

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD  
IN THE MATTER OF THE  
*NATURAL PRODUCTS MARKETING (BC) ACT* AND  
ALLEGATIONS OF UNLAWFUL ACTIVITY

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**REPLY TRANSCRIPT EXTRACT BOOK OF  
PROKAM ENTERPRISES LTD.**

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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?

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

1 Q Great, thank you. Okay. Mr. Guichon, I'm just  
2 going to take you to a section of your evidence  
3 in 2018, page 2150 of the Exhibit 1, starting at  
4 line 44:  
5

6 Q Well, I'm not talking about the grower. I'm  
7 talking about the commission from the  
8 commission's perspective. You're a  
9 commissioner; you've been a commissioner for  
10 more than 25 years. So from the  
11 commission's perspective, the commission  
12 wants to enforce its rules. There's no rule  
13 that a grower cannot plant in excess of  
14 their delivery allocation; correct?

15 A That's correct.

16 Q So in the circumstance that a grower plants  
17 in excess of the delivery allocation, they  
18 didn't do anything wrong vis-a-vis the  
19 commission. The commission is not going to  
20 enforce any rule against them because they  
21 didn't violate a rule; right?

22 A That's right.  
23

24 Were you asked those questions, and did you give  
25 those answers?

26 A Yes.

27 Q And were they true?

28 A Yes.

29 Q Going to take you to 2181, page 2181 in  
30 Exhibit 1, and line 2, continuing in the  
31 evidence:  
32

33 Q Okay. So the concern here was that you were  
34 aware that Prokam had planted significantly  
35 in excess of their delivery allocation?

36 A Yes.

37 Q You weren't aware of anything else that they  
38 had done that caused you concern at that  
39 time; correct?

40 A I don't believe, at that time, no.

41 Q All right. And there was nothing wrong with  
42 them planting in excess of their delivery  
43 allocation?

44 A No, that's right.  
45

46 Were you asked those questions, and did you give  
47 those answers?

- 1 A I did. Again, I'll stress that there's nothing  
2 wrong with the planting, but I said earlier and  
3 at that hearing that they had to come with a  
4 marketing plan; that's the big thing, the  
5 marketing plan to the agency to sell that crop  
6 because it's well in excess what they planted.  
7 And, yes, I did say, there's nothing wrong with  
8 that, but coupled with that has to be a marketing  
9 plan to come before the commission, and they  
10 never did so.
- 11 Q And that's IVCA that's to submit the marketing  
12 plan, the agency; correct?
- 13 A Well, them along with their grower that's done  
14 this, and I believe the grower was on the board  
15 at the time.
- 16 Q Continuing at Exhibit 1, 2227, line 5:  
17
- 18 Q All right. So there were complaints by  
19 other BCfresh growers about Prokam's  
20 planting in excess of delivery allocation?
- 21 A Yes.
- 22 Q And that's -- that's what's animating the  
23 concern that's being expressed?
- 24 A Well, that's -- that would be only  
25 growers -- the only growers that are in the  
26 area. I mean, the whole, I mean, that's  
27 80 percent of the area as BCfresh growers,  
28 so, yes, it would be those growers.
- 29 Q Yes, but that's the concern that's animating  
30 this issue coming back to the commission  
31 table; correct?
- 32 A The BCfresh growers do not care about the  
33 extra acreage being planted providing there  
34 is a marketing plan for it.
- 35 Q All right.
- 36 A BCfresh growers themselves may plant a few  
37 extra acres here and there, but there's a  
38 marketing plan in place for it. Orderly  
39 marketing, I should stress.
- 40 Q All right. And so what -- what -- what the  
41 growers, the other growers were concerned  
42 about was orderly marketing. It wasn't  
43 about Prokam planting in excess of delivery  
44 allocation?
- 45 A That's correct.
- 46 Q And what the commission was concerned about  
47 was IVCA hadn't provided an appropriate

1 marketing plan; correct?  
2 A Yeah. That was -- that was a concern.  
3 Q Yes, but the commission couldn't have been  
4 concerned that about Prokam planting in  
5 excess of delivery allocation?  
6 A Within reason, but those numbers are pretty  
7 big, and I think what the BCfresh growers  
8 are thinking, if one person can go out and  
9 plant double or triple of delivery  
10 allocation, why can't we all do it.  
11 Q All right.  
12 A And --  
13 Q So that's what the growers might have been  
14 thinking?  
15 A Yes.  
16 Q But the commission was presumably thinking,  
17 are any rules being broken; correct?  
18 A Yes. And there was no rule broken as far as  
19 planting, but it's common sense you -- if  
20 every grower -- every grower did what Prokam  
21 did, it would be a blood bath and the market  
22 would be finished.  
23 Q But that -- that again is not -- there's no  
24 concern that the commission had, at that  
25 time, that Prokam was breaking any rules?  
26 A Not breaking rules, no.  
27  
28 Were you asked those questions, and did you give  
29 those answers?  
30 A Yes.  
31 Q And were they true?  
32 A Yes.  
33 Q You were a commissioner in 1993 and 2021;  
34 correct?  
35 A Yes.  
36 Q And the commission has produced some signed  
37 conflict of interest undertakings, and I want to  
38 take you to those. And this is Exhibit 30 at  
39 page 12. Mr. Guichon, do you see commission  
40 member of disclosure of membership and other  
41 organizations that you prepared?  
42 A Yes.  
43 Q And do you see your signature here at the bottom,  
44 April 5th, 2013?  
45 A Yes.  
46 Q And you've disclosed the other organizations that  
47 you have membership in including that you're the



- 1           accountable to all licensed producers of BC grown  
2           regulated vegetables for the appropriate use of  
3           delivery allocation and the core values on which  
4           delivery allocation is established. You see  
5           that?
- 6           A     Yes, I do.
- 7           Q     And then it talks about delivery allocation and I  
8           just want to go to one of the paragraphs in this  
9           letter which discusses ... so we're at page 849  
10          and the heading is "Operating In Noncompliance  
11          with 2016-2017 Crop Year." "Over 2016-2017 crop  
12          year Prokam's potato shipments were significantly  
13          greater than its assigned delivery allocation."  
14          See that?
- 15          A     Yes, I do.
- 16          Q     It says -- and then further down it says:
- 17                                 Shipments were nine times Prokam's delivery  
18                                 allocation entitlement in period A and seven  
19                                 times it's entitlement in period B.
- 20
- 21
- 22          A     Yes.
- 23          Q     Right. And then it sets out here on the chart on  
24          what the actual shipments were versus the  
25          delivery allocation.
- 26          A     Okay.
- 27          Q     See that?
- 28          A     Yes, I do.
- 29          Q     And would you agree with the commission's  
30          analysis here is that in fact the delivery  
31          allocation was greater than -- the shipments were  
32          greater than the delivery allocation?
- 33          A     They were. Like I said, I'm a grower and if my  
34          agency requires potatoes above my DA and they  
35          have no avenue of getting those potatoes, it's  
36          also called gap billing. So if the agency is in  
37          need of potatoes and they wanted me to grow them,  
38          they had no other source of getting them, so I  
39          was directed to do so, so I did so.
- 40          Q     All right. So we'll come back to that but again  
41          what I'm trying to get at, then, is how many tons  
42          did you ship in period A in this year, in this  
43          crop year, 2016/2017? Do you know?
- 44          A     I do not know.
- 45          Q     And what was your delivery allocation for that  
46          crop year?
- 47          A     I'm not sure what it was but the demand for IVCA

1 exceeded my delivery allocation and that is  
2 allowed I was told by my agency.  
3 Q Leaving it aside whether it's allowed or not the  
4 letter contained an appendix B; okay?  
5 A Okay.  
6 Q Which sets out what the delivery allocation was  
7 and the total potatoes. So it looks like on this  
8 appendix you can see the delivery allocations?  
9 A M'mm-hmm.  
10 Q So it look like a delivery allocation for periods  
11 A, B -- categories A, B, C and D was 130 and your  
12 total shipped was 827; is that correct?  
13 A I believe so.  
14 Q And the same thing -- sorry. Your delivery  
15 allocation I guess is 827 and your total potatoes  
16 shipped is 2135. Does that make sense?  
17 A Okay.  
18 Q Does that make sense to you?  
19 A I don't know the exact numbers but it might be  
20 right.  
21 Q Okay. All right. All right. Going to go back  
22 to the decision. And I want to take you to a  
23 couple of paragraphs. I think I'm making the  
24 same mistake I did earlier. Sorry about that.  
25 Hang on a second. My apologies. Okay. Sorry  
26 about that. I want to take you to paragraph 26  
27 of this decision, sir?  
28 A Okay.  
29 Q And you can see it says:  
30  
31 On the evidence there's no dispute that  
32 Prokam grew Kennebec potatoes without DA.  
33 Mr. Dhillon confirmed that IVCA president,  
34 Mr. Michell, wanted to make sure that if  
35 there was a gap in production due to  
36 inconsistent quality, IVCA could fill the  
37 gap.  
38  
39 Do you see that?  
40 A Yes, I do.  
41 Q Paragraph 27 says:  
42  
43 Mr. Dhillon, either in his role as the  
44 principal of Prokam or as a director of  
45 IVCA, did not seek approval from the  
46 commission before producing or shipping  
47 regulated product not covered by or in

1 letter that addresses the need to hold  
2 Prokam and to prices at IVCA accountable to  
3 all licenced producers ...  
4

5 et cetera.

6 Now, I want to understand -- we -- we're now  
7 at -- we've gone through April and May where  
8 there's been discussions, as you've indicated, on  
9 the various topics that we've seen. There's been  
10 discussion of the pricing policy and the fact  
11 that it'll be approved at the next Commission  
12 meeting, and then you send out this email, and  
13 you also attach a letter, which I'll take you to,  
14 and it says "subject, 2017/06/13 letter to Prokam  
15 and IVCA." So why on June 14th -- what prompted  
16 the sending of this letter, or this email and the  
17 attached letter?

18 A What prompted was that we knew that IVCA had  
19 growth ambitions. We had been asking for a  
20 marketing business plan from them, and we never  
21 received one. I looked at historical information  
22 that was part of that April growth ambition  
23 information that we brought forward at that  
24 meeting, looking at shipments over the past year  
25 on -- shipments versus [indiscernible]  
26 allocation. We saw that there was growth and we  
27 saw there were ambitions, and we needed a  
28 marketing plan about where this product was  
29 placed -- being placed into the market.

30 Q In any event, in this email you talk about  
31 various points, and I've highlighted a portion  
32 where you talk about delivery allocation being  
33 one of two critical components of orderly  
34 marketing that are essential [indiscernible] and  
35 the other is minimum price.

36 A Correct.

37 Q And you then say:

38  
39 Over the past couple of years, there has  
40 been considerable between storage  
41 [indiscernible] agencies, producers and  
42 commissioners about orderly marketing and  
43 tools that are being used to manage the  
44 system. The importance to enforce delivery  
45 allocation at an industry level has also  
46 been well documented as an outcome of the  
47 supervisory review on Vancouver Island that

1                   was completed in January.

2

3                   Is that accurate? Is that what the sentiment  
4                   was?

5           A        Correct.

6           Q        All right. And then you attached to that the  
7                   letter dated June 14th, right?

8           A        Correct.

9           Q        [Indiscernible] Bob Dhillon and the principal of  
10                   Prokam and Mr. Brian Meyer, as representative of  
11                   Island Vegetable Cooperative Association, as the  
12                   general manager, right?

13          A        Correct.

14          Q        Okay. And the letter starts out by saying you --  
15                   there's a need to hold Prokam and IVCA  
16                   accountable, correct?

17          A        Yes.

18          Q        And then the third paragraph, you talk about  
19                   delivery allocation being one of two critical  
20                   components.

21                   And I'm not going to take you through the  
22                   letter in detail. You talk about a number of  
23                   topics. You set out that Prokam -- I'm at page  
24                   849, that Prokam shipments were significantly  
25                   greater than its assigned delivery allocation,  
26                   and that shipments were nine times forecast  
27                   delivery allocation. How did you have all of  
28                   this information? How did you know this?

29          A        Well, we collect shipment information, and that  
30                   is entered into BCVMC database. Delivery  
31                   allocation, as everyone knows, is based on a  
32                   five-year rolling average of shipments, and that  
33                   is earned delivery allocation -- a compilation of  
34                   earned delivery allocation, and you can have rent  
35                   and delivery allocation, which is different. But  
36                   that's how we knew.

37          Q        All right. In any event, at the -- near the  
38                   bottom of page 849, you say:

39

40                   No marketing plan was submitted by IVCA  
41                   requesting improved growth and a shift of  
42                   potato production into A and B periods.  
43                   This behaviour is a non-compliance.

44

45                   And that -- the underlining is your underlining  
46                   originally, correct?

47          A        Correct.

1 agency -- how an agency should be acting as an  
2 agent of a Commission. I -- I had discussions  
3 with Alf on this, and as a result of those  
4 discussions, we issued a letter.  
5 Q In response to this letter?  
6 A Correct.  
7 Q All right. I'll get to that in a minute. First  
8 I want to take you to the response, because this  
9 letter was also written to BCFIRB, and you've  
10 seen the BCFIRB response of July 20th? Did --  
11 you had a chance to see --  
12 A Yes.  
13 Q -- this letter?  
14 A Yes, I'm just reading through it again here.  
15 Q Okay.  
16 A Okay.  
17 Q You didn't have anything to do with this letter,  
18 right?  
19 A No.  
20 Q All right. And now I'm going to get to your  
21 response letter, which is at 931. So this is the  
22 letter written August 14th, 2017. Is this the  
23 response you're referring to?  
24 A Correct.  
25 Q All right. And you say to -- you write to Mr.  
26 Michell and Ms. [indiscernible], who were the  
27 authors of the letter, right?  
28 A Correct.  
29 Q You write to them, saying thank you for your  
30 letter. You talk about significant amount of  
31 time being spent discussing principles, general  
32 order and policies, correct?  
33 A Correct  
34 Q All right. And you say:  
35  
36 The Commission has two requests that support  
37 its response to immediate issues. Number  
38 one, your attendance at the next Commission  
39 meeting September 6th to discuss IVCA's  
40 marketing plan.  
41  
42 A Correct.  
43 Q And number 2:  
44  
45 The circulation of your July 10th letter,  
46 with all storage crop agencies to provide  
47 the agencies an opportunity to comment.

- 1 Kennebec potatoes in BC?
- 2 A No, not -- for Kennebec potatoes?
- 3 Q Yes?
- 4 A Oh, I don't know what the percentage would be,  
5 but it's less than -- might be 35 or 40 percent.  
6 I'm just guessing. I don't have the numbers in  
7 front of me.
- 8 Q But it's a significant percentage of the delivery  
9 allocation for Kennebec potatoes; right?
- 10 A Yes.
- 11 Q So would it be fair to say that the comments you  
12 were making at this meeting was really to protect  
13 your own self-interest so that Prokam wouldn't  
14 get more delivery allocation at the cost of your  
15 family or your organization getting less?
- 16 A No. All of his sales that you just had on your  
17 chart there were not Kennebec potatoes. They  
18 were all reds, whites, and yellows. And I have  
19 no problem with anybody gaining quota if it's  
20 done properly. But to not come with a marketing  
21 plan and ship 400 percent -- I'm pretty sure I  
22 saw 470 percent there on that chart, without a  
23 marketing plan, I and the rest of the growers  
24 panels, whatever, you know, there's a process to  
25 be done. Bring your -- come to the commission  
26 with your planning intentions or your marketing  
27 plan and do it.
- 28 Q Well, let me put it to you this way,  
29 Mr. Guichon, so you have an opportunity to answer  
30 the allegation. You knew that Mr. Dhillon was  
31 not going to rent you his land in 2016 or 2017.  
32 You weren't happy about that. You found out that  
33 he was planting more than his delivery allocation  
34 and you found out that he was shipping more than  
35 his delivery allocation. And so really, the  
36 comment you made at this meeting and potentially  
37 the other meeting we just saw in April, was  
38 really aimed because of some personal unhappiness  
39 or call it animosity you had towards Mr. Dhillon  
40 and Prokam and that was the reason you were  
41 trying to block Prokam from getting further  
42 delivery allocation; isn't that the case?
- 43 A That's not true at all. The fact that we didn't  
44 get 20 acres from Mr. Dhillon, that didn't bother  
45 me at all or my family at all. We lose acres  
46 every year. We go and either find them or not.  
47 20 acres on our 900-acre potato farm is nothing.

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

1 A Yes.  
2 Q And you aren't aware of any errors transcribing  
3 your evidence in the 2018 hearing?  
4 A I didn't see any, but maybe you'll take me to  
5 something that I don't disagree with, but what  
6 I've seen so far, it's okay.  
7 Q Now, you gave evidence on Wednesday that your  
8 main concern in the cease and desist orders was  
9 orderly marketing; correct?  
10 A Yes.  
11 Q And the relationship between the grower and the  
12 agency, Prokam, and IVCA, was totally broken and  
13 that was a threat to orderly marketing?  
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16 excess of its delivery allocation and that was a  
17 threat to orderly marketing; correct?  
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22 the commission with a marketing plan.  
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24 commission with the marketing plan; correct?  
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39 to do that, I think. There we go. Is that okay,  
40 Mr. Guichon?  
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42 Q Oh, it's not? Oh, okay. How about that. Is  
43 that bigger?  
44 A That's starting to work.  
45 Q Okay.  
46 A Yeah. That's big enough. I can see that, I  
47 think. There we go.



- 1 A I did. Again, I'll stress that there's nothing  
2 wrong with the planting, but I said earlier and  
3 at that hearing that they had to come with a  
4 marketing plan; that's the big thing, the  
5 marketing plan to the agency to sell that crop  
6 because it's well in excess what they planted.  
7 And, yes, I did say, there's nothing wrong with  
8 that, but coupled with that has to be a marketing  
9 plan to come before the commission, and they  
10 never did so.
- 11 Q And that's IVCA that's to submit the marketing  
12 plan, the agency; correct?
- 13 A Well, them along with their grower that's done  
14 this, and I believe the grower was on the board  
15 at the time.
- 16 Q Continuing at Exhibit 1, 2227, line 5:  
17
- 18 Q All right. So there were complaints by  
19 other BCfresh growers about Prokam's  
20 planting in excess of delivery allocation?
- 21 A Yes.
- 22 Q And that's -- that's what's animating the  
23 concern that's being expressed?
- 24 A Well, that's -- that would be only  
25 growers -- the only growers that are in the  
26 area. I mean, the whole, I mean, that's  
27 80 percent of the area as BCfresh growers,  
28 so, yes, it would be those growers.
- 29 Q Yes, but that's the concern that's animating  
30 this issue coming back to the commission  
31 table; correct?
- 32 A The BCfresh growers do not care about the  
33 extra acreage being planted providing there  
34 is a marketing plan for it.
- 35 Q All right.
- 36 A BCfresh growers themselves may plant a few  
37 extra acres here and there, but there's a  
38 marketing plan in place for it. Orderly  
39 marketing, I should stress.
- 40 Q All right. And so what -- what -- what the  
41 growers, the other growers were concerned  
42 about was orderly marketing. It wasn't  
43 about Prokam planting in excess of delivery  
44 allocation?
- 45 A That's correct.
- 46 Q And what the commission was concerned about  
47 was IVCA hadn't provided an appropriate

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

1 marketing plan; correct?  
2 A Yeah. That was -- that was a concern.  
3 Q Yes, but the commission couldn't have been  
4 concerned that about Prokam planting in  
5 excess of delivery allocation?  
6 A Within reason, but those numbers are pretty  
7 big, and I think what the BCfresh growers  
8 are thinking, if one person can go out and  
9 plant double or triple of delivery  
10 allocation, why can't we all do it.  
11 Q All right.  
12 A And --  
13 Q So that's what the growers might have been  
14 thinking?  
15 A Yes.  
16 Q But the commission was presumably thinking,  
17 are any rules being broken; correct?  
18 A Yes. And there was no rule broken as far as  
19 planting, but it's common sense you -- if  
20 every grower -- every grower did what Prokam  
21 did, it would be a blood bath and the market  
22 would be finished.  
23 Q But that -- that again is not -- there's no  
24 concern that the commission had, at that  
25 time, that Prokam was breaking any rules?  
26 A Not breaking rules, no.  
27  
28 Were you asked those questions, and did you give  
29 those answers?  
30 A Yes.  
31 Q And were they true?  
32 A Yes.  
33 Q You were a commissioner in 1993 and 2021;  
34 correct?  
35 A Yes.  
36 Q And the commission has produced some signed  
37 conflict of interest undertakings, and I want to  
38 take you to those. And this is Exhibit 30 at  
39 page 12. Mr. Guichon, do you see commission  
40 member of disclosure of membership and other  
41 organizations that you prepared?  
42 A Yes.  
43 Q And do you see your signature here at the bottom,  
44 April 5th, 2013?  
45 A Yes.  
46 Q And you've disclosed the other organizations that  
47 you have membership in including that you're the

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

1 A No. The majority of the acreage was BCfresh, but  
2 not growers.

3 Q The vast majority of the growers in your district  
4 in the lower mainland are BCfresh growers;  
5 correct?

6 A Yes. But not all for potatoes. They're growers  
7 that grow other crops too. There's -- in  
8 BCfresh, there's, you know, five growers that  
9 represent probably 85 percent of the acreage, so  
10 grower-wise, there would be more growers in the  
11 rest of the -- more potato growers or as many  
12 potato growers in the rest of the province than  
13 there is at BCfresh. The only thing is that  
14 BCfresh producers are quite a bit larger.

15 Q Going to take you back into the transcript from  
16 2018, Exhibit 1, page 2173, starting at line 9:  
17

18 Q There are a bunch of different actors with  
19 different roles in the industry. And  
20 Mr. Dhillon is a producer. There's no  
21 prohibition on planting in excess of his  
22 delivery allocation, and what you're  
23 articulating is that your concern that IVCA  
24 or someone else is going to market in excess  
25 in a way that's going to affect orderly  
26 marketing. And what I'm asking is, why is  
27 it that the commission is focusing on  
28 Mr. Dhillon? Why isn't the commission  
29 focusing on IVCA and the risk that IVCA is  
30 going to regulate, is going to market in a  
31 way that's improper?

32 A The IVCA was asked two years prior to that  
33 to bring forward a marketing plan when  
34 Mr. Dhillon started producing potatoes. It  
35 never came. We still never seen one. And  
36 the plan that was talked about in this room  
37 in the past -- the last two days, that plan  
38 was not a planting plan. That plan was --  
39 that was their application to reapply for  
40 agency status. And in that plan, they  
41 indicated that they wanted to grow more  
42 crop, but there was no specifics, like, they  
43 didn't say X amount of potatoes, X amount of  
44 anything. So we've been asked after IVCA in  
45 the grower group there to come to the  
46 commission with a plan each spring. We  
47 haven't seen it yet.

1 Q All right. I'm asking you through that you  
2 have articulated a concern about IVCA's  
3 compliance and its compliance with the  
4 direction of the commission to follow a  
5 marketing plan that was appropriate?  
6 A Yes.  
7 Q That's not what's being raised here.  
8 There's no suggestion the commission is  
9 going to speak to IVCA here about that  
10 problem. What is suggested is the issue of  
11 Mr. Dhillon and his planting will be  
12 discussed.  
13 A Mr. Dhillon was on their board.  
14 Q Well, but, is he planting in his capacity as  
15 an IVCA board member? He's planting as a  
16 grower, isn't he?  
17 A That's correct, yes.  
18 Q Yeah. All right. It just seems that  
19 there's quite a lot of attention on  
20 Mr. Dhillon and his planting when we've  
21 agreed that there's nothing wrong with that,  
22 and I'm curious as to why it is that the  
23 commission is repeatedly having this issue  
24 arise. I haven't seen reference in these  
25 minutes to any other grower being discussed  
26 in the same way.  
27 A Okay. I'll -- you know what? I will  
28 address that.  
29 Q All right.  
30 A There's a group of growers sitting behind us  
31 that have been farming for 70 and 80 and 60  
32 years and have delivery allocations the same  
33 as Mr. Dhillon or smaller. The average farm  
34 in the lower mainland, potato farm, is about  
35 120 acres. Mr. Dhillon is 120. The first  
36 and the second year, he went to 380,  
37 according to him, last year. You know what?  
38 It's time that the market was shared.  
39 Nobody walks in three years and does the  
40 kind of stuff he has done, and he's planted  
41 the product; that's good. And it has been  
42 marketed at whether it's below minimum price  
43 or not, that's the allegations, and it's not  
44 a very happy crowd out there. I can tell  
45 you that.  
46 Q Well, I've gotten that sense over the course  
47 of the couple of days we've been here. That

9

John Newell and Andre Solymosi (for Respondent)  
In chief by Mr. Hrabinsky

1           how do you -- how do you validate that? You need  
2           to put it in front of other agencies that are in  
3           the same marketplace, right? And so this was --  
4           this next step is to share this information with  
5           all agencies and have some discussion around  
6           whether or not there is a market for this extra  
7           product.

8           MR. HRABINSKY: Okay. And would you be looking for  
9           that information from growers or just from the  
10          agencies?

11          MR. SOLYMOSI: I'd be looking for it just from the  
12          agencies because they're responsible for  
13          marketing.

14          MR. HRABINSKY: All right. Let's turn to page nine  
15          fifty, please. This appears to be an e-mail  
16          dated March 24. Can you describe what this  
17          describe is?

18          MR. SOLYMOSI: Okay, so finally, finally, you know,  
19          after sending a couple e-mails out in February, I  
20          sent an e-mail out in -- in March, we finally got  
21          all the information gathered together. I had  
22          some feedback from some agencies saying this is  
23          highly confidential information, I don't want it  
24          shared with anyone. So, I decided that the next  
25          step would be let's -- let's just bring everyone  
26          together and this was the outcome of that. The  
27          title here is "Storage crop agency meeting  
28          April 5th", morning, 9:30 a.m. start time,  
29          location Delta Town & Country. And I can just  
30          read it out loud here. "I would like to hold a  
31          meeting of the storage crop agencies to discuss  
32          delivery allocation and agency growth ambitions.  
33          The best option would be to hold it in the  
34          morning of the AGM. The meeting will be kept  
35          small and include all storage crop agency  
36          managers and one or two grower representatives  
37          per agency, the BCVMC chair, and myself. The  
38          purpose of this meeting is to initiate discussion  
39          on each agency's forecast versus delivery  
40          allocation, validate growth ambitions, and  
41          determine the next steps to be recommended to the  
42          Commission." [as read]

43          MR. HRABINSKY: And did -- did that meeting, in fact,  
44          take place?

45          MR. SOLYMOSI: It -- it did, yes.

46          MR. HRABINSKY: And did it occur on the 5th of  
47          April --

- 1 IVCA only had two potato growers; is that right?  
2 Hothi Farms and Galey Farms? This would be in  
3 2013.
- 4 A Hothi Farms and Galey, yes. That would sound  
5 correct.
- 6 Q And do you recall that in 2014 and 2015,  
7 Mr. Pollock tried to sell Mr. Hothi's potatoes to  
8 Thomas Fresh and retailers, but the quality was  
9 inconsistent?
- 10 A Yes.
- 11 Q And do you recall having discussions with  
12 Mr. Pollock in 2014 about the possibility of  
13 adding Prokam as a grower to grow cabbage and  
14 potatoes for IVCA?
- 15 A Yeah. I would say, there's discussion on that,  
16 yes. I'm not sure about cabbage, but it would  
17 have been potatoes.
- 18 Q Am I right that Mr. Pollock saw an unmet need for  
19 IVCA to market potatoes to its customers because  
20 of the quality issues with Mr. Hothi's potatoes?
- 21 A That was discussed. There was discussion around  
22 that.
- 23 Q Okay. And that's something that Mr. Pollock said  
24 to you at the time?
- 25 A Yes. I would -- I would -- let's see --
- 26 Q Or is that something that --
- 27 A I think possibly had more to do with some quota  
28 being sold.
- 29 Q Okay.
- 30 A Three Star or Hothi to Mr. Dhillon.
- 31 Q And I'll get to that in a few minutes.
- 32 A Okay. Yeah.
- 33 Q I'm just asking, right now, about what led to  
34 discussions between Mr. Pollock and Mr. Dhillon  
35 and yourself about the possibility of Prokam  
36 joining IVCA. And I'm suggesting to you that  
37 it's because either Mr. Pollock or you or perhaps  
38 both of you saw an opportunity and some unmet  
39 need for IVCA to market potatoes to its current  
40 customer that could be grown by Prokam.
- 41 A I would say, that's correct.
- 42 Q Okay. Now, is the addition of a new grower  
43 something that would be typically voted on by  
44 IVCA's board? Or is that a decision that you as  
45 president and the general manager can make?
- 46 A No. That would be a director's decision.
- 47 Q Okay. And I take it, then, that such a vote was

1 planting in 2016 was something that you,  
2 Mr. Pollock, and Mr. Dhillon would have  
3 discussed; correct?

4 A I think the early planting was a limited amount,  
5 and, yeah. There would have been discussion,  
6 yes.

7 Q And I'm not going to ask you for specific amounts  
8 or numbers or anything like that. All I'm asking  
9 is that when it came time to plan for the  
10 2016/2017 growing season and determine what  
11 Prokam would be planting, there was a discussion  
12 that took place between the three of you?

13 A Yes.

14 Q So Thomas Fresh was an IVCA customer that  
15 Mr. Pollock was selling to you before Prokam was  
16 growing potatoes for IVCA; is that correct?

17 A Yes, yes. Not just potatoes, but leeks and other  
18 products, yes.

19 Q And it was Mr. Pollock who had the relationship  
20 with Thomas Fresh, not Mr. Dhillon; correct?

21 A When it came to sales, yes.

22 Q And it would have been Mr. Pollock and you, based  
23 on information that you received from Mr.  
24 Pollock, who knew the extent of the market  
25 opportunities for Prokam's potatoes; correct?

26 A Yes. We would have discussed the -- that he had  
27 potatoes, but I'm not sure entirely whether we  
28 knew how many acres or tons we were going to be  
29 producing, it would be just some potatoes for  
30 sale.

31 Q In 2016, you and Mr. Pollock asked Mr. Dhillon to  
32 plant potatoes in excess of Prokam's delivery  
33 allocation; correct?

34 A I would think that there was some discussion on  
35 my behalf on a very low percentage of over and  
36 above his DA.

37 Q Okay. Am I right that you and Mr. Pollock --  
38 well, certainly you anyway. I know you can't  
39 speak for the operation of Mr. Pollock's mind,  
40 but am I right that you understood that the sales  
41 of potatoes to Thomas Fresh in Calgary and  
42 Saskatoon would be a new market?

43 A I would understand that, yes.

44 Q And do you have a recollection of understanding  
45 at the time that the potatoes that IVCA would be  
46 selling to Thomas Fresh on the prairies would  
47 replace potatoes that Thomas Fresh would

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Tom Pollock (for Appellants)

In chief by Ms. Hunter

1 decision of theirs, we finally got Bob some quota  
2 for cabbage, but by then it was too late to  
3 plant. And a little further on in the season I  
4 met with Bob again and we talked with him  
5 potentially growing potatoes.

6 Q Okay. And -- and what -- what was your thinking  
7 at that time about the potential for -- for  
8 potatoes being grown by Prokam?

9 A Well, it seemed like that there was  
10 opportunities. Like, I know -- you know, really  
11 with Hothi if the quality would have been  
12 consistent, we would have sold more potatoes to a  
13 number of different wholesalers and retailers.  
14 And so, you know, I saw that there was an  
15 opportunity there if we could get consistent  
16 quality. And Galey Farms had fairly good  
17 quality, but they just -- they were reducing the  
18 amount of acres they -- you know, they were --  
19 they were growing each year.

20 Q Okay. And -- and what made you think that there  
21 was a market for additional B.C. potatoes if you  
22 could get them for IVCA?

23 A Well, just even, you know, in the conversations  
24 with our different clients, you know, they --  
25 they wanted to buy potatoes from us, but they --  
26 they needed a certain level of quality. I mean,  
27 we sold some to Thomas Fresh, but -- of Hothi's  
28 potatoes, but quite often there was quality  
29 issues. Same thing with Sysco, Victoria. So, it  
30 just appeared that if -- if I could have a good  
31 quality grower, then, you know, there were  
32 obviously sales there.

33 Q Okay. And -- and tell us about that relationship  
34 with Thomas Fresh you mentioned. What was that  
35 relationship like when you started in 2013 and --  
36 and how did it evolve over time?

37 A Really it was initially through the general  
38 manager in the Surrey branch for Thomas Fresh,  
39 Heron, I don't remember his last name now, but,  
40 again, it was -- you know, we tried different  
41 times to, you know, supply potatoes to him, but,  
42 again, it was just the consistency of the  
43 quality. I guess it was later on in 2014, in the  
44 spring of 2014, I think it was May I went out to  
45 Calgary to meet with some different groups out  
46 there, Thomas Fresh being one of them. And it  
47 was through that initial meeting with Roy Hinchey



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Tom Pollock (for Appellants)

In chief by Ms. Hunter

- 1 at Thomas Fresh that, you know, he expressed  
2 interest in having the ability to buy B.C.-grown  
3 potatoes.
- 4 Q Okay. And -- and focusing on that first meeting  
5 that you had with Mr. Hinchey, how did that  
6 meeting come about?
- 7 A I had called out there and set up some meetings  
8 not only with -- with Thomas Fresh but with IGA  
9 and with the Federated Co-op to meet with,  
10 you know, their -- their buying groups, not just  
11 on potatoes but on other things. And in meeting  
12 with Roy, you know, the focus -- you know, the  
13 interest was in potatoes primarily.
- 14 Q Okay. And -- and what do you recall about  
15 what -- what Mr. Hinchey said about the interest  
16 in potatoes?
- 17 A Well, I mean, it was -- when I was sharing that I  
18 had a -- a new grower with IVCA that was in the  
19 Fraser Valley, he was interested in growing  
20 potatoes, I mean, that was really the starting  
21 point because Roy was somewhat familiar with the  
22 area and knew that that area could produce pretty  
23 good quality potatoes and, you know, they could  
24 be grown -- you know, begin to harvest fairly  
25 early in the season.
- 26 Q Okay. And -- and did you understand what -- how  
27 Thomas Fresh was meeting its needs at that time  
28 that -- that could be met by B.C. potatoes if you  
29 were able to supply them?
- 30 A Well, yeah, Roy had shared that they imported a  
31 lot of potatoes from the U.S. and that, you know,  
32 the desire was to have, you know, B.C.-grown  
33 product for Surrey, but also to begin to replace  
34 U.S. imported potatoes. I mean, the dollar was  
35 changing and, you know, I think everybody would  
36 rather have, you know, a B.C. or Canadian grown  
37 potato than an imported U.S.
- 38 Q Okay. And -- and did you have -- at that initial  
39 meeting, in, I guess, 2014, did you have  
40 discussions about the terms on which IVCA and --  
41 and Thomas Fresh might do business?
- 42 A The terms as being how?
- 43 Q Yeah. How much you might be able to sell, at  
44 what price, what -- what time in the season, that  
45 sort of thing?
- 46 A It was pretty early on in the discussions for  
47 that. I mean, it -- it really was just that --

1 right?  
2 A Yes.  
3 Q I think, at this point, it's been over 25 years  
4 that you've been director of IVCA?  
5 A That could very well be, yes.  
6 Q Okay. Currently, how many growers does IVCA  
7 have?  
8 A Approximately seven -- seven, and one or two of  
9 those are, you know, don't really ship much at  
10 all, so a good four of us that represent IVCA.  
11 Q Okay. How long have you been a grower for IVCA?  
12 A Seems like 100 years. Let's see. The family's  
13 been there since IVCA was -- I think in the 50s,  
14 so we've been a member since the 50s.  
15 Q And your family has actually been growing on your  
16 land since the 1860s or thereabouts. Is that  
17 right?  
18 A 1868, yes.  
19 Q I heard it said before that when they think of  
20 IVCA, they think of Terry Michell. Have you  
21 heard that before?  
22 A Not directly, no.  
23 Q Am I right that you are, by far, the largest  
24 grower for IVCA by tonnage shipped?  
25 A Yes.  
26 Q And with the possible exception of Prokam when it  
27 was growing for IVCA, you have been the largest  
28 grower in terms of tonnage shipped by a wide  
29 margin for IVCA for several years; is that right?  
30 A For several years? I would say, yes.  
31 Q And because you have been a director for IVCA for  
32 so long and because you're the president, am I  
33 right that you have considerable influence when  
34 it comes to decisions affecting IVCA?  
35 A I would think so.  
36 Q Is it fair to say that you exercise a greater  
37 degree of control over the operations and  
38 management of IVCA than your fellow directors?  
39 A Possibly. I'm not sure whether I do, but  
40 possibly.  
41 Q For example, you're the only director with  
42 signing authority in IVCA's bank accounts; is  
43 that right?  
44 A Well, because I'm the president, yes, and the  
45 director.  
46 Q And that's true, currently, as well as in 2017;  
47 correct?

- 1 A Yes. We usually have a -- the president and the  
2 manager, yes. It's normal that's how -- yes,  
3 that's how we operate.
- 4 Q Okay. So, for example, Mr. Dhillon never had  
5 signing authority in IVCA's accounts, did he?
- 6 A No.
- 7 Q And while we're talking about it, neither did  
8 Mr. Gill; correct?
- 9 A Correct.
- 10 Q And when Mr. Meyer or his predecessor,  
11 Mr. Pollock, needed direction with respect to  
12 operational decisions, they typically went  
13 directly to you; correct?
- 14 A I would say, probably -- probably. I would think  
15 so, or I would say, would have had a general  
16 consensus for the directors.
- 17 Q And I'm talking about more so the day-to-day  
18 operations of the agency for decisions that don't  
19 require a vote from the board.
- 20 A I would say, correct.
- 21 Q Now, I want to ask you some questions about the  
22 circumstances in which Prokam joined IVCA as a  
23 grower, and I'm going to enlist your help,  
24 Mr. Michell, because I think it's going to be  
25 useful for Mr. Chair to have some of this  
26 background leading up to 2017. And you're the  
27 perfect witness for that because of your  
28 longevity with IVCA and because your memory seems  
29 quite good. So I'll suggest to you that Prokam  
30 joined IVCA as a grower in 2014; is that right?
- 31 A 2014. That's entirely possible, yes. That  
32 sounds about the correct year, yes.
- 33 Q And at that time, IVCA's general manager was  
34 Tom Pollock?
- 35 A Yes.
- 36 Q And I believe it was Mr. Pollock's evidence in  
37 2018 that he was GM from July of 2013 to December  
38 2016. Does that accord with your recollection?
- 39 A Three years. I would say, that's right.
- 40 Q Okay. And Mr. Pollock had a background and had  
41 experience in business; correct?
- 42 A Yes.
- 43 Q And in business growth specifically. Is that  
44 your recollection?
- 45 A The way I understood it, yes. I would think so.  
46 Advertising and such, yes.
- 47 Q And at the time, as Mr. Pollock started as GM,

1 and Mr. Dhillon wasn't a close family member, was  
2 off side this amending order number 43; is that  
3 your recollection?  
4 A It's either sell all or none.  
5 Q Okay.  
6 A That's what I recall, which we kind of objected  
7 to.  
8 Q Okay. And do you recall that IVCA appealed the  
9 amending order 43?  
10 A Yes.  
11 Q And Mr. Pollock led the charge, so to speak, in  
12 prosecuting the appeal for IVCA; is that right?  
13 A Yes.  
14 Q And I take it that Mr. Pollock consulted with you  
15 regarding the strategy and positions to take in  
16 that appeal; is that your recollection?  
17 A Yes, I would think so, yes.  
18 Q And you actually testified in that appeal in May  
19 of 2015; is that right?  
20 A Yes, I did.  
21 Q And, ultimately, IVCA's appeal was successful;  
22 correct?  
23 A Correct.  
24 Q You may or may not recall the date, but I'll  
25 suggest to you that it was December 18th, 2015.  
26 Does that sound about right?  
27 A If there's evidence of that, then that's the  
28 date.  
29 Q Do you have a recollection that the decision came  
30 out around the end of 2015?  
31 A Yes.  
32 Q And so the transfer of delivery allocation for  
33 Mr. Hothi, Sr., to Three Star Farms and Prokam  
34 was approved in 2016. Is that your recollection  
35 as well?  
36 A I know it was approved, so, yes.  
37 Q So for the 2016/2017 growing season, Prokam had  
38 delivery allocation for potatoes?  
39 A Yes.  
40 Q Okay. And Prokam did, in fact, plant and grow  
41 potatoes for IVCA in 2016; is that right?  
42 A 2016, yes.  
43 Q And do you recall that Mr. Pollock then marketed  
44 to Thomas Fresh and other customers those  
45 potatoes that were grown by Prokam?  
46 A Yes.  
47 Q And the acreage of potatoes that Prokam would be

1 planting in 2016 was something that you,  
2 Mr. Pollock, and Mr. Dhillon would have  
3 discussed; correct?

4 A I think the early planting was a limited amount,  
5 and, yeah. There would have been discussion,  
6 yes.

7 Q And I'm not going to ask you for specific amounts  
8 or numbers or anything like that. All I'm asking  
9 is that when it came time to plan for the  
10 2016/2017 growing season and determine what  
11 Prokam would be planting, there was a discussion  
12 that took place between the three of you?

13 A Yes.

14 Q So Thomas Fresh was an IVCA customer that  
15 Mr. Pollock was selling to you before Prokam was  
16 growing potatoes for IVCA; is that correct?

17 A Yes, yes. Not just potatoes, but leeks and other  
18 products, yes.

19 Q And it was Mr. Pollock who had the relationship  
20 with Thomas Fresh, not Mr. Dhillon; correct?

21 A When it came to sales, yes.

22 Q And it would have been Mr. Pollock and you, based  
23 on information that you received from Mr.  
24 Pollock, who knew the extent of the market  
25 opportunities for Prokam's potatoes; correct?

26 A Yes. We would have discussed the -- that he had  
27 potatoes, but I'm not sure entirely whether we  
28 knew how many acres or tons we were going to be  
29 producing, it would be just some potatoes for  
30 sale.

31 Q In 2016, you and Mr. Pollock asked Mr. Dhillon to  
32 plant potatoes in excess of Prokam's delivery  
33 allocation; correct?

34 A I would think that there was some discussion on  
35 my behalf on a very low percentage of over and  
36 above his DA.

37 Q Okay. Am I right that you and Mr. Pollock --  
38 well, certainly you anyway. I know you can't  
39 speak for the operation of Mr. Pollock's mind,  
40 but am I right that you understood that the sales  
41 of potatoes to Thomas Fresh in Calgary and  
42 Saskatoon would be a new market?

43 A I would understand that, yes.

44 Q And do you have a recollection of understanding  
45 at the time that the potatoes that IVCA would be  
46 selling to Thomas Fresh on the prairies would  
47 replace potatoes that Thomas Fresh would

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2 Mr. Pollock, and Mr. Dhillon would have  
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8 or numbers or anything like that. All I'm asking  
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46 selling to Thomas Fresh on the prairies would  
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Terrence Michell (a witness)  
Cross-exam by Cnsl R. Androsoff

1 otherwise have bought from the United States?

2 A That's what I -- that's the impression I had,  
3 yes. That's what was conveyed to me, yes.

4 Q And it was also conveyed to you that  
5 Thomas Fresh -- the reason Thomas Fresh would  
6 otherwise be buying potatoes from the  
7 United States is because Thomas Fresh refused to  
8 buy potatoes from BCfresh; is that right?

9 A I'm not sure. I think there was a mutual  
10 agreement there -- it was not interested in  
11 selling to them, and the other was not interested  
12 in purchasing from them, so it was -- I'm not  
13 sure what was going on there, but they didn't  
14 purchase their potatoes.

15 CNSL R. ANDROSOFF: Mr. Chair, on my end, Mr. Michell  
16 cut out a bit during that last answer. I wonder  
17 if we might just check with Madam Reporter  
18 whether she got all of Mr. Michell's answer.

19 THE CHAIR: Do we have a full record of Mr. Michell's  
20 answer?

21 THE REPORTER: I have what he said if you wanted me to  
22 read back. If there was a gap in there, then I  
23 can -- maybe he can fill it in. I can read back  
24 what I have.

25  
26 **(REPORTER READS BACK)**  
27

28 CNSL R. ANDROSOFF: Thank you. It might have just  
29 been cutting out on my end over here.

30 Q Now, as the president of IVCA, you had access to  
31 shipment information; is that right, Mr. Michell?

32 A I would have, yes. It was -- it was probably  
33 more brought to my attention than me looking for  
34 tonnage shipped, yes.

35 Q And do you have a recollection in 2016 of  
36 reviewing shipment reports?

37 A Yes, yes. That was brought -- that was at a  
38 meeting, yes.

39 Q And in terms of approving and signing off on the  
40 pool payments, that was something that you did as  
41 president of IVCA; is that right?

42 A Correct.

43 Q Okay. And so in 2016, you knew that Mr. Pollock  
44 was selling Prokam potatoes to Thomas Fresh on  
45 the prairies in excess of Prokam's delivery  
46 allocation; correct?

47 A Yes.

Terrence Michell (a witness)  
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40 pool payments, that was something that you did as  
41 president of IVCA; is that right?

42 A Correct.

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44 was selling Prokam potatoes to Thomas Fresh on  
45 the prairies in excess of Prokam's delivery  
46 allocation; correct?

47 A Yes.



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

1 A Like I say, I don't think I've even seen that  
2 before, but I recall that's what I'm asking  
3 whether they would be in our files at our agency,  
4 so --

5 Q I didn't ask you whether you'd seen them. I  
6 asked you when did you first become aware that  
7 these contracts had been entered into?

8 A I'm not even sure I'm aware of it because we  
9 never had contracts before. Our agency  
10 doesn't -- we don't do contracts.

11 Q Your evidence is that you may be finding out for  
12 the first time today that these contracts were  
13 entered into?

14 A It could be. I'd have to go back, and, like I  
15 say, that doesn't really tell too much. It's  
16 got, you know, Mr. Gill's signature on there, and  
17 a representative of Thomas Fresh, but I would  
18 have to say that I'd be surprised if I've seen  
19 those before.

20 Q And, again, I'm not talking about whether or when  
21 you may have seen them. But I'm going to suggest  
22 to you that you were aware, no later than July of  
23 2017, that IVCA had entered into agreements or  
24 contracts with Thomas Fresh for the sale of  
25 Prokam grown potatoes for the 2017/2018 growing  
26 season. Do you agree with me?

27 A Can you ask that question one more time, please.

28 Q Sure. I'm going to suggest to you that you were  
29 aware, no later than July of 2017, that IVCA and  
30 Thomas Fresh had entered into agreements or  
31 contracts with respect to the sale of Prokam  
32 grown potatoes to Thomas Fresh for the 2017/2018  
33 growing season. Do you agree?

34 A I would agree that I was aware that they were  
35 going to be interested in purchasing, but I'm not  
36 sure of the -- I'm aware of the contract.

37 Q Okay.

38 A That's my recollection. Because, you know, every  
39 year we discuss on who our potential new  
40 customers are and that, but, like I say, when it  
41 comes to a contract, I'm somewhat skeptical of  
42 that.

43 Q Okay. You gave evidence earlier that when it  
44 came to IVCA sales of Prokam grown potatoes to  
45 Thomas Fresh on the prairies in 2016, you were  
46 aware that those sales were in excess of Prokam's  
47 delivery allocation; correct?

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

- 1 A Yes.
- 2 Q And am I right, then, that would have been your  
3 understanding and expectation that IVCA would be  
4 selling Prokam potatoes to Thomas Fresh in 2017  
5 at similar volumes to 2016?
- 6 A I was aware that they were going to be -- they  
7 were wanting to purchase potatoes.
- 8 Q At similar volumes as what they bought in 2016  
9 from IVCA?
- 10 A I wasn't sure of the volumes, but I would think  
11 that probably would be similar.
- 12 Q Okay. Now, you had a discussion with Mr. Dhillon  
13 and Mr. Meyer at some point prior to May 31st,  
14 2017, about what Prokam's acreage for the  
15 2017/2018 growing season should be; correct?
- 16 A Possibly.
- 17 Q Okay. You gave evidence that that conversation  
18 occurred in 2016 between you, Mr. Pollock, and  
19 Mr. Dhillon. Do you remember giving that  
20 evidence?
- 21 A Yes.
- 22 Q And I'm suggesting to you that a similar  
23 conversation took place in 2017 at this time  
24 between you, Mr. Meyer, and Mr. Dhillon with  
25 respect to the acreage that Prokam should plant.  
26 Do you agree?
- 27 A I would think so, and usually at -- each grower  
28 would send in their planting intentions to the  
29 agency.
- 30 Q Okay. Certainly, you were aware no later than  
31 May of 2017 of what Prokam's acreage was, planted  
32 acreage?
- 33 A I don't know the numbers that they had, but I  
34 know they were planting potatoes, and we never,  
35 you know, we never went there visually to see  
36 what was being planted. We just took their word  
37 what was being planted.
- 38 Q You had a discussion, and together, the three of  
39 you decided what Prokam should plant and what  
40 varieties, and how many acres for each variety?
- 41 A I wouldn't -- I wouldn't say how many acres --  
42 probably varieties we would discuss, but I  
43 wouldn't be privy of how many acres.
- 44 Q Okay. I'm going to take you to a document that  
45 may assist in refreshing your recollection. It's  
46 page 3389 of Exhibit 1. And there's been  
47 evidence given in this proceeding that these are

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

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3 understanding and expectation that IVCA would be  
4 selling Prokam potatoes to Thomas Fresh in 2017  
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7 were wanting to purchase potatoes.
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9 from IVCA?
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11 that probably would be similar.
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13 and Mr. Meyer at some point prior to May 31st,  
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18 occurred in 2016 between you, Mr. Pollock, and  
19 Mr. Dhillon. Do you remember giving that  
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23 conversation took place in 2017 at this time  
24 between you, Mr. Meyer, and Mr. Dhillon with  
25 respect to the acreage that Prokam should plant.  
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28 would send in their planting intentions to the  
29 agency.
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31 May of 2017 of what Prokam's acreage was, planted  
32 acreage?
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34 know they were planting potatoes, and we never,  
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36 what was being planted. We just took their word  
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39 you decided what Prokam should plant and what  
40 varieties, and how many acres for each variety?
- 41 A I wouldn't -- I wouldn't say how many acres --  
42 probably varieties we would discuss, but I  
43 wouldn't be privy of how many acres.
- 44 Q Okay. I'm going to take you to a document that  
45 may assist in refreshing your recollection. It's  
46 page 3389 of Exhibit 1. And there's been  
47 evidence given in this proceeding that these are

1 text messages between Brian Meyer and  
2 Bob Dhillon. Bob Dhillon is in the green, and  
3 Brian Meyer is in the grey. Do you see this up  
4 on your screen?  
5 A I can see that, but I'm not sure what it's  
6 referring to.  
7 Q That's okay. And I'll just help you by letting  
8 you know that the evidence that's been given in  
9 this proceeding is that the green is Bob Dhillon,  
10 and he's messaged Mr. Meyer saying -- and this is  
11 May 31st, 2017. You can see above my cursor  
12 there?  
13 A I see that, yes.  
14 Q  
15 Keep on the down-low acres potato I got.  
16  
17 And then Mr. Meyer responds:  
18  
19 The only people that know are me and Terry.  
20  
21 Do you see that?  
22 A I see that.  
23 Q Okay. So I'm suggesting to you that you did, in  
24 fact, know not just the varieties that Prokam was  
25 planting, but also the acreage for each variety  
26 for the 2017 and 2018 growing season.  
27 A Is he referring to acres? Or is he referring to  
28 varieties there? I don't know.  
29 Q He says, "acres," here. "Acres potato I got."  
30 A Acres. Okay. Yeah. I see that there, yeah.  
31 Q Okay. And the reason that you did know was  
32 because you and Mr. Meyer and Mr. Dhillon had a  
33 conversation planning what acreage Prokam should  
34 plant for that growing season; correct?  
35 A Yeah. But I was not sure what was followed  
36 through on there. In acres, that is.  
37 Q Right. Now, as part of that discussion, do you  
38 recall that you asked Mr. Dhillon to plant  
39 Kennebec potatoes?  
40 A Did I ask him to? I don't think I asked him to  
41 do much of -- he would -- he would basically tell  
42 us what he was intending on planting.  
43 Q Okay. I'm going to take you to your interview  
44 summary. The summary of the interview that you  
45 had with Mr. Wittal on January 27th, 2022. I'll  
46 just put that up on the screen. It's page 5658  
47 of Exhibit 1. Is that large enough for you to be

1 A I wouldn't know whether it was the first time or  
2 not. I wouldn't know that.

3 Q You may not have known that, but you certainly  
4 would have known sometime around this time that  
5 there was now a price set for the export of  
6 potatoes to the prairies?

7 A I probably would have been told about it.

8 Q Okay. And you can see there's an email in  
9 response where Bob Gill copies Brian Meyer and  
10 Bob Dhillon saying:

11  
12 Hi, Brian, how are you going to handle this  
13 new change in policy by the commission?  
14

15 And then Brian Meyer responds:

16  
17 We'll let you know when I know.  
18

19 Do you see that?

20 A Yeah. I see that, yes.

21 Q So certainly, IVCA would have known about this  
22 change that occurred in August 2017; right?

23 A I would think so, yes.

24 Q All right.

25 A Obviously, the manager knew, yes.

26 Q All right. Now, sir, I want to just move  
27 slightly differently, ask you slightly different  
28 questions.

29 You were aware in early 2017 that Prokam did  
30 not have delivery allocation for Kennebec  
31 potatoes; right?

32 A I don't -- I think that I was -- I was aware. I  
33 think I was aware that they did not have delivery  
34 allocation.

35 Q But you had a discussion with Mr. Dhillon or  
36 others at Prokam to grow Kennebec potatoes on  
37 speculation that IVCA may need them to fill a  
38 gap. Do you recall that or discussions around  
39 that?

40 A I think there was discussions around that.

41 Q Can you tell us, was it a discussion you had with  
42 Mr. Dhillon, then?

43 A I think it was a general conversation on filling  
44 gaps on, you know, I mean, growers, you know, we  
45 take risks on everything we grow, and we have,  
46 you know, we produce a bit extra above our quota  
47 possibly to -- if there's shortages, then we have

1 it. It's entirely up to the grower. If there's  
2 not a sale for it, then they have to destroy it,  
3 so -- it would have been a general -- I think I  
4 heard later at some point that he had planted  
5 some.  
6 Q And did he discuss with you that he was going to  
7 plant some and seek your approval or your  
8 agreement to do so?  
9 A I don't think it would be up to me to approve it  
10 or disapprove it.  
11 Q Okay. But did he seek your -- if not approval,  
12 at least agreement or tacit understanding that he  
13 was growing that?  
14 A Probably be an understanding that -- I would say  
15 it would be an understanding that, you know, you  
16 have to test the market, obviously, but I didn't  
17 know whether he had quota or not. I didn't  
18 really -- I didn't really look into that at all.  
19 Q So do you recall any specific conversation with  
20 him, sir, as you sit here today? Do you recall  
21 any specific conversation about growing Kennebec  
22 potatoes?  
23 A I don't think I heard it from him. I think Brian  
24 may have told me. I'm just -- just trying to  
25 recall.  
26 Q Sure. It's a long time ago, and if you don't  
27 recall --  
28 A I think the fact that -- I think the fact -- I  
29 recall that, you know, there was discussion on  
30 growing a very limited amount to test the waters,  
31 and I'm not sure whether there were -- he had  
32 purchased quota from another grower as he did  
33 with his reds and yellow and so forth.  
34 Q Right.  
35 A I would say, there was a general discussion about  
36 it. And I, at that time, probably I wouldn't  
37 even know what time of the year that would have  
38 been, whether it was the spring, the fall before.  
39 I don't really know. Because it takes, you know,  
40 it gets seed and one thing or another, but I  
41 don't recall a planting intention of it as, you  
42 know, being sent to the office.  
43 Q All right. You recall being interviewed by me  
44 earlier, sir?  
45 A Yes.  
46 Q And I provided you with an interview report. You  
47 had a chance to review that?

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

1 A Yes.

2 Q And have you had a chance to look at that  
3 interview report recently, sir?

4 A Not in the last week or so, no.

5 Q All right. But at the time, it accurately  
6 summarized our discussion?

7 A Yes.

8 Q I'm going to take you to that interview report,  
9 sir, and I'm going to take you to the first page  
10 where -- I'm going to take you to the third  
11 paragraph, it says:

12  
13 Mr. Michell was asked about Prokam planting  
14 Kennebec potatoes when it did not have  
15 delivery allocation for Kennebec potatoes.  
16 His response was, he doesn't recall Prokam  
17 planted Kennebec potatoes -- sorry -- he  
18 does recall Prokam planted Kennebec potatoes  
19 with the risk they may not sell; however,  
20 the potatoes were planted with the view that  
21 our different producer, Three Star Farms,  
22 may not have been able to fill its DA, and  
23 thus potatoes planted by Prokam could fill  
24 the gap that Three Star may have. He  
25 acknowledged that Prokam took the risk in  
26 growing these potatoes.

27

28 Sir, is that accurate?

29 A Yes, that's accurate.

30 Q And then, sir, the next thing you say is:

31

32 Mr. Michell was asked about the relationship  
33 between IVCA and Prokam. His response was  
34 that IVCA had a huge difficulty dealing with  
35 Prokam, and the principal of Prokam,  
36 Mr. Dhillon. Mr. Michell's view was that  
37 through the summer of 2017, Prokam was  
38 acting inappropriately and was not providing  
39 the information required for the selling of  
40 its potatoes. IVCA tried to get Prokam to  
41 comply with the rules of the commission but  
42 felt that Prokam, in his words, ran  
43 roughshod over IVCA. Mr. Dhillon made  
44 threats of litigation and continually failed  
45 to comply with the request he made by IVCA.  
46 IVCA regularly requested information from  
47 Prokam, which Prokam refused or failed to

1 able to read the text on the screen?

2 A Could you make it larger?

3 Q I can. Let's see. This is going to be good.

4 A That's better.

5 Q It is better? Okay. Just above my cursor here  
6 where it says, Mr. Michell. Do you see that?

7 A Yes.

8 Q It says:

9

10 Mr. Michell is asked about Prokam planting  
11 Kennebec potatoes when it did not have a  
12 delivery allocation DA for Kennebec  
13 potatoes. His response is that he does  
14 recall that Prokam planted Kennebec potatoes  
15 with the risk that they may not be able to  
16 sell.

17

18 And that's because they didn't have DA; right?

19 A Yes.

20 Q IVCA had to honour delivery allocation first.  
21 Producers within the agency with delivery  
22 allocation, first, but if there was a customer  
23 who wanted Kennebecs and there wasn't any  
24 Kennebecs within the agency ready to sell, then  
25 if Mr. Dhillon planted Kennebecs, then that gap  
26 could be filled; right?

27 A It could possibly be filled, yes.

28 Q Okay. And, yeah. It says right here:

29

30 However, the potatoes were planted with the  
31 view that a different producer, Three Star  
32 Farms, may not have been able to fill its  
33 DA, and thus the potatoes planted by Prokam  
34 could fill the gap that Three Star may have.

35

36 Do you see that?

37 A Yes.

38 Q And where it says here, with a view, that was  
39 your view; correct?

40 A With the view, yeah. That would have been --  
41 actually, it's the view. Yeah. I'm included in  
42 that. It's the view of our agency, basically.

43 Q Right. It would have been either your view or  
44 Mr. Meyer's view; right? It would have been  
45 somebody with the knowledge of what Three Star  
46 Farms quota with respect to Kennebecs and the  
47 quality of those Kennebecs was?



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

- 1 Q Right. So in order to have a discussion about  
2 what the grower is going to be planting, somebody  
3 at the agency has to be knowledgeable about what  
4 the grower's DA is?
- 5 A I suspect, yeah. I would think it's good to know  
6 that. Yeah, for sure.
- 7 Q So out of the three of you, that would have been  
8 either you or Mr. Meyer?
- 9 A I probably wasn't privy to all the conversations,  
10 but it would be probably a good idea to know if  
11 there's some DA that the grower has or not.
- 12 Q Okay. And I'm suggesting to you that you did  
13 know that at that time. You had those numbers in  
14 front of you. Do you have a recollection of  
15 that?
- 16 A No.
- 17 Q Okay.
- 18 A I don't have a recollection of that. And I don't  
19 have a recollection of the other variety tonnage  
20 he has either, so it's -- yeah.
- 21 Q Regardless, in your mind at the time, Prokam was  
22 growing Kennebecs as a potential gap filler; is  
23 that right?
- 24 A I would think so, yes.
- 25 Q I'm going to switch to a different topic now.  
26 Do you recall in early 2017, Mr. Michell,  
27 attending meetings run by Mr. Solymosi.
- 28 A The meetings -- what's the year, sorry?
- 29 Q Early 2017, so I'm thinking February 2017, April  
30 2017. Do you recall attending a meeting on  
31 April 5th, 2017?
- 32 A No.
- 33 Q I'll suggest to you that you did attend an agency  
34 manager's meeting on April 5th, 2017, and that  
35 the reason you did so is because Mr. Meyer was  
36 only less than a week into his job and he didn't  
37 have any knowledge or experience at that point.  
38 Do you have a recollection of that?
- 39 A That would have been -- is that -- would have  
40 been at the commission office? Or do we know  
41 where that was?
- 42 Q I don't have that up right now.
- 43 A I recall going to the commission and introducing  
44 Mr. Meyer, yeah, yeah. That was probably in a  
45 meeting.
- 46 Q Okay. It may have been at a hotel as well?
- 47 A I don't ...

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

- 1 discussion with Mr. Pollock about this section  
2 "Marketing Strategy"?
- 3 A I didn't do any of that but I knew that was his  
4 strategy.
- 5 Q And then at the appendices there's a Thomas Fresh  
6 letter of recommendation. Just scroll down to  
7 that. So this -- do you recognize this letter?
- 8 A I might have went through it, yeah. That's from  
9 Thomas Fresh, yes.
- 10 Q Do you recall whether you had any part in  
11 obtaining it from Thomas Fresh?
- 12 A I don't think so.
- 13 Q All right. I want to ask you now about -- so  
14 that was -- that licence application that I just  
15 showed you was dated November 2016 and you said  
16 that was created by Mr. Pollock?
- 17 A Yes.
- 18 Q I want to ask you now about discussions about  
19 planting intentions for 2017 and as I understood  
20 your evidence from earlier those would have  
21 happened sometime likely in the late part of  
22 2016, but tell me what you recall about  
23 discussion of planting intentions for 2017?
- 24 A 2017 planting discussions were that they wanted  
25 to increase volumes because the prior year we  
26 didn't get to put any into storage. We ran out  
27 beforehand. So discussed, you know, what they  
28 would be looking for and how much of an increase.
- 29 Q Who did you have those discussions with?
- 30 A That was earlier so that would have been Tom  
31 Pollock.
- 32 Q Around what time of year?
- 33 A Towards ends of 2016.
- 34 Q Okay. And we've seen some documents that  
35 ultimately some Kennebecs were planted in 2017.  
36 What do you recall about the planting discussions  
37 about planting Kennebecs?
- 38 A I was approached by the agency. They had issues  
39 with the existing Kennebec grower being able to  
40 get his quality into the door of a few customers  
41 and they didn't want to lose the business so they  
42 had asked me if I could fill that gap for him and  
43 I agreed to.
- 44 Q And who did you have those discussions with?
- 45 A That was Terry Michell and Brian Meyers [sic].
- 46 Q So what about the -- we've heard about some  
47 contracts with Thomas Fresh. Do you know

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

1 is late July, talking about Gaily doesn't do 20  
2 pound boxes, got any extra potato boxes for  
3 Gaily, that exchange.  
4 A Gaily was another grower there that did potatoes  
5 and I guess he was out of boxes and they wanted a  
6 couple of pallets from me.  
7 Q And then on August 1st, this is Mr. Meyer to you,  
8 "so how long before Kennebec so," and what was  
9 that about?  
10 A He was asking me when the Kennebecs would be  
11 ready.  
12 Q And had you spoken with Mr. Meyer before about  
13 the Kennebecs you had on the ground?  
14 A Yeah. When we had made a plan with Brian Meyers  
15 [sic] and Terry Michell.  
16 Q Okay. Now, you were asked some questions  
17 yesterday about receiving the cease and desist  
18 order in October of 2017. What was your reaction  
19 when you received the cease and desist order?  
20 A I was very surprised.  
21 Q Did you have any advance notice it was coming?  
22 A No.  
23 Q Had anyone from the commission spoken to you  
24 prior to issuing the cease and desist order?  
25 A No.  
26 Q Did you have any opportunity to meet with the  
27 commission after it was issued?  
28 A No.  
29 Q When the cease and desist order was issued or  
30 when you received it, did you still have potatoes  
31 left to harvest?  
32 A Yes, I did.  
33 Q And around how many?  
34 A Between 30 and 40 acres.  
35 Q What type of potatoes?  
36 A We have some yellows left and Kennebecs.  
37 Q And there were some comments that were put to you  
38 by Mr. Mitha about quality issues with potatoes  
39 after October 2017. Were there quality issues  
40 with potatoes that were left after October 10,  
41 2017?  
42 A I think he was referring to our last shipment.  
43 That was our last shipment and I think it took  
44 IVCA about ten days to give us that PO and the  
45 quality just deteriorated and after that we  
46 didn't do anything more. We had no communication  
47 with IVCA.

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Bob Dhillon (for Appellants)

In chief by Ms. Hunter

1 A Yeah. Sorry.

2 Q You're talking about the episode you discussed  
3 earlier in your evidence --

4 A Yeah.

5 Q -- about the cabbage?

6 A Yeah.

7 Q All right. In terms of in 2017, after the cease  
8 and desist order was delivered, did you have any  
9 indication from the Commission that they were  
10 considering directing you to BCfresh?

11 A No.

12 Q Okay. Did you have an opportunity to make  
13 submissions on that issue prior to the receipt of  
14 this decision?

15 A No.

16 Q And -- and what was your reaction to that order?

17 A I thought it was ridiculous. I -- I just  
18 couldn't -- I couldn't wrap my head around it,  
19 why they would do that.

20 Q All right. The next one, 48.2, "Prokam's 2017-18  
21 crop year potato shipments on Kennebec potatoes  
22 and all potato exports are not to be included in  
23 the calculation of delivery allocation for the  
24 2018-2019 crop year." Starting with the first  
25 part about the Kennebec potatoes, do you know  
26 what that's all about?

27 A Yes. We -- I had a discussion with the  
28 president, Terry Mitchell, at IVCA, and they  
29 wanted to make sure that if there was a -- a gap,  
30 which there usually was, which there always was,  
31 is because of the inconsistency of Hothi  
32 potatoes. They had already lost Sysco Victoria  
33 and Vancouver, and -- and Thomas wasn't happy  
34 either, so they wanted an alternative potato.  
35 So, they asked me to grow Kennebec potatoes for  
36 that void.

37 Q All right. And -- and do you know whether any of  
38 those were shipped?

39 A After I got the cease and desist order, I think I  
40 shipped one bag.

41 Q All right.

42 A That's it.

43 Q And, sorry, when -- when do you think you shipped  
44 that bag?

45 A Probably August. Probably in August, I would  
46 think.

47 Q All right. So, sometime in the summer?

1 warning is issued to Prokam and IVCA and the  
2 warning contains five bullets: no marketing plan  
3 has been submitted by IVCA or the excess approved  
4 delivery allocation it manages; right?  
5 Intentionally planting in excess of Prokam's  
6 delivery allocation will be monitored because no  
7 marketing plan was submitted. Any volume  
8 marketed in excess of delivery allocation for any  
9 given period will require commission  
10 authorization. Shipments in excess of your  
11 agency's approved DA will be monitored. Et  
12 cetera; right?

13 A Yes.

14 Q And:

15

16 I told you what's going to happen if you  
17 fail to abide by general orders will result  
18 in enforcement, put both the producer  
19 licence and the marketing agency licence in  
20 jeopardy.

21

22 And carried on to talk about the consequences of  
23 noncompliance; right?

24 A Yes.

25 Q All right. So we saw earlier that in April there  
26 was a meeting -- a letter in May which set out  
27 concerns about enforcement and compliance and  
28 then you get this June letter which is addressed  
29 directly to Prokam and IVCA again raising  
30 concerns about Prokam's conduct vis-a-vis its  
31 delivery allocation and IVCA's conduct in the  
32 same regard; right?

33 A Yes.

34 Q And warning of the consequences of noncompliance;  
35 right?

36 A Yes.

37 Q Now, you'll agree with me that Prokam and IVCA  
38 didn't agree with this letter and didn't agree  
39 with the position that the commission was taking;  
40 right?

41 A Well, there's a string of emails that you showed  
42 me now and I think I was in on two emails. All  
43 the other meetings I wasn't even mentioned on  
44 them. So at this point I thought my agency was  
45 doing their job and I thought everything was  
46 okay. No one put any red flags that something  
47 was going wrong.

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

- 1 Q Well, sir, let's --  
2 A I see the concerns, right, but my agency was not  
3 concerned. They didn't mention anything to me.  
4 It was business as usual.  
5 Q Sorry. Go ahead and finish. I'll wait until you  
6 finish. Sorry, I shouldn't interrupt.  
7 A I'm done.  
8 Q Okay. I guess what I'm saying is there's a  
9 letter written where you were a recipient in May  
10 where there's an overall message from the  
11 commission that you better comply with the  
12 commission's requirements and orders or else  
13 there could be serious consequences, and you got  
14 that; right?  
15 A I got that, and at the same time I have an agency  
16 looking out for my best interest and looking out  
17 for farmers, so I thought I was in good hands.  
18 Q Right. But you were a grower and you were also a  
19 director and vice president of an agency; right?  
20 A Like I said earlier, right, like, there was four  
21 of us in that office. They needed another  
22 director so I was a director. And then in 2017 I  
23 was planting potatoes and I got a phone call that  
24 they wanted a meeting and I said sure. As I'm  
25 planting they have this meeting and they say  
26 whoever wants to put Bob as vice president. I  
27 said vice president? And they said yeah, we just  
28 need a vice president and thinking that would be  
29 a better title for you. I didn't think anything  
30 of it at the time. I said it's not that I make  
31 any business decisions there. You could probably  
32 tell through the string of emails, and I went  
33 with it.  
34 Q But, sir, you understood that even as a producer,  
35 as a grower, you are growing in a regulated  
36 market system; right?  
37 A 100 percent, I acknowledge that. But, you know,  
38 the agency is taking agency fees, I'm paying my  
39 dues, you know, apparently they have a plan so I  
40 thought hey, we're in the parameters where we  
41 should be and I'll let the agency take care of  
42 it.  
43 Q But, sir, you were concerned about this June  
44 letter, this June 14th letter. In fact you were  
45 very concerned about it, weren't you?  
46 A Well, I was concerned and the agency took certain  
47 steps to do that. At this time of year, like,

1           you know, I'm working 4 o'clock to 11 o'clock  
2           nights, this is why I have an agency.  
3        Q     But you wrote a letter in response to this?  
4        A     Well, you know, like you said, you know, I had a  
5           title there and like I told you, you know, that  
6           title didn't mean very much and I knew there was  
7           an issue and I left it in the hands of the  
8           capable agency.  
9        Q     Okay. And so -- but you recall writing a letter  
10           in response; right?  
11       A     The agency did. I was much too busy at that  
12           time. And the agency had written a letter and  
13           whoever's in the office, they looked at it, they  
14           were good with it, and they needed my signature.  
15           And I said that's fine, you know. I have faith  
16           in my agency and here you go.  
17       Q     Sir, would it be fair to say that you believed  
18           the commission's allegations were not  
19           substantiated?  
20       A     Well, again, you know, IVCA had a plan. I'm a  
21           grower. Like, that's as far as I go, you know.  
22           Anybody wants to know how to grow potatoes, when  
23           and how to pick them, yeah, but that was it, you  
24           know. I left the plans and everything else to my  
25           agency.  
26       Q     Sir, it wasn't just that. In fact, you  
27           personally felt that the allegations were  
28           unsubstantiated for various reasons, right, or  
29           did you not care or did you not know?  
30       A     No. Yeah, the allegations, yeah. You know, the  
31           agency was exporting, you know, and they believed  
32           that they could. That was --  
33       Q     I'm not talking about the agency. I want to talk  
34           about what you believed about this letter. This  
35           letter was written to you and you had a chance to  
36           look at it?  
37       A     Yeah.  
38       Q     Did you believe that the allegations made in this  
39           letter by the commission were unsubstantiated?  
40       A     I did -- yeah.  
41       Q     Hang on. Or did you pay no attention at all and  
42           let your agency deal with it?  
43       A     I thought we were in our parameters and I let the  
44           agency deal with it.  
45       Q     So you didn't have a view on it. You just let --  
46           you just left it in the hands of the agency?  
47       A     Yeah because I didn't think we were doing

1 anything wrong. If there was a concern I'm sure  
2 the agency would have brought it up with me.  
3 Q Well, why did you think you were -- I mean, you  
4 had planted significantly in excess of your  
5 delivery allocation; right?  
6 A Yes.  
7 Q And so that was certainly something that the  
8 agency -- the commission had pointed out that it  
9 was substantially in excess of your delivery  
10 allocation; right?  
11 A Yeah, call it gap filling, call it what you want.  
12 When an agency has a certain amount of growers  
13 and they need product they can ask growers to  
14 grow what their needs are and that's what they  
15 got me to do.  
16 Q Well, sorry, I guess I just want to understand  
17 what your personal perspective was or whether you  
18 paid any attention to this letter at all at the  
19 time.  
20 A I paid attention to it. And like I said I put it  
21 towards capable hands of my agency.  
22 Q In fact, sir, you took some pains to make sure  
23 that the letter written in response set out your  
24 position; right?  
25 A Sorry?  
26 Q You wrote a letter in response, we know that;  
27 right?  
28 CNSL C. HUNTER: Mr. Mitha, I'm going to object to  
29 that question because it's misleading to the  
30 witness. There's materials -- there's emails in  
31 the material who wrote, who drafted the letter,  
32 and it was not Mr. Dhillon.  
33 CNSL N. MITHA:  
34 Q Mr. Gill drafted the letter; right?  
35 A I believe so. Somebody there did.  
36 Q And you put your signature to it; right?  
37 A Yes.  
38 Q And you read it before you put your signature to  
39 it?  
40 A I went through -- I might have skimmed through  
41 it.  
42 Q It accurately reflected Prokam's position?  
43 A Yes.  
44 Q Going to take you to page 891 which is the letter  
45 that was written. And you will see it was sent  
46 to the chair of BCFIRB?  
47 A Yes.



1 pricing so I got nothing to do with any of that.  
2 Like I said, you know -- and I'm not trying to be  
3 smart or anything like that, Mr. Mitha, like, I'm  
4 a grower and, you know, like I said, I'm out  
5 there 4 o'clock in the morning and we're not --  
6 some days we're not done until ten to midnight.  
7 Q So August was a busy time for you in the farm?  
8 A Oh, for sure.  
9 Q Right. So even though you were getting these  
10 emails what you're saying is you may not have  
11 been paying a lot of attention to them?  
12 A No, I slowly dropped off of these emails after  
13 that. This is all office.  
14 Q But hang on a second here, you did -- it was  
15 copied to you so it went to your email; right?  
16 A It did, and a lot of emails get copied to me and,  
17 you know, most of the time I'm in a tractor or  
18 wherever I am. If something is brought to my  
19 attention I might look at it. Other than that I  
20 rely on my agency.  
21 Q Right. I understand what you're saying. You got  
22 the email; you just may not have paid a lot of  
23 attention to it; is that fair?  
24 A I might not have even looked at it.  
25 Q All right.  
26 A You know, right when I look at this, it says  
27 "minimum pricing week." Got nothing to do with  
28 me.  
29 Q In any event, you will see that Mr. Meyer  
30 responds by saying "we'll let you know when I  
31 know." You see that?  
32 A Yes, and I'm not even copied in on that.  
33 Q No, you're not. I understand that. I'm going to  
34 take you to the next email exchange, which I  
35 don't think you were copied on either, I'll have  
36 a look, but you'll see that again we have an  
37 email from Mr. Solymosi talking about conference  
38 call bulk price red, yellow potatoes, the start  
39 and the end of the conference, and the meeting  
40 organizer, and includes a number of attendees;  
41 right?  
42 A Yes.  
43 Q And there's a dialling number and "agenda: set  
44 bulk price in red and yellow potatoes."  
45 A Okay.  
46 Q And then you'll see there's a response on August  
47 8th from Mr. Gill to Mr. Solymosi saying:

Marcel Andre Solymosi  
Exam by Cnsl N. Mitha

1                   puts the agency in non-compliance and your  
2                   Class 1 agency licence at risk of being  
3                   revoked.

4  
5                   Right?

6           A        Absolutely.

7           Q        All right. And then you talk about the mandate  
8                   of the agencies and what you've said earlier, the  
9                   agencies are an extension of the Commission. You  
10                   then say:

11  
12                   I'm requesting the letter and the documents  
13                   to protect IVCA from the actions being taken  
14                   by a rogue producer under IVCA control.

15  
16                   Now, in terms of referencing the -- requesting  
17                   the letter and documents, that's referencing the  
18                   documents you requested in your other email?

19           A        Correct.

20           Q        Right. And then why do you refer to -- I take it  
21                   the rogue producer is Prokam, that you're  
22                   referring to?

23           A        Correct.

24           Q        And why do you refer to them as a rogue producer?

25           A        Because they were acting as per my general  
26                   manager Brian relaying to me, which I have  
27                   absolute trust in all my general managers to be  
28                   upfront and honest, that it as Prokam that was  
29                   putting them into non-compliance, and that he  
30                   wanted to regain control of the agency.

31           Q        Would it be fair to say that at this point, you  
32                   hadn't yet had a discussion with Prokam or put  
33                   any of these allegations to Prokam, right?

34           A        Not yet, no.

35           Q        And you then say -- you continue to say:

36  
37                   I believe and trust that your efforts, and  
38                   those of IVCA, to take corrective action on  
39                   the matter are genuine and in the interests  
40                   of preserving the integrity of the orderly  
41                   marketing system.

42  
43                   Do you see that?

44           A        Correct.

45           Q        You then go on to talk about -- saying, for  
46                   example:

47

Marcel Andre Solymosi  
Exam by Cnsl N. Mitha

- 1 and desist to Prokam, you should discuss the  
2 concerns that had been raised with them?
- 3 A No.
- 4 Q And again, I suppose -- in light of the fact that  
5 you were -- you would agree the issuing of a  
6 cease and desist order is a fairly drastic step?
- 7 A Correct.
- 8 Q Before you took that step, why not speak to  
9 Prokam to get their perspective?
- 10 A Because the agencies -- I rely on my agency  
11 manager and my agencies to perform their duties  
12 as agents of the Commission. And if an agency is  
13 telling me that they're not able to perform their  
14 duties, and because they -- and that the cause of  
15 that is because they're not able to maintain  
16 control of their agency due to a producer, then I  
17 didn't feel like there was an obligation to  
18 inform that producer of the cease and desist  
19 letters, because this was a first step in an  
20 enforcement process that would lead to a show  
21 cause hearing, where all the evidence and  
22 information can be brought forward or reviewed.
- 23 Q Okay. I see. All right. So in other words, if  
24 your manager is wrong, that can be dealt with at  
25 a review. Was that your thinking?
- 26 A Correct.
- 27 Q It'd be fair to say that Prokam had no idea that  
28 this investigation was ongoing before the  
29 issuance of the cease and desist?
- 30 A Well, it was pretty quick when we issued this  
31 letter, so I would not think they would be aware.
- 32 Q I want to take you to the cease and desist order.  
33 So this is the cease and desist order that you  
34 issued. I'm just going to go to the beginning.  
35 This is the one you issued on October the 10th  
36 against Prokam, and you addressed it to Bob  
37 Dhillon as the principal, do you see that?
- 38 A correct.
- 39 Q And that's page 1165, for the record?
- 40 A Correct.
- 41 Q I want to go through each one of the -- you  
42 listed various compliance infractions, right?
- 43 A Yes.
- 44 Q Okay. The first one is:
- 45  
46 No producers shall produce or ship regulated  
47 product without delivery or production

Marcel Andre Solymosi  
Cross-exam by Cnsl C. Hunter

- 1 Q And that was how Mr. Meyer had described the  
2 relationship with Prokam that morning, correct?  
3 A He -- he could describe as, you know, the agency  
4 was not able to comply with his minimum pricing  
5 and these were the reasons.  
6 Q You believed when you sent this email that Prokam  
7 was a rogue producer, correct?  
8 A Well, I believe what Brian said, that he had a  
9 producer that was not complying with -- with the  
10 rules and the authority of IVCA.  
11 Q My question was when you wrote this email you  
12 believed that Prokam was a rogue producer,  
13 correct?  
14 A Correct.  
15 Q Now, the last sentence of this email says:  
16  
17 I can honestly attest that the commission  
18 wants IVCA to succeed as an agency. As long  
19 as we are honest and up-front, work together  
20 in support of the orderly marketing system  
21 and request assistance when needed your  
22 agency licence is protected.  
23  
24 Do you see that?  
25 A Correct.  
26 Q You felt sorry for Mr. Meyer, who was in over his  
27 head?  
28 A No. An agency licence is protected if the agency  
29 acts as it should to comply with the general  
30 orders.  
31 Q Mr. Meyer had admitted that IVCA was not  
32 compliant with the general orders, correct?  
33 A Correct.  
34 Q But you wanted to ensure that Mr. Meyer would  
35 provide you with the information you asked for so  
36 you could continue to investigate Prokam and  
37 Thomas Fresh, correct?  
38 A Can you repeat that, please?  
39 Q You wanted to ensure that Mr. Meyer provided you  
40 with the information you'd asked for so that you  
41 could continue to investigate Prokam and Thomas  
42 Fresh?  
43 A Well, we need the facts, so we --  
44 Q Yes, but --  
45 CNSL R. HIRA: Just a moment.  
46 A So we need the facts and this was -- the request  
47 is to present us with the facts. And -- and

1 desist order to Prokam?  
2 A And the cease and desist order directed authority  
3 back to IVCA.  
4 Q Prokam was your primary target in this  
5 investigation, correct?  
6 A The issue was agency, why they were not -- you  
7 know, agency was in non-compliance and they were  
8 pricing and why was that happening?  
9 Q You relied entirely on IVCA to provide the  
10 information in your investigation, correct?  
11 A Correct.  
12 Q You did no independent investigation of your own  
13 prior to issuing the cease and desist orders?  
14 A Correct.  
15 Q And the information you received from IVCA was a  
16 highly-curated version of events and set of  
17 documents; do you agree with that?  
18 A Can you repeat, please?  
19 Q The information you received from IVCA was a  
20 highly-curated version of events and set of  
21 documents; do you agree with that?  
22 A We had a meeting and we reviewed documents there  
23 and the investigation was launched and was  
24 ongoing and then subject to a show cause hearing.  
25 So it was -- this was the start of an  
26 investigation and it was by no means the end of  
27 an investigation.  
28 Q Throughout the investigation you received  
29 documents from IVCA, correct?  
30 A Throughout the investigation, correct.  
31 Q And no one else, correct?  
32 A All parties had an opportunity to submit evidence  
33 for that written process that was initiated, the  
34 show cause process. Evidence submitted, we did  
35 gather evidence for IVCA and all parties had an  
36 opportunity to submit evidence as part of the  
37 process.  
38 Q There was a written show cause process where  
39 lawyers were permitted to make submissions on  
40 behalf of their clients, correct?  
41 A That's correct.  
42 Q But there was never any direct investigation on  
43 your part of what had occurred beyond being  
44 provided the information by IVCA, correct?  
45 A Correct.  
46 Q And in the course of the 2018 appeal hearing, you  
47 were shown that some of the documents, some of

Marcel Andre Solymosi  
Cross-exam by Cnsl C. Hunter

1 minutes may be 15.  
2 CNSL C. HUNTER: That's fine.  
3 THE CHAIRPERSON: Ms. Hunter, let's finish up by  
4 12:15.  
5 CNSL C. HUNTER: All right.  
6 CNSL R. HIRA: Are you okay with that?  
7 A I'm good, yes.  
8 CNSL C. HUNTER: All right.  
9 Q Now, when hearing counsel asked you on Wednesday  
10 why you didn't approach Prokam or Thomas Fresh  
11 for information prior to issuing the cease and  
12 desist orders, you said you had absolute trust in  
13 all of your agencies and your agency general  
14 managers, correct?  
15 A Correct.  
16 Q Do you recall that Bob Dhillon gave basically the  
17 same evidence during his testimony, that he  
18 trusted his agency and his agency manager to  
19 comply with the general order?  
20 A Correct.  
21 Q Do you agree with me now that Prokam -- that had  
22 you seen some of the documents that Prokam could  
23 have shown you had you asked for them, that the  
24 trust you both put in Brian Meyer and Terry  
25 Michell may have been misplaced?  
26 A Can you repeat that?  
27 Q Do you agree with me now that the trust that both  
28 you and Prokam put in Brian Meyer and Terry  
29 Michell may have been misplaced?  
30 CNSL R. HIRA: You can ask him the question with  
31 respect to the trust he put, not the trust that  
32 Mr. Dhillon put.  
33 CNSL C. HUNTER:  
34 Q Well, let's start with the trust you put. Do you  
35 agree with me that the trust you put in Brian  
36 Meyer and Terry Michell may have been misplaced?  
37 A At -- as of October I believe that there was a  
38 change in IVCA wanting to comply and bring  
39 stability to the industry. They -- there was a  
40 change, shift in their position at that time.  
41 Q The information that you had that caused you to  
42 form the view expressed in your September 27  
43 email that Prokam was a rogue producer, all of  
44 that information came from Mr. Meyer and Mr.  
45 Michell, correct?  
46 A That is correct.  
47 Q And when you describe Prokam as a rogue producer,

1 A It was -- yeah, the cease and desist orders would  
2 have started the investigation process.

3 Q Yes. But throughout the investigation process,  
4 you only received information from IVCA and what  
5 I'm asking is if you agree with me that you have  
6 since seen documentation that shows the  
7 information you received from IVCA was  
8 incomplete?

9 A Well, at least in the instance that you had shown  
10 me just now, that's correct.

11 Q All right. I'm going to show you another  
12 document and it is Exhibit 1 page 862.

13 THE CHAIRPERSON: Ms. Hunter?

14 CNSL C. HUNTER: Yes?

15 THE CHAIRPERSON: Making note of the time...

16 CNSL C. HUNTER: Oh, I'm sorry, Mr. Chair. I'm  
17 actually very close to being done. I wonder if  
18 -- I was hoping not to have to go into these  
19 documents but I think I could be less than ten  
20 minutes. I wonder if I should just finish up.

21 THE CHAIRPERSON: Then let's finish up, please.

22 CNSL C. HUNTER: Okay.

23 THE CHAIRPERSON: Thank you.

24 CNSL C. HUNTER: All right. Thank you.

25 Q Mr. Solymosi, you should see on your screen  
26 Exhibit 1 page 862.

27 A I see that.

28 Q This is an email exchange between Terry Michell  
29 and Bob Gill from July of 2017; you see that?

30 A That's correct.

31 Q And this is not an email that was provided to you  
32 by IVCA, correct?

33 A This is related to greenhouse production. I  
34 don't see why it would be provided  
35 [indiscernible] investigation process.

36 Q All right. You could see from the mark on the  
37 document Prokam Thomas Fresh 01401, it was  
38 produced in the 2018 appeal hearing.

39 A Yeah, correct.

40 Q And the chain, moving up the chain, there's an  
41 email from Ron Wittal to Bob Gill forwarding  
42 something about greenhouse production allocation.  
43 Mr. Gill says:

44

45 Sounds like BCVMC is setting a new precedent  
46 that we did nothing about. Why are we not  
47 on this?

1           And Mr. Michell:

2  
3           It was only sent to the agencies approved  
4           for hothouse which [indiscernible] granted  
5           us when we applied for a licence. We have  
6           no objection if the applicant had unused DA.  
7

8           And then Mr. Michell wrote this to Mr. Gill:

9  
10          It's not new precedent. It's been a general  
11          order for years, I understand. There was  
12          not one done for Bob's spuds. If you read  
13          it, there is an objection to the business  
14          plan. The commission will make the decision  
15          and you know what their answer would have  
16          been, so better to do sales and prove our  
17          point before asking. We're doing a business  
18          plan. Maybe is wrong way to do it, but  
19          that's what happened. We know whatever plan  
20          was presented to commission, I sure would  
21          have been turned down. Now we have evidence  
22          Bob's potatoes do not interfere with the  
23          price or other growers' DA.  
24

25          Do you see that?

26        A     I see that, correct.

27        Q     And that's an email that was not provided to you  
28           by IVCA as part of your investigation, correct?

29        A     It had nothing to do with the investigation.

30        Q     Well, it makes reference to Bob's spuds, which I  
31           take it is a reference to Prokam potatoes. Do  
32           you agree with me?

33        A     Correct.

34        Q     And Mr. Michell is indicating that he was  
35           responsible for the decision not to submit a  
36           business plan because we know that the commission  
37           would have turned it down. Do you see that?

38        A     That's an assumption. Now, this greenhouse  
39           production allocation is a totally different  
40           industry. The industry is regulated. If  
41           production allocation is based on a metre-square  
42           planted area versus [indiscernible] allocation is  
43           totally different. IVCA has never had a  
44           greenhouse producer under its umbrella, even  
45           though they have the authority. And so this  
46           implying that making -- using this email to imply  
47           that a different plan would never be approved is



1 a misconception.  
2 Q Well, I'm not asking you about the greenhouse  
3 aspect of this. There's a reference to -- to:  
4  
5 ... not submitting a marketing plan because  
6 we are sure it would have been turned down.  
7 Now we have evidence Bob's potatoes do not  
8 interfere with the price for other growers'  
9 DA.  
10  
11 Do you see that?  
12 A What is the evidence?  
13 Q I'm asking you if you see what Mr. Michell has  
14 said to Mr. Gill.  
15 A That's what it says there on the email.  
16 Q Mr. Michell is the president of IVCA?  
17 A That is correct.  
18 Q This email chain suggests Mr. Gill is asking  
19 questions about ensuring compliance and Mr.  
20 Michell is saying we didn't comply on purpose,  
21 correct?  
22 CNSL R. HIRA: Just a moment. The email speaks for  
23 itself. He hasn't seen the email. It appears  
24 that he's seeing it for the first time. And how  
25 can he comment beyond the words in the email?  
26 I'm objecting to that question. If what you're  
27 trying to ask is you didn't receive this email as  
28 part of your investigation, ask it, get your  
29 answer and move on.  
30 CNSL C. HUNTER: I think Mr. Solymosi has already  
31 confirmed he didn't see this as part of his  
32 investigation.  
33 UNIDENTIFIED SPEAKER: [Indiscernible].  
34 CNSL C. HUNTER: Mr. Solymosi --  
35 UNIDENTIFIED SPEAKER: [Indiscernible].  
36 CNSL C. HUNTER:  
37 Q Mr. Solymosi, do you agree with me that this  
38 email was relevant to your investigation?  
39 A It does express Terry's opinion, so it should  
40 have been brought forward.  
41 Q And it casts the dynamic between Mr. Michell and  
42 Mr. Gill quite differently than what you were  
43 being told by IVCA, who pointed the finger at  
44 Prokam, Mr. Dhillon and Mr. Gill.  
45 A Can you repeat that? Is that it, or...?  
46 Q It casts the dynamic between Mr. Michell and Mr.  
47 Gill -- is there an objection?

Marcel Andre Solymosi  
Cross-exam by Cnsl C. Hunter

1 CNSL R. HIRA: I'm waiting for you to finish.  
2 CNSL C. HUNTER:  
3 Q Well, I've already tried this once. Madam  
4 Reporter, perhaps you could read back the last  
5 question I asked.  
6 CNSL R. HIRA: The last question you asked was it  
7 casts a dynamic between Mr. Michell and Mr. Gill  
8 which are different --  
9 THE CHAIRPERSON: Mr. Hira, I believe Ms. Hunter has  
10 asked the reporter to read back the last question  
11 she has on record.  
12 THE RECORDING SECRETARY: And I'm sorry, Counsel, it's  
13 quite an ordeal with this machine that I'm using,  
14 but I do have that you would agree that it casts  
15 the dynamic differently and that's my note. I  
16 apologize.  
17 CNSL C. HUNTER: That's okay. Let me try again.  
18 Q You received information from IVCA that pointed  
19 the finger at Prokam at Mr. Dhillon and at Mr.  
20 Gill and blamed them for the problems with IVCA's  
21 compliance, correct?  
22 A What was the date of that? That was later? That  
23 was not in July.  
24 Q I'm asking about the information you got in your  
25 investigation.  
26 A Correct.  
27 Q Yes. On -- in the meeting on October 3rd you  
28 were told Mr. Gill is at the heart of these  
29 problems, these compliance problems, correct?  
30 A Correct.  
31 Q And what I'm asking is whether -- if you'd seen  
32 this email between Mr. Michell and Mr. Gill, the  
33 dynamic between them might have been cast in a  
34 different light than it was at the October 3rd  
35 meeting?  
36 A It appears at this time in July that there was --  
37 it was cast in a different light as of July 4th,  
38 2017, I would agree. I would agree with -- with  
39 that.  
40 CNSL C. HUNTER: Yes. Mr. Chair, I see I'm at the ten  
41 minutes that I said I would be and I have  
42 probably two minutes more, but I'm -- I am happy  
43 if you wish to take the lunch break now, to just  
44 finish up after the break.  
45 CNSL R. HIRA: Can we finish --  
46 CNSL C. HUNTER: That's fine.  
47 CNSL R. HIRA: -- because my concern is the two

3  
Terrence Michell (a witness)  
Exam by Cnsl N. Mitha

1 concern was the need for IVCA to produce a  
2 marketing plan. Do you recall those three issues  
3 being raised, sir?

4 A Yes.

5 Q Okay. And I'm going to take you to -- I'm not  
6 going to take you through this letter in detail,  
7 but I will take you to one aspect of it. So we  
8 could look at page 11, which is 849 of Exhibit 1.  
9 It says:

10  
11 Over the 2016/17 crop year, Prokam's  
12 potatoes shipments were significantly  
13 greater than its assigned delivery  
14 allocation.

15  
16 It talks about in the paragraph that's underlined  
17 and highlighted:

18  
19 No marketing plan was submitted by IVCA  
20 requesting approval for growth and a shift  
21 in potato production into A and B periods.  
22

23 You see all of that; right?

24 A Yes.

25 Q Just give me one moment. Just going to shut that  
26 off. Okay. All right. And then it carries on  
27 to say:

28  
29 This behaviour is a noncompliance of the  
30 general order ...  
31

32 Et cetera.  
33

34 You'll recall receiving this letter, sir, and  
35 then you'll notice that there was a warning  
36 issued in this letter to Prokam Enterprises Ltd.  
37 and IVCA; right?

38 A So it appears, yes.

39 Q All right. You may not remember now, but you  
40 would have seen this at the time, of course?

41 A I would have seen this, yes.

42 Q All right. And one key issue certainly that's  
43 been raised in this letter is the failure of IVCA  
44 to produce a marketing plan; right?

45 A That's -- yes. There was a marketing plan sent,  
46 and I don't know the dates. There was a full  
47 marking plan sent, I think the year previous.

1 Q Right. And that was one of the issues that was  
2 in dispute, which is that IVCA took the view that  
3 a marketing plan had been sent the previous year,  
4 and therefore, it had complied. And the  
5 commission was saying, well, no, that wasn't  
6 sufficient. That was the dispute between the  
7 parties at the time; right?

8 A Correct.

9 Q Now, this letter was sent June 14th, 2017. I  
10 want to take you to the next document, and it is  
11 number 862 of Exhibit 1, and there's an email on  
12 July 4th, so this would have been, you know, just  
13 under a month later, three weeks later. You sent  
14 an email to Mr. Bob Gill. Now, Mr. Bob Gill, of  
15 course, worked for IVCA, but he was also  
16 associated with Prokam; right?

17 A Yes. He was -- yeah. He was associated with  
18 Prokam, yes, sir.

19 Q And you say to Mr. Gill:

20

21 It's not new precedent. It's been in  
22 general orders for years. I understand.

23

24 And in the middle there, where my cursor is, you  
25 say:

26

27 So better to do sales, improve our point  
28 before asking or doing a business plan.  
29 Maybe is wrong way to do it, but that's what  
30 happened. We know whatever plan was  
31 presented to the commission, I sure would  
32 have been turned down.

33

34 So fair enough to say that you're -- you're  
35 skeptical about what the commission would approve  
36 a plan even if you provided them a plan; is that  
37 fair?

38 A Let's see. Let me just review that.

39 Q Sure.

40 A I'm sure that in the plan, it didn't, you know,  
41 the original plan, it didn't identify growers, it  
42 was just one that was put together by our -- one  
43 of our previous managers Tom. And in their --  
44 just trying to think. Yeah. It had -- it had  
45 growth expectations generally in there, as far as  
46 I can recall. But I haven't read it for probably  
47 five or six years, five years or something.

- 1 Q For some reason, I have it in my head that it was  
2 the last meeting at a particular hotel before it  
3 was demolished, but I may be inventing that.
- 4 A A regulated commission meeting?
- 5 Q Right.
- 6 A An annual general meeting, possibly.
- 7 Q Okay. You have a recollection of attending that  
8 meeting?
- 9 A We would go to the annual general meeting,  
10 possibly, yeah.
- 11 Q Okay. So you have a recollection of going to  
12 such a meeting in early 2017 to the first  
13 quarter?
- 14 A I'd have to view the details whether we attended  
15 or not.
- 16 Q Okay. Do you recall that one of the things that  
17 you became aware that the commission was  
18 requiring in early 2017 was that storage crop  
19 agency submit marketing plans?
- 20 A I'm not sure. I know we put the marketing plan  
21 in together with Mr. Pollock, but after that, I'm  
22 not clear on that. No, sorry.
- 23 Q Okay. So the marketing plan that you're  
24 referring to is the November 2016 agency  
25 reapplication document that we had gone through  
26 earlier; is that right?
- 27 A Yes. That's what I recall, yeah.
- 28 Q What I'm suggesting to you is that in early 2017,  
29 the commission was saying to all the storage crop  
30 agencies, we need new marketing plans. Do you  
31 recall that Mr. Solymosi was saying that?
- 32 A I think I recall something along those lines.
- 33 Q Okay. But you were of the view at the time that  
34 IVCA had just submitted a marketing plan and  
35 nothing had changed; right?
- 36 A Okay. Yes, I recall that.
- 37 Q And so there was no need to submit a new  
38 marketing plan. It was the same as the one that  
39 you had submitted in November 2016?
- 40 A I'm not sure whether the same marketing plan was  
41 sent or what was sent.
- 42 Q But you do recall being of the view that there  
43 shouldn't be a requirement to send another  
44 marketing plan so soon after the last one had  
45 been sent?
- 46 A I think I recall that, yeah.
- 47 Q Now, on June 14th, 2017, the commission delivered

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

- 1 Q Yeah. That's November 2016 if that helps.  
2 A Okay.  
3 Q So that would be -- that would be C period,  
4 wouldn't it?  
5 A That would have been -- sorry, can you say that  
6 again.  
7 Q November isn't A or B period, is it?  
8 A No.  
9 Q Okay. And the decision not to submit a marketing  
10 plan in 2016, that was a decision that you had  
11 made; correct?  
12 A That I had made?  
13 Q Yes. You or -- you and Mr. Pollock together for  
14 the 2016/2017 crop year.  
15 A I'm not sure.  
16 Q That's okay.  
17 A I can't decide who made that decision. Or I  
18 can't remember who made that decision. Let's  
19 see. I'm just trying to recall. I don't know  
20 whether one was sent or not. I wouldn't know. I  
21 can't recall.  
22 Q That's okay. What I'm going to do to assist with  
23 your recollection is take you to an email that  
24 Mr. Mitha took you to, an email chain. And that  
25 was at page 862 of Exhibit 1. And this is an  
26 email chain, at least the top email is, between  
27 only Bob Gill and you; correct?  
28 A Okay.  
29 Q And you're saying to Mr. Gill:  
30  
31 It's not new precedent. It's been in  
32 general orders for years. I understand  
33 there was not one done for Bob Spuds if you  
34 read it. If there is objection to the  
35 business plan, the commission will make the  
36 decision, and you know what their answer  
37 would have been. So better to do sales and  
38 prove our point before asking or doing a  
39 business plan. Maybe is wrong way to do it,  
40 but that's what happened. We know whatever  
41 plan was presented to commission, I sure  
42 would have been turned down. Now we have  
43 evidence Bob's potatoes do not interfere  
44 with the price or others growers' DA.  
45  
46 Do you see that?  
47 A I see that, yeah.

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

1 Q And so when you say -- this is July 2017;  
2 correct?

3 A Yes, okay.

4 Q You gave evidence that potatoes are harvested in  
5 August and September, generally; right?

6 A Let's see. Early, say, start in late June -- no,  
7 sometimes they're earlier than that.

8 Q Okay. But as at July 4th, 2017, IVCA would not  
9 have had sales to prove its point of Prokam grown  
10 potatoes planted in 2017 yet; right? Even the  
11 earliest would have only been out of the ground  
12 maybe a week or two prior?

13 A Depends on the year because they start digging  
14 early, early reds in mid June.

15 Q Right. What I'm going to suggest to you is that  
16 when you said:

17

18 Better to do sales and prove our point  
19 before asking or doing a business plan,  
20

21

And then later:

22

23 Now we have evidence Bob's potatoes do not  
24 interfere with the price or other growers'  
25 DA.  
26

27

You're actually referring to the 2016/2017 crop  
28 year there; right?

29 A Yeah. Because we don't -- like, you know, the  
30 record there for the percentage of sales and  
31 things, we don't see that until, you know, months  
32 after they're sold probably. On our weekly or  
33 our monthly statements, we would have seen it  
34 paying to the grower, but ...

35 Q Right.

36 A Yeah. I ...

37 Q And so -- and Mr. Gill, two emails down in the  
38 chain, is saying:

39

40 Sounds like BCVMC is setting a new precedent  
41 that we did nothing about. Why are we not  
42 on this?  
43

44

Do you see that?

45 A I see that, but I'm reading the paragraph before  
46 that. Just one moment, please.

47

Q Sure.

- 1 A Yeah. I'm not sure how that -- because that has  
2 to be with hothouses.
- 3 Q Okay. What you're communicating with Mr. Gill in  
4 the top email here is that not only was there no  
5 marketing plan submitted to the commission in  
6 respect of Prokam grown potatoes for the  
7 2016/2017 crop year, but that it was your  
8 decision; right? You were the one who decided  
9 not to submit a marketing plan.
- 10 A I don't think that was in my decision. There  
11 just was not one done.
- 12 Q Okay. Certainly you were aware of it.
- 13 A It looks like I was.
- 14 Q And as president of IVCA, you had the ability to  
15 cause the agency to submit a marketing plan;  
16 correct?
- 17 A If we had been asked for one, I'm sure there  
18 would have been done, yes.
- 19 Q You say here:  
20  
21           There was not one done for Bob Spuds.  
22
- 23 And then later you say:  
24  
25           You know what their answer would have been,  
26           so better to do sales and prove our point  
27           before asking or doing a business plan.  
28           Maybe is wrong way to do it, but that's what  
29           happened. We know --  
30
- 31 A That's what -- exactly, okay. So that was over  
32 and above his DA, and this is after the fact as  
33 you can read in that paragraph. It may not be  
34 the right way to do it, but it's what's happened  
35 after the fact, so ...
- 36 Q Right.
- 37 A At that paragraph, it looks like I'm referring to  
38 he planted a lot more than his DA.
- 39 Q Right. And you can appreciate, Mr. Michell, I'm  
40 asking you this. It was alleged in a cease and  
41 desist orders that Mr. Gill put IVCA into  
42 noncompliance, and what I'm suggesting to you is,  
43 it wasn't Mr. Gill who put IVCA in noncompliance,  
44 it was you. And it was in 2016 before Mr. Gill  
45 was even hired, and it was in respect of not  
46 submitting a marketing plan when you knew that it  
47 was the wrong way to do it. Do you agree with



1 me?

2 A Well, in this paragraph, it's after the fact, so  
3 I would say that that was ...

4 Q When it says here:

5  
6 Better to do sales than prove our point  
7 before asking or doing a business plan.  
8 Maybe is wrong way to do it, but that's what  
9 happened. We know whatever plan was  
10 presented to commission, I sure would have  
11 been turned down.

12  
13 That's not after the fact reasoning. That's the  
14 rationale that you had at the time; right, in  
15 2016?

16 A Well, I think that -- this is after the fact  
17 because they had records of -- he shipped a lot  
18 more potatoes than he had DA for, which I don't  
19 track DA. That was the manager, would have been  
20 Tom Pollock at the time.

21 Q And now, in 2017, we have the commission again  
22 asking for a marketing plan; correct?

23 A Yes.

24 Q And in the face of this letter saying IVCA was in  
25 noncompliance of 2016 for failing to issue a  
26 marketing plan to the commission, and the  
27 commission now asking one for 2017, the view that  
28 you're taking is, no, they already have our  
29 marketing plan. We're not going to submit  
30 another one; right?

31 A Well, I'm not sure whether the original that I  
32 thought -- I'm in the thinking that the same one  
33 was just sent again because we had no new  
34 marketing plan. It was just the existing plan.

35 Q Right. And so you were disagreeing with  
36 Mr. Solymosi that a new marketing plan was  
37 required; right? Your regulator is telling you  
38 you need to submit a marketing plan, and you're  
39 saying, no, we don't. We already submitted one;  
40 correct?

41 A That could have been between the manager and  
42 myself -- or not the manager and myself, the  
43 manager and Mr. Solymosi at the time. I don't  
44 think I had any discussion with Mr. Solymosi  
45 myself on that unless you can -- you got  
46 something to recollect my mind, but -- because  
47 we'd spent a lot of time and money on our --

- 1 recall that the original one that was submitted.  
2 We'd spent a lot of time and money on it and,  
3 basically, you know, that was our existing plan.  
4 We didn't have no changes, and I'm not sure  
5 what -- whether it was resent, or an email was  
6 sent that we have a plan, and nothing's changed.  
7 I wouldn't know whether that was done. But we  
8 had a very expensive plan, and a lot of time put  
9 into it, and that's what we were kind of going  
10 with.
- 11 Q Understood. And what you've just explained now,  
12 that was your view and your position at the time;  
13 right?
- 14 A That was the view that we wouldn't submit a new  
15 plan that had anything different than the one  
16 previous to that was, and I'm not sure whether  
17 they just accepted the previous one or we re-sent  
18 the exact same one over again. I don't know.
- 19 Q Now, I'm going to take you to another email  
20 chain, and this is at pages 3192 to 3194. And as  
21 email chains do, the first email begins -- the  
22 first in time begins at the bottom of the chain.  
23 Do you see that up on your screen there?
- 24 A Right where your -- yeah, yeah.
- 25 Q So at the bottom of page 3193 and continuing over  
26 to 3194, it's an email from Brian Meyer to  
27 Andre Solymosi, and you're copied; correct?
- 28 A Okay. Yeah.
- 29 Q Mr. Will [sic] is copied, and the date is  
30 June 26th, 2017, which is after the June 14th,  
31 2017 letter that we've just been looking at;  
32 right?
- 33 A Correct.
- 34 Q Okay. And Mr. Meyer says:
- 35  
36 We have been trying to put a business plan  
37 together but are unsure of what you were  
38 looking for.
- 39
- 40 Now, let's pause. That wasn't true; right?
- 41 A Well, that was in his words.
- 42 Q That's contrary to the evidence that you just  
43 gave; correct?
- 44 A I'm sure that's just what Brian was asking  
45 whether we just resend what we already sent them,  
46 or I'm not sure what he's asking him there. Is  
47 it a response to that email?

Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

1           happening in this email chain.

2           A     So this is, as I was saying, me initiating the  
3           conversation, reaching out to Mr. Meyer, being  
4           proactive here regarding the certificate of  
5           authority to ensure that I have it in place,  
6           right. That's it, basically.

7           Q     And did you have a sense or an opinion at the  
8           time of how Mr. Meyer was approaching this issue  
9           and whether that approach was good or bad?

10          A     Well, I didn't have that much communication back  
11          from him regarding this issue, so it was just me  
12          that kept following up to get a status of where  
13          we were at.

14          Q     All right. On page 860, you say:

15                                 I realize we sent him questions and are  
16                                 awaiting a response.

17  
18  
19           And I think your evidence was that the "him" is a  
20           reference to Mr. Solymosi; is that right?

21          A     Yes. I believe that was in relation to the  
22          marketing plan, that particular email.

23          Q     I'm going to take you, Mr. Gill, to page 3192 --  
24          pages 3192 through 3194 of Exhibit 1, and I'll  
25          just scroll down again to the last page, 3194,  
26          and the bottom of 3193, and I'll give you a  
27          moment to review.

28          A     Okay. Okay. Okay. Okay.

29          Q     Can you describe this document for the review  
30          panel?

31          A     So this is, I guess, the response to my question  
32          about the marketing plan. Again, this was -- I  
33          believe this was around the time where the  
34          commission letter came out and I came to the  
35          situation -- came to the conclusion of why are we  
36          not submitting it. So this is me bringing it to  
37          the attention of the agency here in terms of what  
38          is the plan here. And then that's Mr. Meyer  
39          confirming to me that he's going to involve Ron  
40          and myself and himself to tackle this situation.

41          THE REGISTRAR: Sorry, Mr. Gill. You're dropping your  
42          voice again. Sorry to keep interrupting.

43          THE WITNESS: So at the top here, it's Mr. Meyer  
44          confirming that Ron Wittal, myself, and himself  
45          were going to be tasked to put this delivery --  
46          sorry, this marketing plan together.

47          CNLSL R. ANDROSOFF:

Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

- 1 Q Now, we heard evidence yesterday, Mr. Gill, that  
2 IVCA took the position in response to the  
3 commission's request in 2017 for a marketing plan  
4 that it had already submitted a marketing plan in  
5 November 2016. Was that something that you knew  
6 at the time you wrote this email to Brian Meyer  
7 on June 29th, 2017?
- 8 A Yes, I did. I had heard that from Mr. Michell  
9 prior to this email and then, you know, again, I  
10 was new there and I had seen the emails from the  
11 commission regarding a marketing plan. And this  
12 is just me starting discussion in terms of how we  
13 deal with this. It seems like here that  
14 Mr. Meyer is relying on Mr. Wittal here, and  
15 nothing ever happened as a result of this. And  
16 the consensus is -- well, to my understanding, is  
17 that the reliance was still placed on the  
18 marketing plan from 2016.
- 19 Q And you mentioned that you had heard that from  
20 Mr. Michell. Did you hear that from anyone else  
21 at IVCA as well?
- 22 A No, I heard it from Mr. Michell originally.  
23 That's all I recall.
- 24 Q I'm going to go back to Exhibit 14, which was  
25 marked this morning, and I'm going to scroll  
26 ahead to page 3 of that exhibit. Do you see that  
27 up on your screen, Mr. Gill?
- 28 A I do.
- 29 Q Okay. And the top email in the chain, again,  
30 it's from you to Ms. Solotski dated November 7th.  
31 I take it that you didn't send that email at that  
32 time.
- 33 A No, that's not me.
- 34 Q Okay. Second email in the chain is dated  
35 July 3rd, 2017. I'll give you a moment to review  
36 it, and then I'll scroll down to what appears to  
37 be the attachment.
- 38 A Okay.
- 39 Q I'm on page 4 and I'll -- it's a little small, so  
40 I'm going to try and blow it up here. Now it's a  
41 little large. Can you read that, Mr. Gill?
- 42 A I can, yes.
- 43 Q Let me know when I can scroll down.
- 44 A Okay. Okay. Okay. Okay. Okay. Okay. Okay.
- 45 Q All right. So I've just taken you through  
46 pages 3 through 7 of Exhibit 14. Now, the  
47 attachment is a letter dated May 18th, 2017, from

- 1 recall that the original one that was submitted.  
2 We'd spent a lot of time and money on it and,  
3 basically, you know, that was our existing plan.  
4 We didn't have no changes, and I'm not sure  
5 what -- whether it was resent, or an email was  
6 sent that we have a plan, and nothing's changed.  
7 I wouldn't know whether that was done. But we  
8 had a very expensive plan, and a lot of time put  
9 into it, and that's what we were kind of going  
10 with.
- 11 Q Understood. And what you've just explained now,  
12 that was your view and your position at the time;  
13 right?
- 14 A That was the view that we wouldn't submit a new  
15 plan that had anything different than the one  
16 previous to that was, and I'm not sure whether  
17 they just accepted the previous one or we re-sent  
18 the exact same one over again. I don't know.
- 19 Q Now, I'm going to take you to another email  
20 chain, and this is at pages 3192 to 3194. And as  
21 email chains do, the first email begins -- the  
22 first in time begins at the bottom of the chain.  
23 Do you see that up on your screen there?
- 24 A Right where your -- yeah, yeah.
- 25 Q So at the bottom of page 3193 and continuing over  
26 to 3194, it's an email from Brian Meyer to  
27 Andre Solymosi, and you're copied; correct?
- 28 A Okay. Yeah.
- 29 Q Mr. Will [sic] is copied, and the date is  
30 June 26th, 2017, which is after the June 14th,  
31 2017 letter that we've just been looking at;  
32 right?
- 33 A Correct.
- 34 Q Okay. And Mr. Meyer says:
- 35  
36 We have been trying to put a business plan  
37 together but are unsure of what you were  
38 looking for.
- 39
- 40 Now, let's pause. That wasn't true; right?
- 41 A Well, that was in his words.
- 42 Q That's contrary to the evidence that you just  
43 gave; correct?
- 44 A I'm sure that's just what Brian was asking  
45 whether we just resend what we already sent them,  
46 or I'm not sure what he's asking him there. Is  
47 it a response to that email?

1 Q He says:

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We have been trying to put a business plan together.

But your evidence, just now, was that your position, as the president of IVCA, was that IVCA didn't need to submit another business plan or a marketing plan. It had already submitted one.

A Yes, we did. But I'm not sure whether they're asking us for a -- let's see here. What they're looking for, there's a good question. What are you looking for when we already put one in the year previous. I think that's his question. That's only -- I'm thinking. I'm not saying that's what was in his mind, but --

Q Right. And I'm not asking you, just to be clear, to speculate what was in Mr. Meyer's mind. I'm just looking at the words on the page here and the email that he wrote. It says:

We have been trying to put a business plan together.

And what I'm saying to you is, you knew; you know now, that at the time, that wasn't true.

A Well, we had a business plan.

Q Right. Exactly. And it had already been submitted. That was your view; right?

A Yeah.

Q You weren't trying to put a business plan together. It had already been submitted?

A Correct.

Q And so there's some -- there appears to be some sort of disconnect between you and Mr. Meyer here.

A It appears that way. So I'm not sure what he's asking there.

Q Right. Either the right hand doesn't know what the left hand is doing, as between you and Mr. Meyer, or Mr. Meyer is not being truthful with Mr. Solymosi. Do you agree with me?

A Well, left hand/right hand, that's only -- like I say, I'm not -- I wasn't the manager, so what goes on between the manager and Mr. Solymosi is -- you know, I don't see everything, but I was CC'ed on this, and I'm not sure what the end

1           commission, which letter?  
2           Q     The one dated June 14th, 2017, from Mr. Solymosi  
3           alleging that IVCA and Prokam had been in  
4           violation of the requirements to submit a  
5           marketing plan in respect of the 2016 and 2017  
6           growing season.  
7           A     Yeah, that's fine.  
8           Q     Okay. And this is the first draft of the letter  
9           that Mr. Gill produced as you instructed him. Do  
10          you agree?  
11          A     If I instructed him or -- or ...  
12          Q     Can you read that?  
13          A     Can you scroll back up, please?  
14          Q     Do you want to see the first page again?  
15          A     Yeah. That would be great, yeah. Okay, yeah.  
16          Go ahead, yeah.  
17          Q     Okay. So you agree that you instructed Mr. Gill  
18          to draft a letter and you agree that this is the  
19          letter that he drafted; right?  
20          A     This is the letter he drafted and it would be  
21          between probably not -- just myself. It was sent  
22          to me obviously but, yeah.  
23          Q     Right. Now, you can take a couple of times to --  
24          the final version of the letter which was dated  
25          July 10th, 2017; right?  
26          A     Okay.  
27          Q     That one that bears your signature?  
28          A     Okay.  
29          Q     And it's been suggested to you that it was -- by  
30          Mr. Hira that the tone of it was incendiary. Do  
31          you recall that?  
32          A     Well, one sentence I think it was.  
33          Q     Right. And that letter was the product of a  
34          meeting that was held at IVCA office between the  
35          directors of IVCA, Mr. Wittal, Mr. Meyer, and  
36          Mr. Gill; correct? The final version of the  
37          letter, the quote/unquote incendiary version?  
38          A     Okay.  
39          Q     Now, this first draft, I'm going to suggest to  
40          you is the product only of Mr. Gill's imagination  
41          and endeavour. Do you agree or disagree?  
42          A     It was from him. I'm not sure it was only his.  
43          I can't answer that for sure. I'm not sure. It  
44          came from him but I'm not sure whether it was  
45          only his -- his writing, I don't know.  
46          Q     And you have no information to suggest that  
47          anyone else other than Mr. Gill had been put into

1 this first draft?

2 A I wouldn't have information on that, no.

3 Q Okay. And having read through the entire letter,  
4 do you agree with me that the tone of it is much  
5 more conciliatory than the final version of the  
6 letter that was sent out and signed by you, dated  
7 July 10, 2017; correct?

8 A It was obviously changed. Can we go back to the  
9 original one that was sent, please?

10 Q Yes. I would like to but just before we do, I  
11 would like to get your evidence as to whether you  
12 agree with me that the tone of this is very  
13 non-confrontational. This first draft?

14 A I would say that it's non-confrontational, I  
15 would say.

16 Q Okay. Now, I'll take you to Exhibit 1, and I  
17 believe I want to be on page 882. I do. Now, do  
18 you see an email exchange consisting of two  
19 emails dated July 7, 2017?

20 A Terry Michell, Brian Meyer, Barb Dhillon, Ron  
21 Wittal. Is that what you want me to read?

22 Q Yes. And I'll just suggest to you that although  
23 it says, Barb Dhillon, that this is the Prokam  
24 email address, for what it's worth, but this  
25 email here from Bob Gill to yourself, Mr. Meyer,  
26 I'll suggest to you Mr. Dhillon, and Mr. Wittal  
27 says:

28  
29 Good afternoon, gentleman, please find  
30 attached the letter as requested.

31  
32 Do you see that?

33 A Okay.

34 Q And what follows is a revised draft of the letter  
35 that's responsive to the June 14, 2017 commission  
36 letter; right?

37 A Okay.

38 Q And I'm going to suggest to you that this revised  
39 draft and I'm just scrolling through it here, is  
40 the product of the discussion that took place at  
41 the meeting at IVCA office. You agree?

42 A If that's minutes of a meeting of the discussion,  
43 if that's what it says, I would have to read it  
44 from one end to the other. But it looks as  
45 though possibly it would have been.

46 Q No. These aren't minutes of a meeting, this is a  
47 draft letter. And I'll suggest to you it's



18  
Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

1 THE CHAIR: Ms. Anderson, do you have that.  
2 THE REGISTRAR: Thank you. Yes, I do. Thanks.  
3

4 **EXHIBIT 14: February 7, 2022 letter from**  
5 **Ravi Hira enclosing two documents from May**  
6 **and June 2017**  
7

8 CNSL R. ANDROSOFF:

9 Q Now, Mr. Gill, do you see on your screen there a  
10 document with page number 1 in the top right  
11 corner?

12 A Yes.

13 Q You do see that?

14 A Yes.

15 Q Okay. Now, the top email in this chain appears  
16 to be from you to Ms. Solotski, and the date is  
17 November 7th, 2017. Do you see that?

18 A I do, yes.

19 Q Did you send that email?

20 A No. My access would have been removed on  
21 October 10th. That's when the cease and desist  
22 orders were issued.

23 Q The next email down in the chain appears to be  
24 one dated June 22nd, 2017, from you to  
25 Mr. Michell. Do you see that?

26 A I do, yes.

27 Q And this is eight days after the commission's  
28 letter to IVCA and Prokam dated June 14th;  
29 correct?

30 A Correct.

31 Q And before I come back to this email here, I'll  
32 just take you to what appears to be the  
33 attachment on page 2 of Exhibit 14. And I'll  
34 give you a moment to review this letter. Let me  
35 know when I can scroll down so you can see the  
36 rest of it.

37 A Okay. Okay.

38 Q Do you have a recollection, Mr. Gill, of drafting  
39 this letter?

40 A I do have a recollection. This was a first  
41 attempt at responding to the commission letter in  
42 question here.

43 Q All right. And just going back a page to page 1,  
44 in your email to Mr. Michell, you say:

45  
46 Hi Terry, I have attached a rough draft with  
47 some points. Let me know what you think.

Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

1                   Thank you. Bob.  
2  
3                   Do you see that?  
4           A        I do.  
5           Q        Why is it that you're forwarding this draft  
6                   letter to Mr. Michell?  
7           A        So this was a task that was put on me to create a  
8                   letter, a response, and this is just me giving  
9                   communications of where I was at just to generate  
10                   some discussions on -- get some assistance on how  
11                   to put the letter together. Just looking for  
12                   some feedback.  
13           Q        All right. I'm going to stop sharing that  
14                   document and go back to Exhibit 1. Mr. Gill, do  
15                   you see a page with 856 on the top right corner  
16                   on your screen?  
17           A        Yes.  
18           Q        And so this is a two-page email chain. And what  
19                   I'll do is I'll go to the last page and give you  
20                   a moment to review, and let me know when I can  
21                   scroll up.  
22           A        Okay. Okay. Okay.  
23           Q        So you can see, Mr. Gill, this is an email chain  
24                   originally between Mr. Solymosi, Mr. Meyer,  
25                   Mr. Michell and Nadia Peterson, who I understand  
26                   is at the commission. And then, you're copied on  
27                   the top email from Mr. Meyer to Mr. Solymosi. Do  
28                   you see that?  
29           A        I do.  
30           Q        Okay. What can you tell the review panel about  
31                   this document?  
32           A        This was the issue that arose where I was asking  
33                   Mr. Meyer about my certificate of authority to  
34                   issue transport orders. This was a situation  
35                   where I was -- I reached out to Mr. Meyer  
36                   originally asking him how this would have  
37                   happened, like, him and I were hired on the same  
38                   day. And he basically said to me that it was his  
39                   oversight and this looks like an email where he's  
40                   reaching out to the commission to correct that.  
41           Q        Okay. I'm going to move ahead, now, to page 858  
42                   of Exhibit 1, and this is a three-page email  
43                   chain. And I'll do the same thing, Mr. Gill.  
44                   I'll start on page 860 and then work my way up  
45                   and give you a moment to review it.  
46           A        Okay. Okay. Okay.  
47           Q        Can you describe for the review panel what's

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

1 of BCfresh; correct?

2 A Not entirely just BCfresh, it would be other  
3 agencies also because at the time we were working  
4 with -- trying to amalgamate with the island  
5 fellows. It may not be just BCfresh.

6 Q Sure. So I'm going to take you to your interview  
7 summary at page 5658. You see this is the  
8 interview report we were looking at earlier?

9 A Okay.

10 Q And on page 5659:

11  
12 Mr. Michell is asked about his observations  
13 and knowledge about the degree of  
14 cooperation between BCfresh and the  
15 commission and whether the commission  
16 attempted to maintain BCfresh's dominant  
17 position.

18  
19 And over the page to 5660:

20  
21 Mr. Michell stated that he did feel at times  
22 BCfresh acted like a bully and that he felt  
23 that the commission was biased towards  
24 BCfresh.

25 A Okay.

26 Q And that's what you said to Mr. Mitha during your  
27 interview; correct?

28 A And then, however.

29 Q Right. You later say that:

30  
31 In more recent years --

32  
33 A Yeah.

34 Q

35 -- you feel that BCfresh's conduct and the  
36 commission's conduct towards BCfresh in the  
37 last few years has been a significant change  
38 from what it was previously.

39  
40 A Yes.

41 Q Correct? Yeah.

42 A There's a little bit that may not be there and we  
43 contributed that to our -- our management.

44 Q I'm going to go back to the letter.

45 A Yes.

46 Q The bottom of page 892 of Exhibit 1.

47 A Okay.

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

1 Q You see it says:

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The following is a situation that occurred during the month of June. Please note this is not an isolated incident.

And over the page to page 893:

At present, we have a grower with a significant amount of cabbage available.

Do you see that?

A Yes.

Q

In the past, IVCA had no cabbage. Purchased from a larger agency, BCfresh. We paid the price. Later, BCfresh had no cabbage and when asked what price they would pay, were told, the same price you sold us the cabbage last week.

Do you see that?

A Yeah. I see that.

Q To which the agency BCfresh replied:

We won't buy it at that price because we can always buy it cheaper from California.

Right?

A Yes.

Q And the reference to that cabbage grower, that's you; right? Michell Farms?

A That was referring directly to my situation, yeah.

Q Right. And so I'm suggesting to you that the source of this information in the letter is you; correct?

A That was me speaking on one incident that we had, yes.

Q Okay. And then --

A I think it builds on to say that it was corrected which we read earlier, expeditedly [sic], once the management got in -- was aware of it. So that's in my own -- my own experience with that.

Q Which is fine. That's all well and good. All I asked you is that you were the source of the

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

1 information and your answer was that you were.

2 A Okay.

3 Q Okay. Further down the page here, 893. Right  
4 above my cursor, it says, you see:

5

6 IVCA has a major Canadian client who wants  
7 IVCA to supply to them with regulated  
8 product. The client wants to reduce how  
9 much it spends in the US and does not want  
10 to import from the US, especially when it  
11 will benefit IVCA directly. We represent  
12 Canadian BC growers.

13

14 Do you see that?

15 A Yes, I see that.

16 Q And I'm going to suggest the source of that  
17 information was, again, you; right?

18 A I would think -- let's see. Yeah, that  
19 probably -- sounds like a statement that I would  
20 make.

21 Q Okay. And on to page 894.

22 A Okay.

23 Q And here Thomas Fresh is mentioned by name on  
24 page 3 of your letter:

25

26 Members on the commission accused the IVCA  
27 only selling Prokam's product and that in  
28 the case of Thomas Fresh, large Alberta  
29 produce buyer. No other potatoes were sold  
30 to them. This is an honest sale  
31 relationship as in the past. Thomas Fresh  
32 tried several shipments of potatoes from  
33 Three Star Farms which are repeatedly  
34 rejected for poor quality. Daily farms has  
35 steadily reduced its acres of planted  
36 potatoes over the past years --

37

38 Et cetera, et cetera. And I'm going to suggest,  
39 again, that the source of that information was  
40 you; right?

41 A That would have been, yeah, that probably would  
42 be not just me but others of our agency also.

43 Q Right. Well, you gave evidence when we were  
44 discussing Prokam's attempt to join IVCA about  
45 the history of Thomas Fresh purchasing from IVCA  
46 Three Star Farms product and it not being of  
47 satisfactory quality; right?

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

- 1 A That's correct, yeah.  
2 Q And your evidence was that that was something you  
3 and Mr. Pollock discussed at the time?  
4 A Yes. We would have discussed that, yes.  
5 Q Mr. Pollock wasn't at this meeting in 2017?  
6 A Okay.  
7 Q And so the source of that information must have  
8 been you?  
9 A That was -- that was -- I can't say if it's mine  
10 entirely, but I would be part of that, yes.  
11 Q Okay. And then at the bottom of the page,  
12 IVCA's -- and this is page 894, right above my  
13 cursor:  
14  
15 IVCA's understanding is that the new  
16 relicensing policy implemented by the  
17 commission requires part of it a marketing  
18 plan. Ours was approved on January 16,  
19 2017. It clearly stated our plans to grow  
20 the interest of the agency and source  
21 business from neighbouring provinces. This  
22 is in compliance with BCFIRB and the  
23 commission's mission statement.  
24  
25 Do you see that?  
26 A Yes.  
27 Q And we went over that at length before lunch and  
28 the source of that information and belief was  
29 you; right?  
30 A Well, that is a mission statement, so I'm sure  
31 you can find it in their statement.  
32 Q Right. Well, the only people who presented that  
33 November 2016 marketing plan to the commission  
34 were you and Mr. Pollock; right?  
35 A Yes.  
36 Q And since he wasn't at this meeting, the source  
37 of this information and belief must have been  
38 you?  
39 A Well, I'm not sure if this is actually from the  
40 meeting or is this from our planting intentions.  
41 This statement is -- who's this -- who's this  
42 surmised -- or -- who did this -- did this  
43 surmising of the meeting.  
44 Q Yes, so you've already given evidence that this  
45 final version of the letter was the product of  
46 discussion that took place at a meeting at IVCA  
47 head office between you, the other directors of

- 1 IVCA, Mr. Wittal, Mr. Meyer, and Mr. Gill; right?
- 2 A Okay, yeah.
- 3 Q And what happened is that after that discussion,
- 4 Mr. Gill went away and revised the letter and
- 5 what he came up with was the July 7th draft that
- 6 I took you to earlier; right?
- 7 A Okay.
- 8 Q The one that Mr. Meyer apparently read and said,
- 9 "outstanding, well done," five exclamation marks;
- 10 right? We saw that in the email?
- 11 A I didn't read that part, but if it's in there,
- 12 it's in there.
- 13 Q That's okay. So what I'm suggesting to you is
- 14 that all of the information in this letter must
- 15 have been sourced from the discussion at the
- 16 meeting?
- 17 A I would -- I would guess if it's signed off on.
- 18 Q And because Mr. Pollock wasn't at this meeting
- 19 the source of that particular information about
- 20 IVCA's belief that they already submitted a
- 21 marketing plan was you?
- 22 A That was our argument that we already submitted
- 23 one the year before, yes.
- 24 Q Is the answer to my question yes or no?
- 25 A Repeat the question?
- 26 Q The source of the information in these two
- 27 paragraphs here about IVCA's understanding that:
- 28
- 29 The new relicensing policy implemented by
- 30 the commission required as part of it a
- 31 marketing plan. Ours was approved on
- 32 January 16, 2017. It clearly stated our
- 33 plans throughout the interest of the agency
- 34 and source business from neighbouring
- 35 provinces. This is in compliance with
- 36 BCFIRB and the commission's mission
- 37 statement.
- 38
- 39 The source of that information was you; right?
- 40 A Would have been from the meeting, yes.
- 41 Q And the source of it was information you provided
- 42 at the meeting; right?
- 43 A I don't think it's -- I don't have a lot of that
- 44 information but it's general discussion. It
- 45 would have come out.
- 46 Q Okay. Go to page 895. It says:
- 47

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

1                   The following were the requirements of the  
2                   relicensing criteria.

3  
4                   And then I'll suggest to you that this is an  
5                   excerpt of the criteria that led to the drafting  
6                   of the November 2016 relicensing application  
7                   document; do you agree?

8           A        Okay.

9           Q        And then it says:

10  
11                   Here's what our application included and as  
12                   you remember, Mr. Krause, at the time this  
13                   proposal was submitted, even you  
14                   congratulated IVCA on providing such a  
15                   well-written proposal.

16  
17                   Do you see that?

18           A        Okay. That's what I've been saying, yes.

19           Q        Right. And the only people who attended that  
20                   meeting on behalf of IVCA were you and  
21                   Mr. Pollock?

22           A        Yes.

23           Q        And since Mr. Pollock wasn't at this 2017  
24                   meeting, the source of this information must have  
25                   been you?

26           A        Well, that was -- yeah, probably would have been,  
27                   yeah, I would have said that that -- it's a  
28                   repeat of what we did the year before.

29           Q        It couldn't have been anyone else, right, because  
30                   it had to be someone who actually presented the  
31                   proposal to the commission in 2017?

32           A        Well --

33           Q        2016?

34           A        There's more than just me and Mr. Tom Pollock  
35                   that saw the application, so.

36           Q        Right.

37           A        The directors saw it, the growers just saw it, so  
38                   yeah, I don't know if it was just Mr. Pollock and  
39                   myself but everybody was aware of it.

40           Q        It would only have been Mr. Pollock and yourself  
41                   who would have been present to hear Mr. Krause's  
42                   remarks at the presentation before the  
43                   commission?

44           A        From our agency, well, there were other members  
45                   there at the meeting, I'm sure.

46           Q        Well, your evidence was that it was only you and  
47                   Mr. Pollock who attended that meeting. Are you



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

- 1 changing your evidence now?  
2 A No. From our agency, we were the only two there  
3 were.  
4 Q Right. And in terms of the people who were both,  
5 number one, at the presentation to the commission  
6 in 2016 and, number two, at this meeting that  
7 IVCA held in 2017, there was only one person who  
8 was at both and that was you; right?  
9 A Correct.  
10 Q On to page 896. You asked the commission and  
11 BCFIRB:  
12  
13 Consider the following existing scenario and  
14 why the commission wishes to stop our  
15 efforts to take advantage of what is a  
16 long-term agreement that brings stability to  
17 many families and adheres to the omission of  
18 accessing new markets outside of BC. A  
19 large client agrees to buy all of the  
20 product we can produce from all three of our  
21 growers. The quality must be within the  
22 client's standards. Our product is to  
23 replace US imports. What is the issue?  
24  
25 Do you see that there?  
26 A I see it.  
27 Q And the client that's being referenced here is  
28 Thomas Fresh; correct?  
29 A Correct.  
30 Q And I'll suggest to you that the reference to  
31 "long-term agreement" and a "client agrees" is a  
32 reference to those 60-day forward contracts to  
33 which I took you earlier today; do you agree?  
34 A I'm not sure whether there was even -- that was  
35 even brought, um, in this context.  
36 Q Okay.  
37 A But it was just the fact they agreed to purchase  
38 the product when they saw the quality, so.  
39 Q Right. They agreed pursuant to a long-term  
40 agreement; right?  
41 A I guess whatever that means, long-term agreement  
42 is yes, whether it's verbal, written, or  
43 whatever.  
44 Q Right.  
45 A But it's, you know, if they liked the quality  
46 then -- then it's an agreement.  
47 Q Okay. And I'm going to suggest to you,

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

- 1 Mr. Michell, that the fact that IVCA and  
2 Thomas Fresh had entered into those 60-day  
3 forward contracts was discussed openly at the  
4 meeting that precipitated the drafting of this  
5 letter; do you agree?
- 6 A I don't think those contracts were even brought  
7 forward at the meeting.
- 8 Q Okay. When you read -- because you've signed  
9 this letter; right?
- 10 A Yes.
- 11 Q And I'm guessing that before you signed it, you  
12 read it over it very carefully?
- 13 A Well, I read over it, yes, and -- but I didn't  
14 refer to the contracts that I've seen here today  
15 but it's, you know, we have agreements because  
16 our agency goes back many years. We don't have  
17 any written agreements with customers we've even  
18 had for 35 years. There's no written agreements.  
19 It's just we agreed to purchase your product. So  
20 previously, I said that we don't go into written  
21 contracts, any long-term contracts, it's just  
22 what's purchased that day and we deliver that  
23 day. That's the contract we normally used in our  
24 co-op agency is that would be the contract that  
25 we use.
- 26 Q All right. I'm going to move on to a different  
27 topic. I'm going to ask some questions about  
28 Ms. Solotski. You've given evidence that she was  
29 the assistant office manager and bookkeeper;  
30 right?
- 31 A Yes.
- 32 Q And she was hired perhaps in 2015 or 2016, if I  
33 recall your evidence correctly?
- 34 A Yes. I think that was -- I had a date, yes.
- 35 Q Yes. I understand that she's now deceased?
- 36 A Yes.
- 37 Q And when did her employment end at IVCA for the  
38 final time?
- 39 A Oh, like, and I don't know the exact date. It  
40 was only about a week or ten days before she  
41 passed away.
- 42 Q And when was that?
- 43 A Date. I would have to find the exact date for  
44 you.
- 45 Q Okay. I hesitate to speak ill of the dearly  
46 departed so I'm going to phrase my question  
47 diplomatically. If I were to suggest to you,

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

- 1 Mr. Michell, that Ms. Solotski had a big  
2 personality, would you agree with that  
3 description?  
4 A Yeah. Yeah. She let you know what she thought,  
5 sure, yeah. I would say, yeah.  
6 Q And if Ms. Solotski liked you, she could be very  
7 kind and helpful and bubbly and friendly;  
8 correct?  
9 A Yeah. Yeah. I think she was -- yeah, that kind  
10 of person, yes.  
11 Q And if she did not like you, she could be very  
12 difficult to deal with. Is that a fair  
13 description?  
14 A Well, I never really had that experience myself  
15 but I would -- maybe possibly people might say  
16 that, but I wouldn't say that.  
17 Q You certainly -- you certainly had occasion to  
18 witness that sort of dynamic between Ms. Solotski  
19 and Mr. Gill; correct?  
20 A Well, I would say that she might respond in the  
21 way that she's presented with, you know, it  
22 depends on the atmosphere around her, I would  
23 say, at the time.  
24 Q Okay.  
25 A I don't think that she never spoke ill of -- when  
26 Mr. Gill, you're talking about Mr. Gill or  
27 someone there, never spoke ill when he wasn't  
28 there so I don't know what their, you know,  
29 demeanour was like on the, your communication  
30 but, you know, it was not good as we can tell by  
31 emails and things like that, so.  
32 Q Right. And I'll suggest to you that upon  
33 Mr. Gill starting his employment, Ms. Solotski  
34 made it very clear through -- for her words and  
35 her behaviour that she took an instant dislike to  
36 him. Do you agree with that?  
37 A I don't know. I don't know if it was instant.  
38 Q I'll put it to you that Ms. Solotski expressed  
39 this sentiment to you on multiple occasions in  
40 April, May, June, and July of 2017?  
41 A Well, she questioned his experience.  
42 Q Yeah. She gave evidence in the 2018 hearing that  
43 she openly called him an idiot. Now, you were  
44 present for that evidence in the gallery; weren't  
45 you?  
46 A I don't know. I only attended one day for a  
47 couple of hours, that's all. I wasn't called to

- 1 A No.
- 2 Q Okay. And there are some notes of that meeting  
3 and they're at page 1100 of Exhibit 1.
- 4 A Okay.
- 5 Q Now, these are Mr. Solymosi's notes.  
6 Mr. Solymosi has given that evidence in a prior  
7 proceeding so I'm not suggesting that you're --  
8 they're your notes, but what I'm going to --
- 9 A It's hard to read, sorry.
- 10 Q It is hard to read and I'll help you. I want to  
11 take you, in particular, to these two lines here  
12 and perhaps I know what they say, but maybe I can  
13 make it bigger, maybe I can't, we'll see. I'm  
14 going to suggest to you this says:  
15  
16 Undercutting to gain competitive  
17 advantage --  
18  
19 And then the bullet point below that says:  
20  
21 Unwillingly brought into non-compliance  
22 through the actions of Bob Gill.  
23
- 24 Do you see that?
- 25 A Okay, yeah. I can read that, yeah.
- 26 Q And I'm going to suggest to you that those notes  
27 of Mr. Solymosi reflect comments that  
28 representatives of IVCA made to Mr. Solymosi,  
29 Mr. Krause at that meeting; correct?
- 30 A I would possibly say that would be correct.
- 31 Q Okay. And I'm going to put to you, Mr. Michell,  
32 that the statement "unwillingly brought into  
33 non-compliance through the actions of Bob Gill"  
34 is entirely untrue. Do you agree with me?
- 35 A No. Can you repeat that one more time?
- 36 Q I will suggest to you that the statement that  
37 "IVCA was unwillingly brought into non-compliance  
38 through the actions of Bob Gill" is entirely untrue?
- 39 A No, that's not true.
- 40 Q Okay. I'm going to suggest to you that it was  
41 your decision not to submit a marketing plan that  
42 brought IVCA into non-compliance?
- 43 A Not entirely mine, no, no.
- 44 Q And in terms of the tension between Ms. Solotski  
45 on the one hand and representatives of Prokam on  
46 the other hand, it wasn't Mr. Gill who was  
47 responsible for that tension, it was Ms. Solotski?

- 1 A I would say, there's a percentage on both sides.  
2 Q Okay. But in your mind, certainly at the time,  
3 you decided to put an ad for Ms. Solotski's  
4 replacement, it was Ms. Solotski who was  
5 primarily responsible for that tension?  
6 A At the time of storming out that particular time,  
7 yes.  
8 Q Yes, and you knew that at the time this meeting  
9 occurred on October 3rd?  
10 A Well, I don't think that has -- that this meeting  
11 was not a result of some personal disagreements.  
12 It was a result of the shipping of product  
13 underpriced and that came about by shipping  
14 certain weights and then having claims laid  
15 against those loads which we figured out later.  
16 Q Right. And the reason why IVCA couldn't get its  
17 act together is because there had been a complete  
18 breakdown of trust and communication between  
19 Ms. Solotski and Mr. Gill and Mr. Dhillon; right?  
20 A Well, it was very frustrating with -- bear with  
21 me -- very frustrating when we had claims -- some  
22 of the bills were not being paid and it was well  
23 under what the bill would have been and the  
24 customer's saying they had put claims into Prokam  
25 which were never followed through into the  
26 agency. And the fact that the -- at month-end,  
27 we didn't find out that there was claims against  
28 the loads and the customer's not paying the full  
29 bills.  
30 Q Mr. Michell, I'm sorry. I don't wish to  
31 interrupt you but my time is ticking away. I  
32 only have five more minutes.  
33 A Okay, sure.  
34 Q Let me ask you this: Did you or Ms. Solotski or  
35 Mr. Meyer, at this meeting that took place on  
36 October 3rd, did you tell Mr. Krause and  
37 Mr. Solymosi that in July of 2017, you had put an  
38 ad for replacement of Ms. Solotski?  
39 A I wouldn't know. I wouldn't know.  
40 Q You don't have any recollection of anybody  
41 informing Mr. Krause and Mr. Solymosi of that;  
42 correct?  
43 A I don't recall that, no.  
44 Q I'm going to put to you that none of the three of  
45 you informed Mr. Solymosi or Mr. Krause of that  
46 fact; do you agree?  
47 A I don't know.

- 1 Q You don't have any reason to disagree with me;  
2 right?
- 3 A Well, I don't have -- I don't know what even that  
4 was brought up at the meeting. I'd have to see  
5 minutes of the meeting from someone who took  
6 notes, but I don't recall that, no.
- 7 Q Well, I can tell you right now this doesn't --  
8 these notes are two pages and that fact does not  
9 appear on either page, but aside from that, do  
10 you agree with me that that would have been  
11 relevant information for Mr. Krause and  
12 Mr. Solymosi to have? I notice Mr. Michell -- he  
13 must be frozen?
- 14 A Sorry. You were off for about 20 seconds or so.
- 15 Q Did you hear my question, Mr. Michell?
- 16 A No, no. It had froze, sorry.
- 17 Q Okay my question was: Do you agree with me that  
18 the fact that you had decided in July of 2017,  
19 that the best way to resolve the interpersonal  
20 conflict was to put an ad for replacement of  
21 Ms. Solotski, would have been relevant  
22 information for Mr. Krause and Mr. Solymosi to  
23 have been given at this meeting?
- 24 A No. I don't think so, no.
- 25 Q No, okay. All right. As a result of this  
26 meeting, in fact, at the meeting, IVCA  
27 representatives provided Mr. Krause and  
28 Mr. Solymosi with a package of documents; correct?
- 29 A At the meeting itself? I can't remember if it  
30 was at the meeting or forwarded to them -- yeah,  
31 they probably would have taken some documents  
32 with them, I would think, yeah.
- 33 Q Okay. And, subsequently, further documents were  
34 provided to the commission by IVCA; correct?
- 35 A Yes. I wasn't sure of what the documents were.  
36 It's just that whatever was requested was  
37 suggested that they give them to the commission.
- 38 Q Right. And that July 4th, 2017 email from you to  
39 Mr. Gill where you explained to him that no  
40 marketing plan had been submitted for Bob Spuds  
41 in 2016, that email was never provided to the  
42 commission; correct?
- 43 A That email? I don't know whether it would have  
44 been or not. Not from me anyways, no.
- 45 Q I'll suggest to you that what the commission  
46 received from IVCA was not an accurate and fully  
47 comprehensive collection of documents but rather

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Janice Solotki (adverse witness)

Cross-exam by Ms. Hunter

- 1  
2 Q And how would anyone know that from reading  
3 Mr. Dhillon's email?  
4 A Because Mr. Dhillon doesn't speak like this.  
5 Q What do you mean by that? Can you give me an  
6 example of something that's --  
7 A Okay, do we produce monthly income statements or  
8 do we expense as you receive a bill? That's not  
9 a terminology Mr. Gill -- Mr. Dhillon would use.  
10 Q All right.  
11 A Right?  
12 Q But those are certainly appropriate questions for  
13 a director of IVCA to be asking.  
14 A They are, but if you're not the author of the  
15 email and you're presenting yourself as being the  
16 author or director of IVCA, there was many emails  
17 like this that were signed Bob Dhillon and they  
18 were -- the language in it, we all got to know  
19 that they were from Mr. Gill. Just say it's you  
20 and you don't understand how the financial system  
21 -- statements are working; right?  
22 Q Right. But let's say that you are right about  
23 that, why is that concerning?  
24 A Well, it just shows that they never wanted to  
25 cooperate with the office, you know. There is a  
26 thing called a phone too; right? Like, if you're  
27 not sure about something on the statement --  
28 like, I understand emails a lot quicker, but if  
29 you want to try to repair a relationship, I made  
30 many phone calls to try to get it straightened  
31 out, right, like, listen, what is it that you're  
32 looking for? And never got an answer.  
33 Q And we've seen that you and Mr. Dhillon also  
34 exchanged text messages fairly regularly?  
35 A Correct.  
36 Q And those were very friendly, particularly in  
37 this period?  
38 A Yes.  
39 Q So there really wasn't any issue between you and  
40 Mr. Dhillon about the kinds of questions that  
41 were being asked?  
42 A No.  
43 Q But in this email you sent here May 16th to  
44 Mr. Michell, Mr. Meyer and Mr. Wittal, you say in  
45 the second line:  
46  
47 As usual he just doesn't get it!!!! I'm not

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Janice Solotki (adverse witness)

Cross-exam by Ms. Hunter

1                   going to give this idiot an accounting  
2                   lesson. Yes, the bank is balance every  
3                   week.  
4

5                   Now, who's the idiot in this?

6           A        Mr. Gill, sorry.

7           Q        All right. And what is it that justifies the  
8                   characterization Mr. Gill is an idiot?

9           A        It's just the questions that he asks and they  
10                   make no sense. The \$60,000 he's talking about  
11                   was in the 2016 financials and he keeps bringing  
12                   it up, why is it showing up in the 2017? Like my  
13                   grandma used to say you can't fix stupid, and I  
14                   was just frustrated.

15          Q        All right. But you have an email here from a  
16                   director of IVCA, Mr. Dhillon, and I appreciate  
17                   you don't believe Mr. Dhillon wrote it but you  
18                   have an email from Mr. Dhillon asking certain  
19                   questions about the financial situation of IVCA.

20          A        Correct.

21          Q        And instead of providing the answers --

22          A        I did provide them twice but it wasn't to his  
23                   liking.

24          Q        All right. Well, my question was going to be  
25                   instead of providing the answers to Mr. Dhillon,  
26                   you forward it to others at the co-op and  
27                   characterize the sender as an idiot.

28          A        Yes.

29          Q        Now, can I ask you to turn back one tab to tab 5.  
30                   This is a letter to Mr. Meyer from Mr. Dhillon  
31                   dated the day before that email exchange we just  
32                   looked at.

33          A        Yes.

34          Q        Do you see that? And it's got some handwriting  
35                   on it. Do you recognize any of the handwriting?

36          A        I do. The one that says "Bob can't read f/s..."  
37                   financial statement, "A negative is a loss," and  
38                   I wrote "idiot," that is my comment.

39          Q        All right.

40          A        And I believe the rest of it is all Brian's.

41          Q        All right. And so this is an email -- or this is  
42                   a letter, and Mr. Dhillon says:

43

44                   I am writing in response to your letter  
45                   received on May 12 regarding a cash call.

46

47                   There had been a cash call made to Mr. Dhillon as



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Janice Solotki (adverse witness)

Cross-exam by Ms. Hunter

- 1 a member of the co-op?  
2 A Correct, which he agreed to.  
3 Q All right. I'm just confirming that this letter  
4 is in respect -- he's writing to you in respect  
5 of a cash call or he's writing to Mr. Meyer in  
6 respect of a cash call?  
7 A Correct.  
8 Q And then he's asking some questions about the  
9 financial situation at the co-op?  
10 A Correct.  
11 Q And that's in respect of being asked to  
12 contribute money; yes?  
13 A Yes. I'm sorry, I keep nodding.  
14 Q And not only is Mr. Dhillon a director of IVCA at  
15 this point, but he's also a member and he's quite  
16 legitimately asking questions about the financial  
17 situation?  
18 A Correct.  
19 Q In the context of being asked for cash?  
20 A Yeah.  
21 Q And instead of responding to the questions asked,  
22 your reaction is to indicate Bob can't read  
23 financial statements, a negative is a loss,  
24 idiot.  
25 A I meant Bob Gill, not Bob Dhillon.  
26 Q I appreciate that.  
27 A But Mr. Gill represented to Mr. Dhillon that we  
28 made money and we didn't. So, you know, I can't  
29 fix stupid. Like, if you don't know how to read  
30 a financial statement, that's not my problem.  
31 Q Well, if a director and a member of the co-op to  
32 which you were the accountant --  
33 A But I didn't make these comments to Mr. Dhillon.  
34 I made them to Brian; right? Like, give me some  
35 direction as a general manager, how do you want  
36 me to handle this?  
37 Q All right. And this is -- so you make the  
38 comment that you make here in the letter with the  
39 "idiot". And then it's repeated in the email at  
40 tab 6 the next day.  
41 A Yeah.  
42 Q  
43 I'm not going to give this idiot an  
44 accounting lesson.  
45  
46 A That was just between Brian, Terry, and myself.  
47 That was never -- that email was never sent to

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Janice Solotki (adverse witness)

Cross-exam by Ms. Hunter

- 1 Mr. Dhillon or to Mr. Gill.
- 2 Q No, but you were refusing to provide the
- 3 information Mr. Dhillon was asking for because
- 4 you considered it be written by Bob Gill who you
- 5 thought was an idiot?
- 6 A He got the information every time he asked for
- 7 it. He didn't ask for it in the right way. He
- 8 got what he asked for. We tried many times,
- 9 please tell us exactly what you want.
- 10 Q Bob Gill at this point had been at IVCA for about
- 11 six weeks; correct?
- 12 A Yeah, he was not to start until the first Warba
- 13 shipment but he started -- I understand he
- 14 started as of April 1st. That's when he went on
- 15 the payroll.
- 16 Q Yeah. So he'd been at IVCA for a short time by
- 17 May 16th?
- 18 A Yeah.
- 19 Q But you'd already come to the view that he was an
- 20 idiot?
- 21 A We were introduced in February during the cash
- 22 call meeting. Mr. Dhillon brought Mr. Gill. And
- 23 he had asked the directors if Mr. Gill could have
- 24 a copy of all the financial statements for the
- 25 last couple of years so he could do some
- 26 analysis, which I provided to Mr. Gill.
- 27 Q And you wanted to make clear at this point, just
- 28 a few weeks after Mr. Gill had started work, you
- 29 wanted to make clear to Mr. Gill's bosses, to
- 30 Mr. Michell, Mr. Meyer, and Mr. Wittal your view,
- 31 your negative view of Mr. Gill's abilities?
- 32 A They had the same view.
- 33 Q I'm not asking about their view. I'm asking
- 34 about what you wanted to do by this email. The
- 35 purpose in sending this email was to make clear
- 36 to Mr. Gill's bosses only a few weeks after he
- 37 started work that you considered him to be an
- 38 idiot?
- 39 A Correct.
- 40 Q I'd ask you to turn to tab 7. And these are
- 41 minutes of an annual general meeting on May 25th,
- 42 2017?
- 43 A Correct.
- 44 Q And you attended that meeting?
- 45 A I did, yes. I'm sorry, yes.
- 46 Q Mr. Dhillon attended by Facetime it indicates
- 47 here?

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

1 witness or anything. I was there for a couple of  
2 hours, but I don't recall that -- that at all.  
3 Q Okay. If I told you that Ms. Solotski testified  
4 on multiple occasions in 2018 with reference to  
5 Mr. Gill, "you can't fix stupid." Do you have  
6 any recollection of her giving that evidence  
7 while you sat in the gallery?  
8 A Not, no, no, no. If it's evidence then it's  
9 evidence, but it was the not when I was there. I  
10 didn't hear that.  
11 Q Okay. And I'll suggest to you that on multiple  
12 occasions between April and June 2017, there were  
13 relatively testy exchanges between Ms. Solotski  
14 and Mr. Gill and you were copied on some of them;  
15 correct?  
16 A Correct.  
17 Q Okay. Now, at one point in 2017, you instructed  
18 Mr. Gill to run an ad for Ms. Solotski's  
19 position; correct?  
20 A Yes, because she was going to -- she wanted to  
21 quit or something along those lines, so there was  
22 an ad ran.  
23 Q You didn't tell Ms. Solotski that you were  
24 running the ad though, did you?  
25 A No, no. We didn't run the -- no, we didn't say  
26 anything, no.  
27 Q In fact, she found out when somebody called into  
28 the office about the position and she took the  
29 call?  
30 A I don't recall. Possibly; that's a possibility.  
31 Q And upon finding out about the ad, she tendered  
32 her resignation; correct?  
33 A I'm not sure whether it was at that time or  
34 another time. That is a possibility.  
35 Q Okay. I'm going to suggest to you that the  
36 reason you instructed Mr. Gill to run the ad was  
37 not because Ms. Solotski wanted to quit but  
38 rather that there was a meeting at which she  
39 stormed out between you and her and Mr. Meyer  
40 about a mistake she had made and accounts  
41 receivable reports. Do you recall that?  
42 A I don't remember her making any mistakes.  
43 Q Okay.  
44 A I don't recall that. She was upset with us  
45 allowing Mr. Gill to be on the computer as it  
46 is -- it was kind of a specialized piece of  
47 equipment. Um --

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

- 1 Q I didn't ask you about that, Mr. Michell. I'm  
2 asking you, do you recall a meeting at which  
3 Mr. Gill asserted that Ms. Solotski's AR summary  
4 was off the tune of some \$400,000 and in  
5 response, Ms. Solotski angrily stormed out of the  
6 room?
- 7 A No, no.
- 8 Q That didn't happen?
- 9 A I don't recall that. Not Ms. Solotski making a  
10 \$400,000 -- no, no, no, no.
- 11 Q Do you recall her storming out of the room during  
12 a meeting in or around June or July 2017?
- 13 A Let's see. I recall that, yeah. I'm just trying  
14 to remember what that might have been.
- 15 Q Okay.
- 16 A I don't think it was \$400,000 or anything like  
17 that.
- 18 Q Regardless what it was about, Mr. Michell, you  
19 recall that it happened and I'm going to put to  
20 you that after that happened, you instructed  
21 Mr. Gill to run an ad for her position?
- 22 A I think it was -- it would not have just been  
23 myself, but we probably did, yeah.
- 24 Q And the reason that you instructed Mr. Gill to  
25 run an ad for her position is because you were  
26 determined that she was responsible for the  
27 interpersonal conflict that IVCA has been  
28 experiencing over the previous four months. Do  
29 you agree?
- 30 A Not entirely, no.
- 31 Q And furthermore, that you concluded that  
32 replacing Ms. Solotski with somebody else would  
33 solve that issue. Do you agree or disagree with  
34 that?
- 35 A I would disagree with that.
- 36 Q Okay. And I'll put it to you that the reason  
37 that you didn't tell Ms. Solotski that you were  
38 running the ad is because you did not want her to  
39 quit until you had found a suitable replacement  
40 for her; correct?
- 41 A That would be correct as the system that we have  
42 in our office is quite complex.
- 43 Q Okay. And also this was the end of July; wasn't  
44 it?
- 45 A Peek of the season.
- 46 Q Right. August, September, those are the busy  
47 months?

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

- 1 A Yeah.  
2 Q If you lost Ms. Solotski without a suitable  
3 replacement, then IVCA would be up a certain  
4 creek without a certain paddle; correct?  
5 A That's correct. Did not have someone to replace  
6 her -- her expertise.  
7 Q Right. But what happened is she did find out  
8 about the ad and then she tendered her  
9 resignation before IVCA could find a suitable  
10 replacement?  
11 A Yeah.  
12 Q And what ensued from that was panic; correct?  
13 A I would think so under a certain amount of  
14 pressure, yes.  
15 Q Panic on your part, panic on Mr. Meyer's part?  
16 A Just all around.  
17 Q All around?  
18 A I would say, pressure all around because she --  
19 she knew our system and we were doing a lot of  
20 invoices every day so, yeah.  
21 Q Right, right.  
22 A And Mr. Gill, that didn't have experience on our  
23 equipment.  
24 Q And certainly Mr. Meyer was not very skilled with  
25 a computer at all?  
26 A That's correct, and nor am I.  
27 Q So you didn't know, without Ms. Solotski, how  
28 IVCA was even going to do business in August and  
29 September?  
30 A It would have been the old way, pen and paper.  
31 Q Okay. And so what you did is you asked  
32 Ms. Solotski for a meeting; right?  
33 A Yes.  
34 Q And you asked her to reconsider, to stay on?  
35 A Yes.  
36 Q You managed to convince her to stay on?  
37 A Exactly.  
38 Q And she agreed to stay on long enough -- as long  
39 as you needed her; right?  
40 A Well, until we -- there was a lot going on at  
41 this time with the commission, ourselves,  
42 shipping potatoes, and product from the Prokam  
43 farm, yeah, she agreed to stay on.  
44 Q Okay, but now you're in a really difficult  
45 position, right, because you had decided to  
46 terminate her employment and she knew that?  
47 A Well, we hadn't decided to terminate it.

1 Q Okay.  
2 A We had decided to see if there was anyone else  
3 there that could replace her.  
4 Q Right.  
5 A And that became very prevalent that that was  
6 going to be very difficult to do.  
7 Q And the reason you wanted to replace her was to  
8 resolve the interpersonal tension in the office  
9 right, removing Ms. Solotski would have resolved  
10 that tension?  
11 A It probably would have helped a bit, yeah, I  
12 would guess, but --  
13 Q Right, right.  
14 A -- you know, it didn't all come from our office.  
15 Q Right, but now you know that's not an option  
16 because Ms. Solotski is indispensable to IVCA;  
17 right?  
18 A At the time, yeah, and we have to do at that time  
19 we got to look at not just, you know, our  
20 situation but all the growers situation. So we  
21 had to take care of all our members, not just a  
22 couple.  
23 Q So Ms. Solotski agrees to stay on and you're  
24 stuck with her regardless of whether she's a good  
25 employee or not, you know that you can't get rid  
26 of her, right, you need her?  
27 A Well, you know, I never really had a problem with  
28 her. Many people, a lot of our customers did not  
29 have a problem with her.  
30 Q That wasn't my question, though. My question was  
31 you know that you need her. You can't get rid of  
32 her?  
33 A Stuck with her, so.  
34 Q Okay. And so you need to find another solution  
35 to the interpersonal conflict other than removing  
36 Ms. Solotski; correct?  
37 A I'm going to say that we were not stuck with her,  
38 we did not want to lose her.  
39 Q Right. You couldn't afford to lose her?  
40 A Makes sense.  
41 Q It would have been a disaster to lose her?  
42 A Makes sense.  
43 Q So instead, the only solution remaining was that  
44 Mr. Gill and Mr. Dhillon became the target;  
45 correct?  
46 A Well, I don't know if they were a target but it  
47 was a -- it was a source of a lot of our

- 1 problems.
- 2 Q Right. And removing somehow, somehow, Prokam,  
3 Mr. Gill, who was, by the way, not a Prokam  
4 employer; right? He was a Sam Enterprises  
5 employee; do you recall that?
- 6 A Yeah. That was some smoke and mirrors there too,  
7 so.
- 8 Q Okay. You don't disagree with me that he was not  
9 a Prokam employee?
- 10 A I don't know who he was working for but  
11 someone -- it was some identity at the farm.
- 12 Q Okay. So in August and September, I'll suggest  
13 to you Ms. Solotski was not only back but she was  
14 back with a vengeance and she knew that Mr. Gill  
15 had run an ad on your instructions to try to  
16 remove her and this only intensified the  
17 conflict; correct?
- 18 A I'm not sure. Brian just took over more of that  
19 communication and at the time, so did Barb, Bob's  
20 wife, she took over a lot of the communication  
21 also, and it was with Janice that those two  
22 seemed to get along fine. So that's the  
23 reason -- I'm not pointing the fingers only at  
24 Janice which is not fair, but Barb and Janice  
25 seemed to get along.
- 26 Q Okay. But you've seen an email that Mr. Hira  
27 took you to earlier where Ms. Solotski and  
28 Ms. Barb Dhillon are on the email chain and  
29 Ms. Solotski is still complaining about  
30 Mr. Dhillon. Do you recall that email?
- 31 A Yeah.
- 32 Q In any event, your evidence earlier was that you  
33 and Mr. Meyer had a conversation and decided to  
34 reach out to the commission for assistance in  
35 resolving this conflict between Prokam and IVCA;  
36 right?
- 37 A Yeah. There was several issues that was the  
38 reason we did the reach out, yeah, yes.
- 39 Q Okay. And if I suggest to you that Mr. Meyer  
40 reported to Mr. Solymosi that IVCA and Prokam  
41 were having difficulties on either September 26  
42 or 27, 2017, does that accord with your  
43 recollection?
- 44 A I would say, that sounds -- that sounds accurate,  
45 yeah.
- 46 Q Okay. I'm going to show you an email chain here.  
47 It's pages 1096 to 1099 of Exhibit 1. And you

1 desist order to Prokam?  
2 A And the cease and desist order directed authority  
3 back to IVCA.  
4 Q Prokam was your primary target in this  
5 investigation, correct?  
6 A The issue was agency, why they were not -- you  
7 know, agency was in non-compliance and they were  
8 pricing and why was that happening?  
9 Q You relied entirely on IVCA to provide the  
10 information in your investigation, correct?  
11 A Correct.  
12 Q You did no independent investigation of your own  
13 prior to issuing the cease and desist orders?  
14 A Correct.  
15 Q And the information you received from IVCA was a  
16 highly-curated version of events and set of  
17 documents; do you agree with that?  
18 A Can you repeat, please?  
19 Q The information you received from IVCA was a  
20 highly-curated version of events and set of  
21 documents; do you agree with that?  
22 A We had a meeting and we reviewed documents there  
23 and the investigation was launched and was  
24 ongoing and then subject to a show cause hearing.  
25 So it was -- this was the start of an  
26 investigation and it was by no means the end of  
27 an investigation.  
28 Q Throughout the investigation you received  
29 documents from IVCA, correct?  
30 A Throughout the investigation, correct.  
31 Q And no one else, correct?  
32 A All parties had an opportunity to submit evidence  
33 for that written process that was initiated, the  
34 show cause process. Evidence submitted, we did  
35 gather evidence for IVCA and all parties had an  
36 opportunity to submit evidence as part of the  
37 process.  
38 Q There was a written show cause process where  
39 lawyers were permitted to make submissions on  
40 behalf of their clients, correct?  
41 A That's correct.  
42 Q But there was never any direct investigation on  
43 your part of what had occurred beyond being  
44 provided the information by IVCA, correct?  
45 A Correct.  
46 Q And in the course of the 2018 appeal hearing, you  
47 were shown that some of the documents, some of



Marcel Andre Solymosi  
Cross-exam by Cnsl C. Hunter

1 the information that IVCA had provided to you was  
2 incorrect; you agree with me?  
3 A You would have to put that in front of me.  
4 Q All right. Well, why don't we take one example.  
5 Why don't we do the screen, the double  
6 screenshot? We're going to put two documents up  
7 on the screen together hopefully.  
8 CNSL R. HIRA: Could you identify the documents so  
9 that I can get there [indiscernible].  
10 CNSL C. HUNTER: We will do that, yes. The first is  
11 Exhibit 1 page 972.  
12 CNSL R. HIRA: Thank you.  
13 CNSL C. HUNTER: And the second is Exhibit 1 page 976,  
14 starting there.  
15 Q Do you see both of those documents, Mr. Solymosi?  
16 CNSL R. HIRA: Why don't I put the documents in front  
17 of him?  
18 CNSL C. HUNTER: Mr. Chair, do you see both documents?  
19 I just want to make sure that the Chair...  
20 THE CHAIRPERSON: Yes, I do. Thanks.  
21 CNSL C. HUNTER: Okay. Thank you.  
22 Q So Mr. Solymosi, the 972 is a copy of a document  
23 that you received from IVCA as part of your  
24 investigation, correct?  
25 A I -- correct.  
26 Q And it has a date handwritten on the top, August  
27 28th, and a handwritten note "no response" and  
28 that's handwritten by Ms. Solotski, correct? I  
29 think the audio may have cut out for a moment.  
30 Did you answer the question?  
31 A Correct.  
32 Q Okay. And you see on the email itself, it's an  
33 August 28th, 2017, 11:29 a.m. email from Ms.  
34 Solotski to Bob Gill and Bob Dhillon?  
35 A On the right?  
36 Q At both of them, although you can't see the  
37 recipients on the other -- I'm looking at the  
38 recipient list on the printed copy, the one that  
39 says "no response", but just look at the time,  
40 August 28th, 2017 at 11:29 a.m. from Ms. Solotski  
41 and then it says August 28th:  
42 Here's last week's sales. Please explain  
43 price variance.  
44  
45 And then the handwritten note, "no response".  
46 And you see at 976 the document 976, that's the  
47 same email but a part of a chain?

Marcel Andre Solymosi  
Cross-exam by Cnsl C. Hunter

1 A Okay.

2 Q And I'm going to move up the chain on 976 to show  
3 975. We see this is an email from Mr. Gill to  
4 Ms. Solotski August 28th just about half an hour  
5 later, 11:58 a.m. and responding to the email:

6  
7 Can we cross-reference the yellow nugget  
8 highlighted cells against the price list  
9 sent out? I'm showing yellow nuggets at  
10 \$29. Do you agree?

11  
12 Mr. Meyer:

13  
14 Yes, I agree. So to stop any more mistakes  
15 from being made, I will just forward the  
16 BCVMC price list when it comes out, do you  
17 agree?

18  
19 And Mr. Gill:

20  
21 Should I -- would I send the price list out  
22 to the customer?

23  
24 Do you see that?

25 A Yes.

26 Q And so you agree with me there was a response to  
27 Ms. Solotski's email of August 28th at 11:29  
28 a.m.?

29 A It appears so.

30 Q But the version she gave you was indicated with  
31 the handwritten note "no response"; do you see  
32 that?

33 A Correct.

34 Q And so I'm asking whether you agree with me that  
35 at least some of the information IVCA provided to  
36 you was inaccurate?

37 A It appears so.

38 Q And you've heard other evidence over the course  
39 of this proceeding and the 2018 proceeding that  
40 you were not aware of at the time you issued the  
41 cease and desist orders and during the show cause  
42 process, correct?

43 A Can you repeat that?

44 Q You've heard other evidence during this  
45 proceeding and the 2018 appeals about what was  
46 going on at IVCA that you were not aware of at  
47 the time you issued the cease and desist orders?

Marcel Andre Solymosi  
Cross-exam by Cnsl C. Hunter

1 A It was -- yeah, the cease and desist orders would  
2 have started the investigation process.  
3 Q Yes. But throughout the investigation process,  
4 you only received information from IVCA and what  
5 I'm asking is if you agree with me that you have  
6 since seen documentation that shows the  
7 information you received from IVCA was  
8 incomplete?  
9 A Well, at least in the instance that you had shown  
10 me just now, that's correct.  
11 Q All right. I'm going to show you another  
12 document and it is Exhibit 1 page 862.  
13 THE CHAIRPERSON: Ms. Hunter?  
14 CNSL C. HUNTER: Yes?  
15 THE CHAIRPERSON: Making note of the time...  
16 CNSL C. HUNTER: Oh, I'm sorry, Mr. Chair. I'm  
17 actually very close to being done. I wonder if  
18 -- I was hoping not to have to go into these  
19 documents but I think I could be less than ten  
20 minutes. I wonder if I should just finish up.  
21 THE CHAIRPERSON: Then let's finish up, please.  
22 CNSL C. HUNTER: Okay.  
23 THE CHAIRPERSON: Thank you.  
24 CNSL C. HUNTER: All right. Thank you.  
25 Q Mr. Solymosi, you should see on your screen  
26 Exhibit 1 page 862.  
27 A I see that.  
28 Q This is an email exchange between Terry Michell  
29 and Bob Gill from July of 2017; you see that?  
30 A That's correct.  
31 Q And this is not an email that was provided to you  
32 by IVCA, correct?  
33 A This is related to greenhouse production. I  
34 don't see why it would be provided  
35 [indiscernible] investigation process.  
36 Q All right. You could see from the mark on the  
37 document Prokam Thomas Fresh 01401, it was  
38 produced in the 2018 appeal hearing.  
39 A Yeah, correct.  
40 Q And the chain, moving up the chain, there's an  
41 email from Ron Wittal to Bob Gill forwarding  
42 something about greenhouse production allocation.  
43 Mr. Gill says:  
44  
45 Sounds like BCVMC is setting a new precedent  
46 that we did nothing about. Why are we not  
47 on this?

1           And Mr. Michell:  
2

3                   It was only sent to the agencies approved  
4                   for hothouse which [indiscernible] granted  
5                   us when we applied for a licence. We have  
6                   no objection if the applicant had unused DA.  
7

8           And then Mr. Michell wrote this to Mr. Gill:  
9

10                   It's not new precedent. It's been a general  
11                   order for years, I understand. There was  
12                   not one done for Bob's spuds. If you read  
13                   it, there is an objection to the business  
14                   plan. The commission will make the decision  
15                   and you know what their answer would have  
16                   been, so better to do sales and prove our  
17                   point before asking. We're doing a business  
18                   plan. Maybe is wrong way to do it, but  
19                   that's what happened. We know whatever plan  
20                   was presented to commission, I sure would  
21                   have been turned down. Now we have evidence  
22                   Bob's potatoes do not interfere with the  
23                   price or other growers' DA.  
24

25           Do you see that?

26   A    I see that, correct.

27   Q    And that's an email that was not provided to you  
28           by IVCA as part of your investigation, correct?

29   A    It had nothing to do with the investigation.

30   Q    Well, it makes reference to Bob's spuds, which I  
31           take it is a reference to Prokam potatoes. Do  
32           you agree with me?

33   A    Correct.

34   Q    And Mr. Michell is indicating that he was  
35           responsible for the decision not to submit a  
36           business plan because we know that the commission  
37           would have turned it down. Do you see that?

38   A    That's an assumption. Now, this greenhouse  
39           production allocation is a totally different  
40           industry. The industry is regulated. If  
41           production allocation is based on a metre-square  
42           planted area versus [indiscernible] allocation is  
43           totally different. IVCA has never had a  
44           greenhouse producer under its umbrella, even  
45           though they have the authority. And so this  
46           implying that making -- using this email to imply  
47           that a different plan would never be approved is

1 a misconception.  
2 Q Well, I'm not asking you about the greenhouse  
3 aspect of this. There's a reference to -- to:  
4  
5 ... not submitting a marketing plan because  
6 we are sure it would have been turned down.  
7 Now we have evidence Bob's potatoes do not  
8 interfere with the price for other growers'  
9 DA.  
10  
11 Do you see that?  
12 A What is the evidence?  
13 Q I'm asking you if you see what Mr. Michell has  
14 said to Mr. Gill.  
15 A That's what it says there on the email.  
16 Q Mr. Michell is the president of IVCA?  
17 A That is correct.  
18 Q This email chain suggests Mr. Gill is asking  
19 questions about ensuring compliance and Mr.  
20 Michell is saying we didn't comply on purpose,  
21 correct?  
22 CNSL R. HIRA: Just a moment. The email speaks for  
23 itself. He hasn't seen the email. It appears  
24 that he's seeing it for the first time. And how  
25 can he comment beyond the words in the email?  
26 I'm objecting to that question. If what you're  
27 trying to ask is you didn't receive this email as  
28 part of your investigation, ask it, get your  
29 answer and move on.  
30 CNSL C. HUNTER: I think Mr. Solymosi has already  
31 confirmed he didn't see this as part of his  
32 investigation.  
33 UNIDENTIFIED SPEAKER: [Indiscernible].  
34 CNSL C. HUNTER: Mr. Solymosi --  
35 UNIDENTIFIED SPEAKER: [Indiscernible].  
36 CNSL C. HUNTER:  
37 Q Mr. Solymosi, do you agree with me that this  
38 email was relevant to your investigation?  
39 A It does express Terry's opinion, so it should  
40 have been brought forward.  
41 Q And it casts the dynamic between Mr. Michell and  
42 Mr. Gill quite differently than what you were  
43 being told by IVCA, who pointed the finger at  
44 Prokam, Mr. Dhillon and Mr. Gill.  
45 A Can you repeat that? Is that it, or...?  
46 Q It casts the dynamic between Mr. Michell and Mr.  
47 Gill -- is there an objection?

Marcel Andre Solymosi  
Cross-exam by Cnsl C. Hunter

1 CNSL R. HIRA: I'm waiting for you to finish.  
2 CNSL C. HUNTER:  
3 Q Well, I've already tried this once. Madam  
4 Reporter, perhaps you could read back the last  
5 question I asked.  
6 CNSL R. HIRA: The last question you asked was it  
7 casts a dynamic between Mr. Michell and Mr. Gill  
8 which are different --  
9 THE CHAIRPERSON: Mr. Hira, I believe Ms. Hunter has  
10 asked the reporter to read back the last question  
11 she has on record.  
12 THE RECORDING SECRETARY: And I'm sorry, Counsel, it's  
13 quite an ordeal with this machine that I'm using,  
14 but I do have that you would agree that it casts  
15 the dynamic differently and that's my note. I  
16 apologize.  
17 CNSL C. HUNTER: That's okay. Let me try again.  
18 Q You received information from IVCA that pointed  
19 the finger at Prokam at Mr. Dhillon and at Mr.  
20 Gill and blamed them for the problems with IVCA's  
21 compliance, correct?  
22 A What was the date of that? That was later? That  
23 was not in July.  
24 Q I'm asking about the information you got in your  
25 investigation.  
26 A Correct.  
27 Q Yes. On -- in the meeting on October 3rd you  
28 were told Mr. Gill is at the heart of these  
29 problems, these compliance problems, correct?  
30 A Correct.  
31 Q And what I'm asking is whether -- if you'd seen  
32 this email between Mr. Michell and Mr. Gill, the  
33 dynamic between them might have been cast in a  
34 different light than it was at the October 3rd  
35 meeting?  
36 A It appears at this time in July that there was --  
37 it was cast in a different light as of July 4th,  
38 2017, I would agree. I would agree with -- with  
39 that.  
40 CNSL C. HUNTER: Yes. Mr. Chair, I see I'm at the ten  
41 minutes that I said I would be and I have  
42 probably two minutes more, but I'm -- I am happy  
43 if you wish to take the lunch break now, to just  
44 finish up after the break.  
45 CNSL R. HIRA: Can we finish --  
46 CNSL C. HUNTER: That's fine.  
47 CNSL R. HIRA: -- because my concern is the two

57

Janice Solotki (adverse witness)

Cross-exam by Ms. Hunter

- 1 Q That's --
- 2 A I can't answer that question. I'm sorry. I
- 3 don't have it in front of me.
- 4 Q When you forwarded the emails from Mr. Gill's
- 5 account in November of 2017 did you delete
- 6 anything from Mr. Gill's account?
- 7 A No, I did not.
- 8 Q So there shouldn't be any emails that existed in
- 9 November, 2017 from Mr. Gill's account that are
- 10 missing now?
- 11 A Correct.
- 12 Q We should have received production of all of
- 13 those?
- 14 A Correct.
- 15 Q All right. When you did the searches in November
- 16 and forwarded the emails from Mr. Gill's account
- 17 in November, that was to provide documents to the
- 18 Commission in response to a document request;
- 19 correct?
- 20 A I don't remember doing a search for the
- 21 Commission in November.
- 22 Q Why were you in Mr. Gill's email account in
- 23 November of 2017?
- 24 A I was doing that because Brian wanted to know
- 25 about the forward contracts.
- 26 Q In November, 2017?
- 27 A Correct, because Mr. Dhillon represented he
- 28 didn't sign a contract and he was telling the
- 29 truth. It was Mr. Gill that signed the contract.
- 30 We needed proof.
- 31 Q Okay. Tell me about your conversation with Mr.
- 32 Meyer in which he asked you to look for the
- 33 contracts in Mr. Gill's account.
- 34 A Well, there was an issue about forward contracts,
- 35 were they signed or were they not signed.
- 36 Q Yes. I'm asking you about your conversation with
- 37 Mr. Meyer. You said Mr. Meyer asked you to go
- 38 into the account. What did Mr. Meyer say?
- 39 A To see if we could find signed forward contracts.
- 40 Q All right. And you knew that was because the
- 41 Commission had asked for them; correct?
- 42 A I'm not sure that I knew that that's what it was
- 43 for. It was Brian was asking if we had copies of
- 44 the contracts.
- 45 Q All right. And so in order to -- you knew that
- 46 unsigned copies of contracts had been sent to
- 47 you; correct?

58

Janice Solotki (adverse witness)

Cross-exam by Ms. Hunter

- 1 A Correct.
- 2 Q You had those from March?
- 3 A Correct.
- 4 Q And those were never forwarded to the Commission;
- 5 correct?
- 6 A No, they were not.
- 7 Q And you never told the Commission, in fact, that
- 8 the unsigned contracts had been sent to you?
- 9 A No, because I was under the impression that they
- 10 weren't signed because Ron said -- I heard the
- 11 phone call.
- 12 Q But you didn't provide that information to the
- 13 Commission, did you?
- 14 A No, did not, no.
- 15 Q You didn't tell the Commission that you had
- 16 forwarded the unsigned contracts to Mr. Wittal;
- 17 correct?
- 18 A I can't remember.
- 19 Q Is it possible you did tell the Commission that?
- 20 A I can't remember.
- 21 Q I've seen no record of a copy of the email in
- 22 which the contracts are forwarded to you and you
- 23 forward them to Mr. Wittal going over to the
- 24 Commission. Do you say it's possible you did
- 25 send that email to the Commission?
- 26 A I can't say. Sorry, I can't.
- 27 Q But you deny that you went into the system and
- 28 deleted any emails showing the contracts being
- 29 forwarded within IVCA?
- 30 A Correct. I deleted none of Bob Gill's emails.
- 31 They stand the way they are.
- 32 Q What about your own?
- 33 A Oh, I've deleted emails in my own sent and
- 34 folders, emails that I don't need.
- 35 Q Did you go through at a certain point and delete
- 36 emails that showed the contracts being forwarded
- 37 to you?
- 38 A No, not a forward contract. That's too important
- 39 of a document to delete.
- 40 Q And so why was that document not produced from
- 41 your email account in response to the request?
- 42 A The first one was and it was to do with Azzule,
- 43 and the second was from Paula saying here's a
- 44 copy of the unsigned forward contract. I said
- 45 yes, I will send that off. I know that that
- 46 third email, the one that says I will send it to
- 47 Ron doesn't appear in my email chain but I don't



Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

1           Saskatoon and Calgary, your understanding was  
2           that there was no minimum price that was  
3           applicable to export sales; is that right?  
4        A     Correct.  
5        Q     Did your understanding change as a result of this  
6           email exchange with Mr. Solymosi?  
7        A     It did not. I was still -- I had been reaching  
8           out taking the initiative here and nobody told me  
9           here to stop selling. Mr. Michell's position was  
10          the same and so was Mr. Meyer's. If there was a  
11          problem to not carry on, like, I would have  
12          expected to be told that. And, you know, I think  
13          at some point here, I believe, the insertion  
14          orders -- well, the POs were going to the office  
15          via email from me and nobody said nothing to me.  
16          I would have expected that.  
17        Q     I'm going to show you an email chain that we've  
18           all seen before, I think. It's at pages 941 and  
19           942 of Exhibit 1. Do you recognize this email?  
20        A     I do, yes.  
21        Q     And on page 942 at the bottom of the chain,  
22           Mr. Meyer's advising that your access to the  
23           order entry system is going to be removed;  
24           correct?  
25        A     Yes.  
26        Q     Okay. As of August 17th at 9:00 A.M.?  
27        A     Correct.  
28        Q     And is that what occurred?  
29        A     Yes.  
30        Q     Okay. I'm going, now, to page 948 of Exhibit 1,  
31           and it's a little faint, so I'm going to try and  
32           make it bigger so it might be easier to read.  
33           Are you able to read the text on that screen?  
34        A     I can, yes.  
35        Q     Okay. And I'll just give you a moment to review  
36           it. Let me know when you're finished.  
37        A     Okay.  
38        Q     Do you recognize this document?  
39        A     Yes.  
40        Q     What can you tell the review panel about it?  
41        A     I think this was a follow-up to the previous  
42           email in terms of how the order's to be processed  
43           going forward. And I think these are -- let me  
44           see. Yeah, these are just instructions, I think,  
45           understanding just back up in terms of how one's  
46           selling. I'm getting text messages, I got phone  
47           calls, I get emails with purchase orders. It's

45

Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

1 just a summary.

2 Q And it's from IVCA orders email address, but it's  
3 an email from Brian Meyer; is that right?

4 A Is it --

5 Q Appears to be. Although this order is at  
6 IVCA.ca, that's an email that Janice Solotski was  
7 in control of; is that right?

8 A Right.

9 Q Okay. And it's to you, Bob Dhillon,  
10 Barb Dhillon, and Mr. Michell is copied as well?

11 A Yes.

12 Q Okay. Now, you see here it says:

13  
14 We understand it may take some customers a  
15 while to start sending to orders@ivca.ca,  
16 but with your help the transition should be  
17 smoother. We would request if you get email  
18 orders from customers that you forward that  
19 email to orders@ivca.ca and also inform the  
20 customer that they should copy it to  
21 orders@ivca.ca.

22  
23 Do you see that?

24 A Yes.

25 Q Okay. And two paragraphs down, it says:

26  
27 We understand that some customers text their  
28 orders to you. Please generate an email and  
29 send it to orders@ivca.ca. The order, it  
30 will be processed. Do not write up a phone  
31 order form for these orders.

32  
33 Do you see that?

34 A I do, yeah.

35 Q And there's a couple of email chains that I'd  
36 like to take you to, Mr. Gill. This one begins  
37 at page 3253, and it may well be only one page.  
38 You see that up on your screen?

39 A Yes.

40 Q And it's an email from orders@ivca.ca on  
41 August 18th, 2017. So that's the same day that  
42 Mr. Meyer sent the email that we were just  
43 looking at; right?

44 A Yes.

45 Q And a day after your access to the order entry  
46 system was removed?

47 A Yes.

Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

1 email was pulled out of my inbox, so I know that  
2 my email was being accessed at this point. I  
3 think that's what I meant by the top there is,  
4 you know, we just had a process, right.

5 Q This handwritten annotation that you mentioned  
6 "no PO. Why won't he share?"

7 A Yeah.

8 Q Do you recognize that writing?

9 A I'm going to say, that's Janice.

10 Q Okay. Do you have an understanding as to why  
11 she's put that on this email given the reference  
12 here to attached POs from the Thomas Fresh  
13 Calgary rep?

14 A The thing is that, like, I don't see where this  
15 email was sent to in the chain.

16 Q Going ahead to page 950 and pages 951, do you  
17 recognize this email chain?

18 A Okay. Okay.

19 Q And so this is also August 18th, 2017; correct?

20 A Yeah.

21 Q And Ms. -- it looks like a Ms. Stacko [phonetic]  
22 from Thomas Fresh has sent a purchase order in to  
23 the order desk. Ms. Solotski is saying:

24  
25 Amy, your order has been received and  
26 processed. Thank you for your order.

27  
28 And then Mr. Dhillon is saying:

29  
30 Confirm order with us before you commit to  
31 customer. Very important that you get a  
32 confirmation back from us.

33  
34 Do you see that?

35 A I do, yes.

36 Q So what comments do you have for the review panel  
37 about this email chain?

38 A I think the issue here, again, is the same in  
39 terms of planning. Like, is the product there  
40 rather than, like, assuming that the product is  
41 there and it's going to be shipping out. I think  
42 it's the same issue in terms of confirming to  
43 make sure the product is there first before  
44 committing to the customer. It's an extra step,  
45 right.

46 Q I'm going to skip to page 962 and so this is an  
47 email chain between you and orders@ivca.ca;

Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

1 correct?  
2 A Correct.  
3 Q And the first email in the chain has some  
4 information from a purchase order; is that right?  
5 A M'mm-hmm.  
6 Q Do you recall how this purchase order came in?  
7 A It would have been a text.  
8 Q Okay. And so it appears that you've generated an  
9 email from that text and then you sent it to  
10 orders@ivca.ca; correct?  
11 A Correct.  
12 Q And you recall from the email that we were  
13 looking at from August 18th there was a request  
14 from Mr. Meyer that for orders that come in by  
15 text, please generate an email and send to  
16 orders@ivca.ca; correct?  
17 A Correct. I think even prior to that I believe  
18 Mr. Michell had contacted me as well, and he  
19 requested I send him a copy of how I send the  
20 orders in, which I believe I remember seeing an  
21 email here where I did send it in and he  
22 confirmed, "thank you," meaning -- I'm guessing  
23 that means he had no issue, right.  
24 Q I'll take you, Mr. Gill, to page 982 of  
25 Exhibit 1. You see that up on your screen?  
26 A I do, yes. Sorry [indiscernible].  
27 Q Okay. And so we've got another email here from  
28 you to orders@ivca.ca, and it's dated  
29 September 5th, 2017, subject "shipping tomorrow."  
30 And then there's information with respect to  
31 three orders and purchase order numbers; correct?  
32 A Correct.  
33 Q And how have these orders have come in to you?  
34 A By text message.  
35 Q Sorry, I didn't quite catch that.  
36 A By text message.  
37 Q Okay. And did you have an understanding as to  
38 whether you were complying with what Mr. Meyer  
39 had directed you to do in sending an email like  
40 this when an order came in by text?  
41 A Yes, my understanding was, yes. You know, I  
42 didn't have no problems with the removal of the  
43 order entry system.  
44 Q And just going back to page 963, we have an email  
45 with another order; correct?  
46 A Correct.  
47 Q And am I right that this is another order that

Bob Gill (a witness)  
In chief by Cnsl R. Androsoff

1           came in by text?  
2           A       Yes, correct.  
3           Q       Okay. Page 968. You see that up on your screen  
4           there, Mr. Gill?  
5           A       I do, yes.  
6           Q       And how did the order to which this email relates  
7           come in to you?  
8           A       If I'm putting an email like that, it would have  
9           been via text.  
10          Q       Okay. Now, I'm taking you, Mr. Gill, to an email  
11          that's at page 972 of Exhibit 1. Do you see that  
12          up on your screen?  
13          A       I do, yes.  
14          Q       And you see the handwritten notation "no  
15          response"?  
16          A       I do, yeah.  
17          Q       I'm going to try the multiple window screen  
18          sharing that I did earlier today. Do you also  
19          see, now, at page 975 from Exhibit 1 on your  
20          screen?  
21          A       I do, yes.  
22          Q       Okay. I'm going to scroll down to page 976.  
23          Now, are these two emails the same email that  
24          you're looking at right now?  
25          A       It's got the same date.  
26          Q       Same date, same time?  
27          A       Same date, same time, but I don't see who this  
28          email on the left is sent to.  
29          Q       Right. There appears to have been -- be a  
30          reference to an attachment on the bottom of  
31          page 976, and then on page 972 you can see the  
32          attachment has the same name. Do you see that  
33          there?  
34          A       I do, yes.  
35          Q       So I'm going to scroll up in the chain on  
36          page 975. What can you tell the review panel  
37          about this email chain?  
38          A       Just give me a sec. Okay. Yes, I remember this.  
39          What this is referring to is -- so this  
40          spreadsheet -- well, the details that  
41          Ms. Solotski is requesting that says, "no  
42          response" here on the right-hand side, I think --  
43          well, looks like I responded in half an hour,  
44          right.  
45          Q       Okay.  
46          A       But what the issue with this -- so there were  
47          orders that were below minimum price there. And