THE WITNESS: That's okay. Sorry about that.
15 Anyways, we had that meeting with FIRB and then
16 this -- so I asked Andre a while back if we could
17 get minutes for that meeting, meaning, like, with
18 FIRB and the commission. And he reached out to
19 FIRB and they didn't have any minutes of that
20 meeting; so I just wanted to add that in.
21 CNSL K. MCEWAN: All right. That's just fine.
22 Q Now, we've successfully got -- screen shared
23 page 1512 from the common book. And this,
24 Mr. Guichon, is the agenda for the conference
25 call, the teleconference of Friday, January 26th.
26 And you understand, I take it, that this was the
27 reconsideration of the December 14 and
28 December 22nd decision; correct?
29 A Yes.
30 Q And, sir, do you recall where you were at the
31 time of this meeting?
32 A I was in my truck. I was out in Chilliwack and
33 coming back -- I was in my truck out in the
34 valley.
35 Q And so you took the call while you were driving?
36 A That's correct.
37 Q And what was your participation in that
38 conference call?
39 A Well, this conference call here was -- it was a
40 full -- it was a commission meeting. Again, I
41 said in the last hearing and I'll say it again
42 today, I recused myself from voting this because
43 this is a decision that was made by a panel on
44 December the 22nd, and so I had no business
45 voting in it. And so it did not get put in the
46 minutes for some reason, but I recused myself
47 from voting at this meeting on that issue. I

Peter Guichon (a witness)
In chief by Cnsl K. McEwan

1 just abstained from voting.

2 Q All right.

3 A And there was a lot of noise -- there was a lot
4 of noise, that was a conference call. There was
5 a lot of noise so I don't know whether it was
6 Debbie Etsell's first meeting as chair but I
7 don't know whether it couldn't be heard that I
8 recused myself but I think there was other
9 members that recused themselves too. I'm not
10 100 percent sure but that's what I heard.

11 CNSL K. MCEWAN: Chair Donkers, I've reached the point
12 where if we could break and I could reserve
13 10 minutes for myself on Friday morning, and I
14 would greatly appreciate that accommodation.

15 THE CHAIR: Let's do that, Mr. McEwan, thank you very
16 much. So, Mr. Guichon, you're going to come back
17 Friday morning for 9:00 A.M. And until that time
18 you're under direct examination so you can, you
19 know, you can chat with your legal counsel, but
20 you shouldn't be or can't be discussing your
21 testimony with anyone else. And so with that, I
22 guess the only other in closing today, I do want
23 to talk a little bit about Friday's agenda, if I
24 might. So recall Mr. McEwan raised it earlier
25 today, my ruling on March 18 with respect to
26 timelines and I continue to be concerned as to
27 the witness the last couple of days about
28 cross-examination.
29

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

**Videoconference
March 30, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 13)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

1 Q All right. I want to -- I'm not going to take
2 you to the letter that was attached to this but
3 I'm going to take you to what happens in the
4 sequence of events. I'm going to take you to
5 page 15 -- sorry, 1517 and you'll see there's an
6 email on January 29th, 2018, so this is following
7 up from the previous email where you got the
8 letter from legal counsel. Mr. Solymosi says:

9
10 2018/01/26 Commission decision draft for
11 approval. Can you each reply to this email
12 approving or suggesting edits for the text
13 prepared that relays the decision made by
14 the commission on Friday, January 26th. So
15 the commission made the decision about the
16 BCfresh issue on Friday, January 26th.
17 Attached is a draft of the document. Legal
18 invited Prokam to a non-prejudiced meeting
19 as separate to the decision. This is not
20 part of the decision document but has been
21 offered in email and will send a separate
22 email regarding this request. Once I have
23 approval from all commissioners on this
24 document, I will forward the final copy to
25 legal to distribute. I hope you're able to
26 do this tomorrow morning.

27
28 Do you see that?

29 A Yes.

30 Q All right. So, this again, just to put it in
31 context, was the commission's decision about
32 whether or not BCfresh would be Prokam's agency;
33 okay?

34 A Yes.

35 Q And your response, you sent on January 29th, you
36 say:

37
38 Looks good, Andre. Paragraph 5 a little
39 confusing. OGP doesn't come out and say no
40 to Prokam but thinks BCfresh is best suited
41 to handle the volume and problems in the
42 past. Maybe that's how Lillian feels. I
43 haven't seen any of the comments between you
44 and her but it could leave a window of hope
45 for Prokam to go to OGP?

46
47 Do you see that?

1 A Yes.
2 Q All right. So you were involved in consideration
3 of whether Prokam's appeal not to use BCfresh as
4 its agency. You were involved in coming to that
5 decision and commenting on that decision; right?
6 A That January 26th meeting?
7 Q Yes?
8 A That was a reconvening of a December 22nd
9 meeting. The panel -- they had a panel for the
10 November -- or December 22nd meeting, there was a
11 panel.
12 Q Yes.
13 A And the same people made the decision on January
14 the 26th. I did not -- I did not -- I recused
15 myself from that and I said that in the last
16 hearing.
17 Q Right.
18 A I was recused from voting on January the 26th;
19 however, when Andre sent the thing out after --
20 the thing that you just read there.
21 Q Yes?
22 A Did you have questions on that for me?
23 Q Well, sir, would it be fair to say that you did
24 not want to leave a window of hope open for
25 Prokam to market through a different agency other
26 than BCfresh because you didn't want Prokam to
27 compete against BCfresh?
28 A It was exactly the opposite, sir.
29 Q Okay.
30 A I was hoping he was going to go to Okanagan
31 Growing. I didn't want him at BCfresh. And I
32 wasn't convinced on what Andre sent out, that she
33 was totally saying no.
34 Q Okay. So tell me why you say that? Why do you
35 say that you didn't want him at BCfresh and you
36 were hoping he'd go to Okanagan?
37 A Just because of the problems that happened at
38 IVCA. He caused internal strife over there.
39 Lots of trouble over there, and I didn't want any
40 part of it coming to BCfresh.
41 Q Sir, let me ask you this. You know that Mr. --
42 A However, sorry; however, I did respect the
43 commission's decision.
44 Q Well, I'm going to ask you about that, sir,
45 because you know -- well, let me ask you, do you
46 know that Mr. Driediger had a couple of meetings
47 with Mr. Dhillon and others at Prokam to try to

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

**Videoconference
March 29, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 12)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

- 1 BCfresh as an agency; correct?
- 2 A I don't think -- yeah, that's right. They were
3 going to be make decisions about it. That was a
4 board decision. But there wasn't much of a
5 decision because there was no options, if you
6 read it all. Yeah.
- 7 Q But it would have been a board decision but a
8 board decision they should not have participated
9 in as voting members; correct?
- 10 A Well, there was no decision really to be made.
11 There was no options. So however you want to
12 determine it, if they voted or not voted, there
13 were no options, so it would have been -- and
14 again, I think it was a recommendation at the
15 board level to find out who was -- which agencies
16 were willing, and there was really no decision
17 that the board could make because it was only one
18 option.
- 19 Q Okay.
- 20 A Isn't that how you read it when you read all the
21 information? How many options was there for
22 Prokam to go to an agency in 2018? There was
23 only one, only one option that would work. So it
24 wasn't like a decision that the board was making.
- 25 Q There was only one option that the board
26 considered?
- 27 A No, no, that's not what it says. There was a
28 letter to all the agencies to see if anyone was
29 interested other than BCfresh, and none could do
30 it, is the bottom line. I mean, I don't know.
31 That was the bottom line. So if you have new
32 information that actually some other agency
33 really wanted to do it, I'd like to see that as
34 well. So if there was none, then there was no
35 real decision being made. This is the only point
36 I'm trying to make.
- 37 Q Do you know what your last day -- what your last
38 commission meeting date was?
- 39 A It was January, but I don't know the date.
- 40 Q I don't believe that you are recorded as having
41 participated in -- there's a January 26th
42 conference call that I believe you're not
43 recorded as participating in. Perhaps I should
44 confirm that before I say it with certainty. Do
45 you have any documents that reflect when your
46 term ended?
- 47 A I would have to look it up. I do not have

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

Video Conference
February 2, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING
excerpt of Paul Mastronardi's evidence

ORIGINAL



1 scratch your back, you scratch my back" situation.

2 Q Is there any reason why you didn't sue
3 Mr. Vandermeulen and Mr. Royal, Mr. Reynolds,
4 Ms. Etsell?

5 A They're independents.

6 Q So you brought up in your last answer the question
7 of the moratorium. And in your evidence with
8 Mr. Mitha, do you remember saying there was
9 magically put in place when MPL starting looking
10 west?

11 A Yeah. We talked to, like I said, Steven Newell in
12 2018. We sent people out in 2018. Talked with
13 growers out in British Columbia that we were going
14 to apply for a business out there. And then like
15 I said, in 2019 the moratorium gets put in place.

16 Q So you are saying that the moratorium was put in
17 place because of MPL?

18 A Partly. The greenhouse guys knew we were coming.
19 So again, the scratch your back, scratch my back
20 works. You have a conversation, you know, saying
21 that greenhouse agencies are evidently coming in.

22 Q Okay. So this morning Mr. Mitha brought you to
23 the minutes of the meeting where the Commission
24 imposed the moratorium.

25 A Mm-hmm.

26 Q And before I started questioning you, Ms. Hunter
27 brought you to the decision on the imposition of
28 the moratorium.

29 A Okay.

30 Q And you confirmed to Ms. Hunter that you weren't
31 aware of the application at the time?

32 A Correct.

33 Q And so that sort of led her to put you through the
34 decision and explain to you why the moratorium was
35 imposed?

36 A Correct.

37 Q I want to bring you to your interview report with
38 Mr. Mitha. That is Exhibit 1 at page 5320. So
39 this is the interview report, and you were sent a
40 copy of this sometime after your interview; that's
41 right?

42 A Yes.

43 Q And I want to bring you, just going down, the
44 allegations of bias and misfeasance you discussed
45 with Mr. Mitha. So it says that:

46

47 Mr. Mitha asked you questions about the

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

- 1 you told him, you said yes.
- 2 A Well, in essence, yes. This isn't verbatim. This
3 isn't my statement.
- 4 Q So the evidence now is that you said he and
5 John --
- 6 A I didn't realize -- like I said, this isn't
7 evidence. This isn't my statement. Steve told me
8 that day. We were poolside sitting at a table. I
9 know exactly where we were. I told him we were
10 coming out west. And he said straight out, Johnny
11 and I will make sure you're not going to get -- in
12 BC you're not going to get a licence.
- 13 Q Okay. Well, you're suing Johnny and not Steve
14 Newell. You understand that?
- 15 A Yeah. They're partners. They're brothers.
16 They -- I've worked, you know, and talked with
17 those guys for other 20 years. They are hip to
18 hip.
- 19 Q Okay. And you said you reviewed this after it was
20 sent to you by Mr. Mitha?
- 21 A It was sent to us.
- 22 Q So you're saying you didn't review it?
- 23 A There's thousands and thousands of pages. I can't
24 memorize everything.
- 25 Q So you can't remember if you read your -- the
26 interview report Mr. Mitha provided you?
- 27 A At one point I probably did, yes.
- 28 Q So a few people have taken you to this now, but
29 you said in your interview earlier, your
30 examination with Mr. Mitha, that you're familiar
31 with the Commission's general orders?
- 32 A That I'm familiar with them? I know of them, yes.
33 I know that they exist.
- 34 Q So you're not familiar with them?
- 35 A I'm not a lawyer. I don't know all the general
36 orders.
- 37 Q But you're now with an agency in British Columbia;
38 right?
- 39 A Not yet.
- 40 Q Fair enough. But you're intending to be an agency
41 in British Columbia?
- 42 A Yes.
- 43 Q And you understand in British Columbia that means
44 that you're designated or delegated authority by
45 the Commission?
- 46 A Yes.
- 47 Q So you'll take the time to familiarize yourself

1 Do you see that?

2 A Yes.

3 Q And we continue with item 2 with respect to
4 paragraph 23(a). That is a paragraph that we've
5 been at of part 1 of the notice of civil claim:

6

7 How Mr. Solymosi allegedly acted to
8 prevent the plaintiff from entering into
9 the British Columbia market, i.e.
10 specific actions.

11

12 Have I read at that correctly?

13 A Yes.

14 Q You understand what that means?

15 A Yes.

16 Q And you had the information that you just provided
17 to us at the time of the claim; correct?

18 A Yes.

19 Q Great. Let's take a look at your response. You
20 should have here response to the demand for
21 particulars. If we go page 3, either you can
22 accept what I have to say or you can make Ms. Hall
23 strain across -- is dated July 19, 2021. Do you
24 have that, sir?

25 A Yes.

26 Q Let's take a look at your response number 1. Your
27 response to the specific acts that we've
28 requested. In response to paragraphs 1, 2, 12 and
29 13 of the demand:

30

31 Mr. Solymosi engaged in the unlawful acts
32 outlined in paragraph 23 of part 1 of the
33 notice of civil claim to the extent that
34 there may be further particulars
35 regarding the dates and times of the
36 acts, they are within the knowledge of
37 Mr. Solymosi and the other defendants.

38

39 You see that?

40 A Yes.

41 Q Have I read it correctly?

42 A Yes.

43 Q So you knew of these three acts at the time that
44 you filed your notice of civil claim, yet you
45 wouldn't set them out in your response to
46 particulars; correct?

47 A Well, my understanding of this is that we're also

Paul Mastronardi (for MPL)

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

- 1 A Yes.
- 2 CNSL R. BASHAM: No, actually you haven't, Mr. Hira.
- 3 You left out the word "economic benefit" the first
- 4 time it appeared.
- 5 CNSL R. HIRA: I beg your pardon. English is a third
- 6 language. I struggle. I skip over things by
- 7 being left-handed. Thank you for correcting me.
- 8 CNSL R. BASHAM: You can't say that to me about
- 9 English being your third language.
- 10 CNSL R. HIRA: But it is. Are you now wanting
- 11 particulars of my other languages?
- 12 CNSL R. BASHAM: Maybe you should. Anyway carry on,
- 13 Mr. Hira.
- 14 CNSL R. HIRA:
- 15 Q With that change provided by your able counsel, if
- 16 I have read that paragraph correctly?
- 17 A Yes.
- 18 Q Tell me what business entities of my client were
- 19 going to have economic benefits by his alleged
- 20 actions?
- 21 A Well, it's his own economic benefit. He's
- 22 employed by the Commission and therefore it's his
- 23 job. So he -- like saying it would be
- 24 economically benefitted by keeping his job there.
- 25 Q That's a job you know that he's had since 2015;
- 26 correct?
- 27 A Yes.
- 28 Q And is it your position that he didn't help Mike
- 29 Reed do what you say Mike Reed did in relation to
- 30 Houwelings that Mr. Solymosi would have lost his
- 31 job; is that your position?
- 32 A He had economic benefit being employed by the
- 33 Commission.
- 34 Q That's the only economic benefit that you can come
- 35 up with; is that correct?
- 36 A That I'm aware of.
- 37 Q Wait a minute, are you saying there are other
- 38 economic benefits? If so, tell me.
- 39 A I didn't say that. I said that I'm aware of.
- 40 Q And the act that my client is alleged to have
- 41 committed in paragraph 23(b) again deals with this
- 42 Fresh4U quota transfer?
- 43 A Yes. That's part of it, yes.
- 44 Q And remind me, he's not a decision maker, is he?
- 45 A He's not -- he's not a voter, no.
- 46 Q Right. So he doesn't make the decision whether
- 47 the transfer occurs or not; correct?

Paul Mastronardi (for MPL)

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

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- 21 A Well, it's his own economic benefit. He's
- 22 employed by the Commission and therefore it's his
- 23 job. So he -- like saying it would be
- 24 economically benefitted by keeping his job there.
- 25 Q That's a job you know that he's had since 2015;
- 26 correct?
- 27 A Yes.
- 28 Q And is it your position that he didn't help Mike
- 29 Reed do what you say Mike Reed did in relation to
- 30 Houwelings that Mr. Solymosi would have lost his
- 31 job; is that your position?
- 32 A He had economic benefit being employed by the
- 33 Commission.
- 34 Q That's the only economic benefit that you can come
- 35 up with; is that correct?
- 36 A That I'm aware of.
- 37 Q Wait a minute, are you saying there are other
- 38 economic benefits? If so, tell me.
- 39 A I didn't say that. I said that I'm aware of.
- 40 Q And the act that my client is alleged to have
- 41 committed in paragraph 23(b) again deals with this
- 42 Fresh4U quota transfer?
- 43 A Yes. That's part of it, yes.
- 44 Q And remind me, he's not a decision maker, is he?
- 45 A He's not -- he's not a voter, no.
- 46 Q Right. So he doesn't make the decision whether
- 47 the transfer occurs or not; correct?

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.

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

**Videoconference
April 19, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 15)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

9
Michael Reed (a witness)
Exam by Cnsl N. Mitha

1
2 Do you see that, sir?
3 A I do, yes.
4 Q Do you recall this discussion, sir?
5 A Yes, I do.
6 Q And tell me what you recall about the discussion,
7 sir.
8 A There was a view that we -- that there was going
9 to be a requirement by BCFIRB to lift the
10 moratorium and the moratorium was never set in
11 place to stay in perpetuity anyhow.
12 Q And then you will see, sir, there's various other
13 bullet points. I'm now at page 4479. There's
14 various other bullet points that were part of the
15 discussion. Do you see that?
16 A Yes.
17 Q Now, sir, one of the concerns or allegations
18 that's been raised through this process is that
19 the commissioners or the commission -- certain
20 commissioners or the commission as a whole
21 intentionally delayed lifting the moratorium in
22 order to prevent or delay MPL from getting its
23 agency licence. So first, was there any
24 discussion, to your recollection, by any
25 commission members, including yourself, about the
26 issue of trying to delay MPL's application?
27 A No.
28 Q What were the considerations about whether or not
29 to lift the moratorium at that time?
30 A That we are far enough along with the agency
31 review, with the general orders review, and we
32 had a delay in change of strategic plan
33 facilitators which caused delay. So the feeling
34 was that we needed more time to complete those
35 before lifting the moratorium.
36 Q And you say you had a change in strategic plan
37 facilitators. What was the change, sir, or who
38 was the change?
39 A We were originally with Dawn Glykherr and moved
40 to Findlay & Associates.
41 Q Sir, I'm going to ask you some more questions
42 about that, about Ms. Glykherr, in due course.
43 But I want to just complete this discussion
44 first. So was there any specific discussion or
45 even general discussion among any commission
46 members that the moratorium should not be lifted
47 because of a concern of MPL gaining access as an

1 So you're aware at this time MPL wanted its
2 application processed expeditiously?

3 A Yes.

4 Q And you understood that one of the reasons for
5 that is that growers have until October 31st to
6 decide which agency or make agency change
7 applications, and they have to do so by
8 October 31st; right?

9 A Yes.

10 Q That's why MPL wanted its application considered
11 before the October 31st deadline. You recall
12 that?

13 A Yes.

14 Q It then talks about the strategic review in
15 progress and the commission will be in a position
16 to approve a new strategic plan by the end of
17 January?

18 A Yes.

19 Q It talks about the fact that the agency review
20 process is ongoing. And the last bullet point
21 says:

22
23 Commissioners questioned the urgency to lift
24 the moratorium prior to the judicial review
25 hearing scheduled later this week.

26
27 Et cetera. Do you recall this discussion, sir?

28 A Yes, I do.

29 Q Now, in the end, it appears what occurred is that
30 the commission continued -- did not lift the
31 moratorium but continued to decide to complete
32 its -- you can see the motion that was moved,
33 seconded, and carried was to consider lifting the
34 moratorium subject to further consultation with
35 legal counsel. Do you see that?

36 A Yes, I do.

37 Q And I take it that what occurred at the end of
38 the day was the moratorium wasn't lifted and the
39 strategic review continued.

40 A That's right.

41 Q And, of course, the strategic review didn't
42 complete until sometime in early -- the spring of
43 2022; right?

44 A That's correct, yes.

45 Q Now, sir, one of the allegations that's been
46 raised is that members of the commission
47 individually or as a whole intentionally delayed

John Newell (a witness)
Exam by Cnsl N. Mitha

1 lifting the moratorium to prevent or delay MPL
2 from having its agency application considered.
3 Was there any discussion at this meeting that you
4 recall about delaying MPL's application or not
5 lifting the moratorium to prevent MPL from having
6 its application considered?

7 A No.

8 Q Did you raise any such discussion at that
9 meeting --

10 A No.

11 Q -- to that effect?

12 Was there discussion about -- from
13 commissioners about not wanting MPL as an
14 agent -- to have an agency in British Columbia?

15 A No.

16 Q Sir, I'm going to take you to a couple of emails
17 which have been recently provided by your
18 counsel. First is an email dated November 29th,
19 2017, from yourself, from Mr. Solymosi,
20 Mr. Jos Moerman, and Mr. Jeff Madu. Do you see
21 that?

22 A Yes, I do. I provided them.

23 CNSL K. MCEWAN: Mr. Chair, Mr. Mitha, I apologize. I
24 just saw Mr. Newell grab some documents. I just
25 want to make sure he doesn't have notes in front
26 of him at the time he's giving evidence. I'm
27 sorry, I just want to be clear --

28 THE WITNESS: No, I just grabbed the email, but I'll
29 put that down, yeah. I can read off the screen.
30 It's just my eyes aren't as good on the screen as
31 they are on paper.

32 CNSL K. MCEWAN: I apologize. I just want to be sure
33 of that. Thank you.

34 CNSL N. MITHA:

35 Q I'm going to take you to this email exchange,
36 sir. It starts on November 29th, 2017. From --
37 Jos Moerman sends an email saying:

38
39 Hi Andre, see photo. Peppers from Mexico
40 sold by Mastronardi. Don't need another
41 agency in BC. Mastronardi will undercut
42 prices in order to gain market share.

43

44 Now, this was sent by Mr. Moerman to
45 Mr. Solymosi. Do you know the context of that?
46 Are you aware of what that was about?

47 A Yeah, we would get often growers of ours, and

- 1 the end of January; right?
- 2 A Yes.
- 3 Q And it talked about -- then it talks about the
- 4 agency review process ongoing; right?
- 5 A Yes.
- 6 Q It talks about having a skeleton of an
- 7 operational governance manual to work with, but
- 8 this needs to be drafted and put before the
- 9 commission and the advisory groups?
- 10 A Yes.
- 11 Q And then it talks about the commissioners
- 12 questioning the urgency to lift the moratorium at
- 13 this stage; right?
- 14 A Yes.
- 15 Q Now, sir, do you recall these discussions?
- 16 A Yes.
- 17 Q In the end, you'll see there was a motion to
- 18 consider lifting the moratorium subject to
- 19 further consultation with legal counsel on the
- 20 direction to take. Do you see that?
- 21 A Yes, I do.
- 22 Q As I understand what happened, in the end was
- 23 that the commission continued to complete its
- 24 strategic review and didn't lift the moratorium
- 25 until sometime in the spring of 2022. Do you
- 26 recall that?
- 27 A I was under the understanding the moratorium was
- 28 lifted sooner than that.
- 29 Q But it was sometime in 2022; correct?
- 30 A Yeah, I guess -- I don't remember the exact time,
- 31 but, yes, I know it was lifted for sure.
- 32 Q You just don't recall exactly when. Fair enough.
- 33 It was a long time ago.
- 34 Now, sir, one of the allegations that's been
- 35 made is that individual members of the commission
- 36 or the commission as a whole intentionally
- 37 delayed lifting the moratorium to prevent or
- 38 delay MPL's agency application. First of all,
- 39 was there any discussion at this meeting,
- 40 October 21st, about MPL's application and trying
- 41 to delay MPL's application?
- 42 A No.
- 43 Q Was there ever any discussion, sir, about -- by
- 44 commission members concerning that they didn't
- 45 want to lift the moratorium in order to delay
- 46 MPL's application?
- 47 A No.

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

**Videoconference
April 20, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 16)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

Blair Lodder (a witness)
Exam by Cnsl N. Mitha

- 1 A Yes.
- 2 Q And then it notes that the commission is in
3 possession of two agency applications submitted
4 in confidence?
- 5 A Yes.
- 6 Q And then there's some discussion, and I'll just
7 show you that there's various bullet points of
8 discussion about whether or not to lift the
9 moratorium. And I'm not going to take you
10 through that in any detail, but at the end, there
11 was a motion -- you can see here at item 3, there
12 was a motion to consider lifting the moratorium
13 subject to further consultation with legal
14 counsel. So do you recall that meeting and that
15 discussion, sir?
- 16 A Yes.
- 17 Q All right. Now, as I understand, what eventually
18 happened after this motion was that the
19 moratorium wasn't lifted until some time in early
20 2022. Do you recall that?
- 21 A Yeah. I'm not sure of the exact date but ...
- 22 Q Okay. The allegation that's arisen, sir, or one
23 of the allegations that's arisen, sir, is that
24 members of the commission, as a whole or
25 individually, intentionally delayed lifting the
26 moratorium to prevent or delay MPL from having
27 its application processed. Do you recall any
28 such discussion to that effect on this date, on
29 October 21st?
- 30 A No.
- 31 Q Have you ever had a discussion with any of the
32 commissioners in the context of not lifting the
33 moratorium in order to delay MPL's application
34 consideration?
- 35 A No.
- 36 Q Was there any discussion among commission members
37 that the moratorium should not be lifted in order
38 to prevent or delay MPL from being in the access
39 to the BC market?
- 40 A No.
- 41 Q All right. Sir, I'm going to take you to
42 November, now, because we just finished
43 October 21st. I'm going to take you to November
44 2020. It's about a month later, and I'm showing
45 you an email from Mr. Solymosi dated November 4,
46 2020. And you can see it's addressed -- the re
47 line is MPL agency application, then it says:

1 raise with you is there has been an allegation
2 that -- or a concern raised that one of the
3 reasons for imposing the moratorium was to
4 prevent or delay MPL from having its application
5 for agency considered and reviewed. To your
6 recollection, sir, was there any discussion about
7 MPL and its agency application when the
8 moratorium -- when this discussion about the
9 moratorium was ongoing?

10 A No.

11 Q Did anyone make comments or raise any discussion
12 about wanting to prevent or delay MPL from having
13 its agency application processed or considered in
14 the context of the moratorium, was there any
15 discussion to that effect?

16 A No, none whatsoever.

17 Q Sir, I'm going to take you to November, now. So
18 we've gone through September and October. I'm
19 going to take you to November 2020. And you'll
20 see there's an email from Mr. Solymosi dated
21 November 4th, 2020, addressed to various persons
22 including yourself?

23 A Yes.

24 Q And it says, "everyone," and then the re line is
25 "MPL agency application and meeting." Do you see
26 that?

27 A Yes.

28 Q And then talks about the fact that on
29 October 29th at the commission meeting, the chair
30 struck a panel to consider the agency
31 application. And you are one of the persons
32 considered placed on the panel; correct?

33 A That's correct, and Mr. Mitha, if I could just go
34 back to my witness statement?

35 Q Yes?

36 A Right at the very bottom of it, I indicated that
37 I was not struck to a panel. I was under the
38 understanding -- I never had a meeting after that
39 or anything and then my term was over, so I
40 misunderstood the actual being struck part but I
41 actually was struck to that panel.

42 Q Right.

43 A But that was the end of my participation.

44 Q All right. I'll come to that and that's what I
45 was going to take you to next, Mr. Guichon. But
46 in any event, you can see this email. Presumably
47 you received this email; correct?

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

Video Conference
February 11, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING

COPY

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

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

**Videoconference
April 20, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 16)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

Peter Guichon (a witness)
Cross-exam by Cnsl R. Hrabinsky

1 The panel has instructed not to open the MPL
2 package, application package that you
3 received by courier. The panel is to defer
4 consideration of this application until the
5 commission has finalized its additional
6 criteria, considerations, and processes for
7 agency applications.
8
9 You see that?
10 A Yes.
11 Q And would you agree with me that that again is a
12 reference to the amendments that were ultimately
13 reflected in amending order 54?
14 A Yes, that's right.
15 Q And will you agree with me, Mr. Guichon, that one
16 of the concerns that existed at that time was
17 that if the commission reviewed the MPL
18 application before promulgating the final agency
19 application rules, it might well be accused of
20 tailoring those rules in response to particular
21 application?
22 A Yes. I get that, yeah.
23 CNSL R. HRABINSKY: Thank you. I have nothing
24 further.
25 THE CHAIR: Thank you, Mr. Hrabinsky. Mr. Stransky,
26 anything arising from Mr. Hrabinsky's questions?
27 CNSL W. STRANSKY: I'm sorry. There is just one small
28 thing. Just seeking to load up the document now.
29 I'm sorry, Mr. Mitha, could I impose on you
30 again?
31 CNSL N. MITHA: Yes, which document do you want?
32 CNSL W. STRANSKY: It's the -- it's the document
33 entitled, "Solymosi and Condition and MPL
34 Communication."
35 CNSL N. MITHA: Is it in this Exhibit 1 or is it a
36 different document?
37 CNSL W. STRANSKY: It's a different document of the
38 exhibit number.
39 CNSL N. MITHA: I'm not sure which do you mean it is.
40 CNSL R. HIRA: If I may, are you referring to
41 Exhibit 15, the documents produced by
42 Mr. Solymosi?
43 THE CHAIR: You appear to be on mute, Mr. Stransky.
44 CNSL W. STRANSKY: I believe that's correct. I'm
45 seeking to find the reference to the exhibit in
46 my notes. I managed to fix it. I hope to. The
47 members of the Zoom call would see this document.

Peter Guichon (a witness)
Re-exam by Cnsl W. Stransky

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RE-EXAMINATION BY CNSL W. STRANSKY:

Q So, Mr. Guichon, this is an email of November 6 from Mr. Solymosi to yourself?

A Yes.

Q Mr. Hrabinsky raised the question of the concerns around procedural fairness around amending the general orders before beginning the consideration of MPL's application?

A Yes.

Q And in this email dated November 6, Mr. Solymosi writes to you and states:

We want to make sure we maintain procedural fairness and we can't be accused of making decisions on new criteria considerations and processes that are influenced by the applications presented to us.

Do you see that?

A Yes.

Q And that reflected your understanding -- or that was the source of your understanding as to why the panel would not be looking at the application prior to those amendments?

A Yes, that's right.

CNSL W. STRANSKY: Those are my questions. Thank you.

THE CHAIR: Can you identify that document for us please, Mr. Stransky?

CNSL W. STRANSKY: Of course. It's an email chain from Mr. Solymosi and the MPL panel commencing November 5th. It was produced by the commission as Solymosi and commission MPL communication.

THE CHAIR: Has it been marked as an exhibit?

CNSL W. STRANSKY: In review of my notes, I don't believe it has. I might suggest that we mark it as an exhibit.

THE CHAIR: Which will be number 41?

CNSL W. STRANSKY: Yes, thank you.

EXHIBIT 41: Email chain from Mr. Solymosi and the MPL panel commencing November 5

THE CHAIR: I think this time I can successfully say, Mr. Guichon, thank you very much. And you're accused.

THE WITNESS: Thank you very much.

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

**Videoconference
April 20, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 16)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

Request for time allotment change for witnesses
by Cnsl R. Basham

1 which is Mr. Blair Lodder.
2 CNSL R. BASHAM: Before you do that please,
3 Chair Donkers.
4 CNSL N. MITHA: Sorry.
5 CNSL R. BASHAM: I just noticed that the time
6 allotment for my side was 30 minutes for
7 Mr. Guichon and 45 minutes for Mr. Lodder. We
8 weren't consulted about that, but I can tell you
9 that it should be reversed because we're not
10 going to have very much time with Mr. Lodder at
11 all and I'm going to need 45 minutes with
12 Mr. Guichon; so if you could just reverse the
13 time allotment.
14 THE CHAIR: So 30 minutes with Mr. Lodder and 45 for
15 Guichon?
16 CNSL R. BASHAM: Right.
17 THE CHAIR: Mr. Mitha?
18 CNSL N. MITHA: I don't have an issue with that,
19 Mr. Chair.
20 THE CHAIR: Mr. McEwan?
21 CNSL K. MCEWAN: We don't taken an issue with that and
22 I thank Ms. Basham for raising it at the outset.
23 THE CHAIR: All right. Done. Thank you very much.
24 CNSL R. MCDONELL: Mr. Chair, it's Ron McDonell. May
25 I raise a brief matter?
26 THE CHAIR: Yes, you may.
27 CNSL R. MCDONELL: Yesterday I circulated to counsel a
28 statistical review report the BCVMC published at
29 its April 12, 2022 meeting and asking counsel to
30 advise me if they had any objections to my asking
31 to have this marked as an exhibit. In my view,
32 it's a very helpful one-stop shopping series of
33 statistics on the storage crop industry regulated
34 by the commission. There's a number of
35 statistics that I'm going to want to resort to in
36 my final submissions. You heard a great deal of
37 evidence about bits and pieces of the industry.
38 As I say, it's a comprehensive set of statistics
39 going back the last five to seven years. I think
40 it's useful, and I'd ask it to be marked as the
41 next exhibit, please.
42 THE CHAIR: I haven't seen it but assuming that I will
43 at some point, that would be Exhibit 40.
44 CNSL R. MCDONELL: Yes. I've forward it to Mr. Mitha
45 and I'll send it anywhere else that would be
46 helpful to have it.
47 THE CHAIR: I'm sure we'll get it. Thank you,

Blair Lodder (a witness)
Exam by Cnsl N. Mitha

1 Mr. McDonell. That's Exhibit number 40.
2

3 **EXHIBIT 40: Statistical review report the**
4 **BCBNC published at an April 12, 2022 meeting**
5

6 CNSL R. MCDONELL: Thank you, Mr. Chair.

7 THE CHAIR: Mr. Lodder.

8 CNSL K. MCEWAN: I'm sorry, Mr. Chair. There's one
9 more thing. It's important of small matters. I
10 just want to alert you, Mr. Chair. I have to
11 leave precisely at 10:30 for about half an hour,
12 and I'm not asking you to necessarily convenience
13 with the break but I just don't want to disappear
14 without you knowing in advance.

15 THE CHAIR: All right. Well, thank you. 15 minutes
16 of that will be taken up with break, so.

17 CNSL K. MCEWAN: Yes.

18 THE CHAIR: And Mr. Stransky is there waiting, you
19 know, ready to --

20 CNSL K. MCEWAN: It's all that really matters.

21 THE CHAIR: All right. Thank you very much for
22 alerting me. Now, Mr. Lodder.

23 THE WITNESS: Hello.

24 THE CHAIR: How are you today?

25 THE WITNESS: Good, and you?

26 THE CHAIR: I'm well, thanks. So we're going to start
27 with asking you to affirm your testimony today
28 and the evidence you're going to give.
29

30 **BLAIR LODDER, a**
31 **witness, affirmed.**
32

33 THE CHAIR: Mr. Mitha.

34 CNSL N. MITHA: Thank you.
35

36 **EXAMINATION BY CNSL N. MITHA:**

37 Q Good morning, Mr. Lodder. We've spoken before.
38 I'm going to be asking you some questions today.
39 Because we're on Zoom, we have to be careful to
40 make sure that we don't talk over each other, so
41 wait until you -- wait until I finish asking the
42 question before you answer it, and I will in turn
43 try to wait until you finish answering before I
44 ask the next question. If there's anything you
45 don't understand that I'm asking, please feel
46 free to ask me to repeat the question or, if you
47 don't hear it, also ask me to repeat the

Blair Lodder (a witness)
Exam by Cnsl N. Mitha

- 1 question, okay?
2 A Yeah.
3 Q How long have you been a member of the
4 commission?
5 A Probably eight years more or less, not exact.
6 Q So you were a member of the commission from 2017
7 to 2021?
8 A Yes.
9 Q And you're financially associated with
10 Okanagan Growers; is that right?
11 A Yes.
12 Q And that's an agency in the Interior?
13 A Yes.
14 Q And that does both greenhouse and storage crops?
15 A Yes.
16 Q Okay. You're also a producer of Lodder Potato
17 Farms Ltd.; correct?
18 A Yeah.
19 Q Okay. And you produce storage crops but you
20 don't produce any greenhouse crops?
21 A Correct.
22 Q Okay. Now, you understand as a commissioner that
23 you have an obligation not to act in a conflict
24 of interest?
25 A Yes.
26 Q And do you consider -- if MPL were to get or
27 apply for an agency license in British Columbia,
28 would you consider whether you have any conflict
29 with MPL?
30 A No, I don't.
31 Q And that's because you're really in the storage
32 crop industry?
33 A Yes.
34 Q Sir, I want to take you back to June 2019. I'm
35 happy to take you to the document, but let me ask
36 you first. Do you remember that the commission
37 put a moratorium in place for agency
38 applications?
39 A Yes.
40 Q And I'm just going to briefly -- just give me one
41 moment here, sorry. Okay. So you were part of
42 the decision at that time to place a moratorium.
43 Do you recall that?
44 A Yes.
45 Q Okay. And you're aware that MPL made an
46 application for an agency licence in
47 September 10th, 2020. Do you recall that?

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

Video Conference
February 11, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING

COPY

1 CNSL R. HIRA: But these are 2017 emails.
2 CNSL R. BASHAM: No, no, I'm looking at our document.
3 This is the MPL first supplementary book of
4 Exhibits. It was Exhibit 24, I believe.
5 There's --
6 CNSL R. HIRA: What he has.
7 CNSL R. BASHAM: So it is at page 93 of our book.
8 CNSL R. HIRA: Sorry, I was at page 33.
9 CNSL R. BASHAM: Okay. I think you have the right
10 document now.
11 CNSL R. HIRA: Okay, we've got it. A -- the March 25,
12 2021 email from Mr. Reed to Ms. -- sorry, to Mr.
13 Solymosi and Ms. Babcock.
14 CNSL R. BASHAM: For some reason I'm -- part of the
15 email is being [indiscernible].
16 CNSL R. HIRA: Here. He's got the paper copy.
17 CNSL R. BASHAM: All right.
18 Q All right, so here's Mr. Reed, as executive vice-
19 president of Houweling's Group, sends you an
20 email?
21 A That is correct.
22 Q He's complaining that the business plan and the
23 application were divulged without the knowledge
24 of Houweling Management and Marketing Services
25 Canada Inc., which is HMMSCI, and he tells you
26 that they contractually manage the day-to-day
27 functions of Country Fresh, and that he wasn't
28 told, as the agency manager. Right?
29 A Correct.
30 Q It -- that was a contractual dispute, is it not,
31 from your perspective?
32 A This was a material change to -- to the agency on
33 how it brings product forward through that agency
34 for marketing.
35 Q Where, in the Commission, is there a document
36 that sets out that that -- that Country Fresh had
37 to market everything through HMMSCI? Where is
38 it?
39 A That was how they were licenced for that current
40 crop year. That was the marketing structure of
41 that agency that was licenced.
42 Q Is there a document that indicates that?
43 A There --
44 Q [Indiscernible] about that.
45 A There would be.
46 Q Well, do you -- have you produced it?
47 CNSL R. HIRA: With respect --

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

Video Conference
February 9, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING

COPY

Marcel Andre Solymosi
Cross-exam by Cnsl W. Stransky

1 A Correct.

2 Q Then moving down to page 4 of this document, this
3 is an email from Mike Reed to yourself dated
4 Thursday, March 25th?

5 A Correct.

6 Q Do you remember receiving this email?

7 A Yes.

8 Q So in it, Mr. Reed states:

9

10 There have been several inquiries directed
11 to me regarding the quota application
12 submitted by Country Fresh Produce that was
13 circulated on March 19th.

14

15 A Correct.

16 Q And then it goes on to say:

17

18 The application and business plan were
19 developed without the knowledge of Houweling
20 Management and Marketing Services who
21 contractually manage the day-to-day
22 functions of the Country Fresh Produce
23 Agency, and without my knowledge, as the
24 agency manager.

25

26 A Correct.

27 Q And at the time Mr. Reed sent this email, you
28 understood him to be the functioning agency
29 manager of Country Fresh Produce?

30 A That is correct.

31 Q So it goes on to say:

32

33 Any questions pertaining to the application
34 should be directed to the signatories, being
35 Casey Houweling and Ravi Cheema.

36

37 A Correct.

38 Q And moving down down to page 8 of this document,
39 this is a letter from yourself to Casey Houweling
40 and the Cheemas dated April 1st?

41 A Yes, correct.

42 Q And then just the first paragraph here, it
43 references the application submitted by Fresh For
44 You Farms for production allocation?

45 A Correct.

46 Q And then in the middle here, it references the
47 email we just looked at from Mike Reed. You

1 identify him as executive vice-president of sales
2 for the Houweling's Group and quotes the body of
3 that email?
4 A Yes.
5 Q And identifying Mr. Reed by that title, did -- am
6 I right to think that you understood he was
7 sending that email in that capacity?
8 A Of Houweling -- yes.
9 Q And then I won't bring you through the remainder,
10 but it ends with a request for additional
11 information. Do you see that here?
12 A Correct.
13 Q I'll give you just a moment to review those. You
14 can tell me when you're ready.
15 A Okay.
16 Q And I'll just state it broadly, but am I right in
17 thinking that 1, 4 and 5 here are questions
18 regarding what CFP's marketing plan is behind
19 this application for production allocation?
20 A Which ones? 1, 4 and 5, you said?
21 Q Yes.
22 A Correct, marketing plan and business plan.
23 Q That's your answer? Sorry, I just don't want to
24 cut you off.
25 A Yes, sorry.
26 Q No, it's okay. It's getting late in the day.
27 And I --
28 A Marketing plan and business plan of that
29 agency --
30 Q Yes.
31 A -- yes.
32 Q And I just wanted to note the date here is April
33 1st. Do you --
34 A Yes.
35 Q -- see that?
36 A Yes.
37 Q The Commission held its election in March 2021.
38 Is that right?
39 A It was delayed in 2021. I can't remember when it
40 was completed. I know that it was delayed a --
41 delayed that year, but I think that some
42 positions were -- remained vacant, so it would
43 have been completed by leaving the positions
44 vacant if they were not filled. So correct.
45 Q So the election was held sometime in March 2021.
46 There -- I appreciate there were some positions
47 vacant after that.

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

**Videoconference
April 20, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 16)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

- 1 was egg on his face. Yeah, you're right.
- 2 Q And then you said at the end of the phone call
3 after you explained your position, you felt
4 Mike Reed understood your position and was fine
5 with it?
- 6 A Yeah.
- 7 Q So you said that phone call was March 23rd?
- 8 A No. The Zoom call was around there. The only
9 reason I know that is because I had it saved or
10 something in my Outlook. It was a Zoom call, and
11 it was Kevin, Chris, myself, my wife was on it
12 too, and Mike.
- 13 Q In any case, it was March 23rd, 2021?
- 14 A It was around there somewhere, yes.
- 15 Q Do you know when Mike Reed's term as commissioner
16 ended?
- 17 A I have no idea.
- 18 Q I'll suggest to you it ended March 2021?
- 19 A I have no idea.
- 20 Q You're not suggesting that Mike Reed did anything
21 as a commissioner to interfere with your
22 production allocation application?
- 23 A No. Unless there's something you guys know that
24 I don't know about. Was that the case?
- 25 Q Sorry. I'll ask the questions, Mr. Cheema. If
26 you can just give me a moment to review my notes.
- 27 A All right. I'm pretty sure he was a commissioner
28 at the time.
- 29 Q So you told Mr. Mitha that you had some
30 conversations with Paul Mastronardi on this issue
31 of an old boys' club or you scratch my back, I
32 scratch yours?
- 33 A I don't remember if I said that to Mike Reed, no.
- 34 Q No. Sorry, to Paul Mastronardi?
- 35 A Yeah.
- 36 Q Do you remember when those conversations were?
- 37 A No.
- 38 Q You went to Leamington twice in the course of --
39 at least for later discussions with
40 Paul Mastronardi; is that right?
- 41 A I'm there a lot. I don't remember. I could be
42 there two, three, four times a year.
- 43 Q You don't remember meeting with Paul Mastronardi
44 in Leamington?
- 45 A Yeah. I met up with him a lot. I met up with
46 other people too.
- 47 Q Okay. How did you -- how did you get to

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

**Videoconference
April 19, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 15)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

- 1 A I have, yes.
- 2 Q So the allegation essentially has colloquially
3 been referred to as a vote swapping agreement.
4 You understand that?
- 5 A I do, yes.
- 6 Q Now, sir, there's been evidence to the effect
7 that on occasion, storage crop commissioners
8 relied on the knowledge and expertise of
9 greenhouse commissioners for greenhouse issues
10 and greenhouse commissioners relied on storage
11 crop commissioners for storage crop issues. Is
12 that accurate?
- 13 A I would say, up until the time that we formed
14 outside committees, that is true.
- 15 Q And when were those outside committees formed?
- 16 A They were developed in 2018.
- 17 Q So after 2018, you're saying the reliance on
18 greenhouse and storage crop commissioners on each
19 other wasn't a factor?
- 20 A Correct. We could -- if we had specific
21 questions related to storage crops, as greenhouse
22 producers we generally could go to the storage
23 crop committees.
- 24 Q And who was on these committees?
- 25 A It was made up of a collection of storage crop
26 growers, and I believe that the agencies were
27 part of that as well, storage crop agencies.
- 28 Q So was there any formal or informal agreement
29 that storage crop commissioners would vote to
30 preserve the greenhouse crop commissioners
31 business in exchange for greenhouse crop
32 commissioners voting to preserve and enhance the
33 storage crop commissioners businesses or
34 interests?
- 35 A Absolutely not.
- 36 Q Were you ever asked by any commissioner to vote
37 in a particular way?
- 38 A I was not.
- 39 Q Did you ever ask any commissioner to vote in a
40 particular way?
- 41 A No, I did not.
- 42 Q Just to finish, in response to this
43 paragraph (III) -- I think you've answered my
44 questions and you've probably answered the
45 question, but I'll give you an opportunity if you
46 want to say anything else about the allegation.
- 47 A It's false.

John Newell (a witness)
Exam by Cnsl N. Mitha

1 from John Newell and Mike Reed in relation
2 to storage crop matters with regard to the
3 criteria under the general orders.
4

5 You've seen that allegation before?

6 A Yes.

7 Q Sir, you recall testifying previously at the
8 BCFIRB hearing in 2018?

9 A Yes.

10 Q I believe in that hearing, sir, you gave evidence
11 to the effect that greenhouse commissioners will
12 rely on information from storage crop
13 commissioners when there are storage crop issues,
14 and similarly, storage crop commissioners rely on
15 greenhouse commissioners when there are
16 greenhouse crop issues. Do you recall giving
17 such testimony, sir?

18 A Yes.

19 Q And in this particular circumstance, as a
20 greenhouse commissioner, sir, did you give the
21 storage crop commissioners who might have been on
22 the panel advice or opinions about MPL's
23 application?

24 A No.

25 Q Sir, looking at this allegation at
26 paragraph 23(c)(III), was there any formal or
27 informal agreement that storage crop
28 commissioners would vote to preserve greenhouse
29 crop commissioners' interests and vice versa?

30 A No.

31 Q Were you ever asked by any storage crop
32 commissioner --

33 A No.

34 Q -- that's named or otherwise to vote in a
35 particular way?

36 A No.

37 Q Did you ever communicate that you wanted storage
38 crop commissioners to vote in a particular way?

39 A No.

40 Q Sir, before we leave this allegation, is there
41 anything else you want to say about this
42 allegation?

43 A I just want to say that anything to do with a
44 greenhouse application that came across the desk
45 of the commission that was brought to the
46 commission, I recused myself immediately, whether
47 it was MPL or anyone else and would do so to this

John Newell (a witness)
Exam by Cnsl N. Mitha

- 1 day.
2 Q Sir, one of the allegations that's been made is
3 that you and your brother or the combination of
4 the two of you wanted to make sure that MPL would
5 not get a licence if they made application in
6 British Columbia. And one of the pieces of
7 evidence relied upon is that your brother,
8 Mr. Steve Newell, had a conversation with
9 Mr. Mastronardi where he told Mr. Mastronardi
10 that he would make sure that MPL would never get
11 a licence if they made an application in BC.
12 Sir, are you aware of any conversation that your
13 brother Steve Newell has had with Mr. Mastronardi
14 to that effect?
15 A No.
16 Q Have you made any inquiry from your brother as to
17 whether or not he had any such conversation?
18 A Yes.
19 CNSL R. BASHAM: Objection. Mr. Steve Newell will
20 have to give that evidence.
21 CNSL N. MITHA: Mr. Chair, I appreciate it's hearsay,
22 and I think it's admissible. I think it does go
23 to weight, but I don't think it's inadmissible
24 evidence.
25 CNSL R. BASHAM: What's the purpose of leading that
26 evidence except to try to prove the truth? You
27 know very well that's not permitted.
28 CNSL N. MITHA: In any event.
29 CNSL R. BASHAM: Objection.
30 CNSL N. MITHA: Fine.
31 Q Sir, have you had any conversation to the
32 effect -- to that effect with anyone, with any of
33 the commissioners?
34 A No.
35 Q Or anyone else?
36 A No.
37 Q Have you taken any steps, sir, that you're aware
38 of -- have you taken any steps at all, sir, to
39 prevent MPL from obtaining its agency licence in
40 British Columbia?
41 A No.
42 Q Sir, there's an allegation that another employee
43 of Windset, Mr. Jeff Madu -- he is an employee of
44 Windset?
45 A Yes.
46 Q And what's his position with Windset?
47 A Sales director.

1 The defendants have failed to act in
2 accordance with the regulatory scheme in
3 exercising the authority delegated to them.
4 As members of the commission in particular,
5 the defendants failed.
6

7 And then paragraph 3 says:
8

9 The defendants John Newell and Mike Reed
10 have entered into an agreement with the
11 defendants Cory Gerrard, Blair Lodder, and
12 Peter Guichon to improperly circumvent the
13 commission's conflict of interest policy
14 whereby the defendants Cory Gerrard, Blair
15 Lodder, and Peter Guichon will vote as
16 requested by the defendants John Newell and
17 Mike Reed on matters related to greenhouse
18 crops in exchange for the agreement of votes
19 from John Newell and Mike Reed in relation
20 to storage crop matters without regard to
21 the criteria under the general orders.
22

23 You've seen that before, of course?

24 A Yes.

25 Q Now, sir, there's been some evidence in this
26 hearing and previously to the effect that the
27 storage crop commissioners often relied on the
28 knowledge and expertise of the greenhouse
29 commissioners for greenhouse issues and the
30 greenhouse commissioners relied on the storage
31 crop commissioners when it came to storage crop
32 issues. Is that accurate?

33 A Yes.

34 Q Was there any informal or formal agreement that
35 storage crop commissioners would vote to preserve
36 the greenhouse crop commissioners' business in
37 exchange for greenhouse commissioners voting to
38 preserve and enhance storage crop commissioners'
39 businesses?

40 A No.

41 Q Were you ever asked to vote -- well, you had no
42 relationship or dealing with the MPL application
43 at all; correct?

44 A That's correct.

45 Q Did you ask any commissioner to vote in any
46 particular way concerning the MPL application?

47 A No.

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

**Videoconference
April 20, 2022**

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

**PROCEEDINGS AT HEARING
(Day 16)**

COPY

Glaucia R. Fadigas de Souza / Charest Legal Solutions Inc.
4th and 5th Floors, 885 W. Georgia Street, Vancouver, BC V6C 3E8
Phone: 604-669-6449 Fax: 604-629-2377

- 1 Q All right. There's been some evidence in this
2 hearing to the effect that storage crop
3 commissioners often relied on the knowledge and
4 expertise of greenhouse commissioners for
5 greenhouse issues and greenhouse commissioners
6 relied on storage crop commissioners concerning
7 storage crop issues; is that accurate?
- 8 A Yeah.
- 9 Q Okay. Was there any formal or informal vote
10 swapping arrangement as suggested in clause
11 (iii)?
- 12 A No.
- 13 Q Were you ever asked, sir, to vote in a particular
14 way by any commissioner, greenhouse commissioner,
15 or storage crop commissioner?
- 16 A No.
- 17 Q Sir, there's also an allegation that you acted
18 separately or together with other commission
19 members to prevent MPL from entering the BC
20 market. Do you have anything to say about that?
- 21 A No.
- 22 Q Sir, you were never assigned to any panel of the
23 commission concerning MPL's application for
24 agency status; correct?
- 25 A No.
- 26 Q Did Mr. Reed or Mr. Newell ever communicate their
27 views about MPL's application to you or anything
28 about MPL?
- 29 A No.
- 30 Q Sir, do you recall attending a BCVMC workshop at
31 the Tsawwassen hotel, Coast Tsawwassen hotel in
32 October 19th, 2020?
- 33 A No.
- 34 Q You didn't attend that meeting?
- 35 A I was not in attendance at that meeting.
- 36 Q Okay. And, sir, do you -- were you ever
37 interviewed by Ms. Dawn Glyckherr?
- 38 A Yes.
- 39 Q And you were interviewed in your capacity as a
40 grower or as a commissioner or both?
- 41 A Solely as a grower.
- 42 Q And were you involved as a commissioner in making
43 decisions about her involvement in completing a
44 strategic review report?
- 45 A Yes.
- 46 Q And what do you recall about her involvement in
47 that regard and your decisions in that regard?

Peter Guichon (a witness)
Exam by Cnsl N. Mitha

1 Peter Guichon to improperly circumvent the
2 commission's conflict of interest policy
3 whereby the defendants Cory Gerrard,
4 Blair Lodder, and Peter Guichon will vote as
5 requested by the defendants John Newell and
6 Mike Reed on matters related to greenhouse
7 crops in exchange for the agreement of votes
8 from John Newell and Mike Reed in relation
9 to storage crop matters without regard for
10 the criteria under the general orders.

11

12 You've seen that allegation before, sir?

13 A Yes, I have.

14 Q All right. There's been some evidence in this
15 hearing, sir, to the effect that storage crop
16 commissioners often relied on the knowledge and
17 expertise of greenhouse commissioners for
18 greenhouse issues and greenhouse commissioners
19 would rely on storage crop commissioners for
20 storage crop issues; is that accurate, sir?

21 A Yes.

22 Q Was there any former or informal agreement that a
23 storage crop commissioner, like yourself, would
24 vote to preserve the greenhouse crop
25 commissioners businesses in exchange for the
26 greenhouse crop commissioners voting to preserve
27 storage crop commissioners businesses?

28 A Absolutely not.

29 Q Were you ever asked by Mr. Newell or Reed to
30 act -- to vote in a specific way concerning MPL
31 or any other greenhouse issues?

32 A No.

33 Q And did you ever ask Mr. Newell or Mr. Reed to
34 vote in a particular way concerning storage crop
35 matters?

36 A No, I didn't.

37 Q Sir, there's also an allegation that you acted
38 separately or together with the other commission
39 members to prevent MPL from entering the BC
40 market. What is your response to that
41 allegation, sir?

42 A No. I never had anything like that at all.
43 Everybody's -- everybody's open to an application
44 to come here. So being on the commission, that's
45 the nature of the beast. They're welcome to come
46 forward and that's it.

47 Q Sir, you, of course, had no involvement in MPL's

1 agency application; right?

2 A No.

3 Q Nonetheless, did Mr. Reed or Mr. Newell ever
4 communicate their views about MPL's application
5 or whether MPL should obtain a license in
6 British Columbia?

7 A No, they didn't.

8 Q Do you recall, sir, attending a BCVMC workshop at
9 the Coast Tsawwassen hotel in October 19th, 2020?

10 A Yes, I do.

11 Q Okay. So, sir, this is the list of people who
12 attended and I'm just looking for your name. So
13 it looks like you attended in person, is that
14 right, at this meeting?

15 A Yes.

16 Q I'm just going to take you -- you can see these
17 are the notes of the meeting. It says:

18
19 BCVMC workshop Coast Tsawwassen hotel,
20 Monday, October 19.

21
22 Do you see that?

23 A Yes.

24 Q All right. I'm going to take you to part of the
25 discussion. Sir, you'll see at paragraphs 33 and
26 34, there's a discussion about Windset losing
27 their Wal-Mart business because Mastronardi came
28 in and started dumping the product here and
29 brought prices down, et cetera. And you will see
30 paragraphs 33 and 34 discuss issues concerning
31 Mastronardi. Do you see that?

32 A Yes, I do.

33 Q Do you recall that discussion taking place at
34 this meeting, sir?

35 A I can't remember the details. It was -- it was
36 in a huge room and there was only about 10 or 12
37 of us in the room spread apart so the hearing
38 wasn't that good, but, you know, there was people
39 talking about the greenhouse side of it.

40 Q And, sir, do you recall any discussion about
41 MPL's agency application at that meeting by any
42 commissioners?

43 A No.

44 Q Do you know when it says here at paragraph 33:

45
46 A different producer claims he was told
47 Windset lost their market business.

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

Video Conference
February 1, 2022

ALLEGATIONS OF BAD FAITH AND UNLAWFUL ACTIVITY

PROCEEDINGS AT HEARING
excerpt of Paul Mastronardi's evidence

ORIGINAL



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,

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

1 doesn't know what the report says and chose to make
2 these serious allegations based on the word of
3 Mr. Cheema who gave some general views that he
4 thought there was a vote swapping arrangement; do I
5 have that right?
6 A Well, Mr. Cheema was very passionate about it. And
7 I -- I guess I believed is word, absolutely.
8 Q But that was the basis; fair enough?
9 A That and the moratorium being put in place and the
10 moratorium not being lifted.
11 Q Okay.
12 CNSL R. BASHAM: Mr. Mitha, you've asked several
13 times --
14 CNSL N. MITHA: Yep.
15 CNSL R. BASHAM: -- [indiscernible] there was a report
16 given? Is there a report that you haven't
17 produced?
18 CNSL N. MITHA: Are you objecting to something?
19 CNSL R. BASHAM: Yes, I am. [Indiscernible] report,
20 and I'm asking you whether there has been a report
21 that you've produced.
22 CNSL N. MITHA: Ms. Basham, I haven't asked a question
23 that you're objecting to. So I'm not -- if you
24 want to make argument, as Chair Donkers said, use
25 that for argument. If there's an objection here --
26 CNSL R. BASHAM: No. Let me just be clear. In your
27 questions to my witness -- or my client, you have
28 referred to a report that he keeps saying he didn't
29 read.
30 CNSL N. MITHA: He referred to the report.
31 CNSL R. BASHAM: You asked him if he read a report.
32 And I'm asking you whether there is a report that
33 you have because I haven't seen one.
34 CNSL N. MITHA: Ms. Basham, I'm not answering your
35 questions here. So I'm going to finish my
36 cross-examination.
37 CNSL R. BASHAM: Well, I'm objecting. If you're going
38 to put to a witness about a report --
39 CNSL N. MITHA: I have completed my question -- I have
40 completed my question --
41 CNSL R. BASHAM: Just a minute, Mr. Mitha --
42 THE CHAIRPERSON: Ms. Basham, my understanding is that
43 it was Mr. Mastronardi who first raised the issue
44 of a report. So continue, Mr. Mitha.
45 CNSL R. BASHAM: Well, I'm objecting.
46 THE CHAIRPERSON: Understood.
47 CNSL R. BASHAM: There is -- just a minute,