

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

TRANSCRIPT EXTRACT BOOK OF MPL BRITISH COLUMBIA DISTRIBUTORS INC.

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TAB 1

1 meeting?

2 A He said some of the other agencies and growers.

3 Q Sorry, other agencies and growers. Can you tell

4 me which agencies and which growers?

5 A No. You would have to ask Ravi Cheema.

6 Q Can you tell me when these meetings took place or

7 where?

8 A In the summer roughly I think of 2020 and October

9 2020. And there was discussions before that too.

10 That he always said there was discussions out

11 west about keeping MPL out.

12 Q All right. The question I'm asking you, though,

13 is more specific which is you said MPL had been

14 advised and I wanted to know by whom was MPL

15 advised. And you're telling me it's Ravi Cheema?

16 A Yes.

17 Q Okay. And is it limited to Ravi Cheema or is

18 there anybody else?

19 A I've also have had discussions with Shirvan

20 Bakhtiyari.

21 Q And who is he?

22 A He's from Millennium.

23 Q And sorry, what is Millennium? Can you help me?

24 A Millennium is a producer in BC.

25 Q Of regulated crop?

26 A Greenhouse, yeah.

27 Q All right. And what did Mr. Shirvan say to you?

28 A He said something that -- yeah, the Windset boys

29 will try to keep me out.

30 Q So he -- he just mentioned the Windset boys,

31 meaning Paul and John?

32 A John and Steve. I'm Paul.

33 Q Sorry, yes. Sorry. Thank you. My apologies.

34 So Mr. Bakhtiyari mentioned to you just the

35 Newell brothers? He didn't mention any other

36 commissioners?

37 A No.

38 Q All right. And Mr. Cheema did not mention any

39 commissioner by name to you? Just told you that

40 there were discussions by growers and agencies

41 but never actually told you which commission

42 members; is that fair?

43 A Yes.

44 Q Then the next question I have is he told you that

45 these were your competitors. That's the next

46 part in paragraph (b). First of all, you were

47 advised by I guess Mr. Bakhtiyari and Mr. Ravi

1 those five and not any others?

2 A Well, obviously John Newell.

3 Q Yes.

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

13 Q All right.

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

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

33 ...

34 THE CHAIRPERSON: 2:30.

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

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

42 A Yes.

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

45 A Yes.

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

TAB 2

Paul Mastronardi (for MPL)
In chief by Cnsl R. Basham

- 1 Can you please clarify for the panel when this
2 conversation took place, where, and more
3 specifically what Mr. Newell said to you?
- 4 A Yeah. It took place at the PMA show in 2018 in
5 October. There was a vendor appreciation get to
6 together at appeal sciences. And they rented a
7 house for their cocktail party. And Steve and I
8 were sitting at a table poolside having a
9 discussion about it. And I informed him -- you
10 know, I heard that they were for sale. And we were
11 talking about whether or not Windset would sell.
12 And also, you know, I told him that we were coming
13 out in the west and we were going to get a licence,
14 and that's when he said that him and John would
15 make sure, you know, that we wouldn't get a
16 licence.
- 17 Q And at that time to your knowledge was Mr. Newell a
18 commissioner?
- 19 A John, yes.
- 20 Q I meant John Newell.
- 21 A Yes.
- 22 Q What was Steve Newell's position in Windset to your
23 knowledge at the time of this conversation in 2018?
- 24 A I believe Steve is CEO.
- 25 Q CEO?
- 26 A Yes.
- 27 Q And John Newell?
- 28 A John is either COO or president.
- 29 Q To your knowledge were they the two shareholders in
30 Windset?
- 31 A Yes.
- 32 Q Were there other shareholders in Windset to your
33 knowledge?
- 34 A Not that I know.
- 35 Q Turning to a different topic again. You also
36 referred to a conversation you had with Jeff Madu.
37 Can you tell us when that conversation took place
38 and what he said?
- 39 A Yeah. So that was at a customer charity golf
40 tournament that was in I believe August of '21.
- 41 Q What did Mr. Madu say to you?
- 42 A Madu said that Jeff and Steve will make sure that
43 we're not going to get our licence, so you better
44 just drop it. Give up. There's no use.
- 45 Q Sorry, who and Steve? You said Jeff.
- 46 A Sorry, John and Steve.
- 47 Q You referring to Newell?

Paul Mastronardi (for MPL)
In chief by Cnsl R. Basham

1 A Yes. Jeff -- sorry, John and Steven Newell, yes.

2 Q Did he say anything more about how they intended to
3 do that?

4 A No.

5 Q And who -- what's the relationship between Jeff
6 Madu and the Newells?

7 A Jeff Madu is married to Steve and John's sister.
8 And he, as far as I know, the head salesman for
9 Windset.

10 Q I would like you to tell us a little bit more about
11 your -- the history of your dealings with the
12 Newell brothers. When did Mastronardi -- I'll just
13 call the company MPL. When did MPL first start
14 having dealings with the Newell brothers?

15 A The Newell brothers reached out to us, it would
16 have been in the early 2000 year. And they wanted
17 to sell us some of their produce. They were saying
18 that BC Hothouse wasn't doing a good job. And they
19 wanted us to buy their products. So we started
20 buying product from them. So they were shipping us
21 a whole bunch of cherry tomatoes and other types of
22 tomatoes at that time.

23 And then they came out and visited us, and they
24 wanted us to do more for them. And over the next I
25 think it was about two years, they asked us to
26 write support letters to them -- to the Commission
27 so they could get their own licence. And I think
28 during this time something happened because there
29 was I think a breach by them at BC Hothouse and the
30 Commission, and they weren't actually following the
31 rules and they got some type of carveout
32 eventually.

33 And then after that, like I said, they asked me
34 to write them support letters to be able to get
35 their own commission. And then I believe that
36 happened by the end of 2002. And then after that,
37 once they got their licence, they started to move
38 away from our relationship. And in our view
39 basically was once they got their own agency and
40 then they were on the board eventually, it was, you
41 know, lock the door behind them and don't let
42 anybody else in.

43 Q Since the Newells or Windset got their own licence,
44 has MPL continued doing business with them?

45 A Yeah. We still buy produce from them. I think, if
46 I remember right, you know, basically over the
47 last -- I don't know, we went three or four years

1 CROSS-EXAMINATION FOR PROKAM BY CNSL C. HUNTER:
2

3 Q So, Mr. Mastronardi, I'm Claire Hunter and I
4 represent Prokam Enterprises, which is one of the
5 other complaint participants in this process, and
6 CFP Marketing, which is the applicant for an
7 agency licence that was referred to in the
8 document you were taken to this morning by
9 Mr. Mitha.

10 A Nice to meet you.

11 Q Nice to meet you. I'm going to ask you a few
12 questions. You were asked by Mr. Mitha yesterday
13 about whether any agency applications had been
14 approved by the Commission in the last ten years.
15 Do you recall those questions?

16 A Yes.

17 Q Anticipated evidence of commissioners was put to
18 you that there had been no applications rejected
19 in the ten years prior to your 2020 application.
20 Do you recall that?

21 A Yes.

22 Q And you were asked whether you were aware of any
23 evidence of applications being made or rejected in
24 the past ten years, and you said you didn't have
25 any evidence of that?

26 A Correct.

27 Q Now, this morning you were provided with some
28 minutes of a meeting in which CFP's application in
29 2019 was discussed. Was that an issue that you
30 were aware of previously -- previous to your
31 evidence yesterday?

32 A No.

33 Q And in your evidence yesterday you commented in
34 response to the question about whether any
35 applications had been made, you had commented it
36 would be surprising if there had been no
37 application since the moratorium was imposed. Why
38 would a moratorium be necessary if there were no
39 applications. Do you recall that?

40 A Yes.

41 Q Now, I'm going to take you to the decision
42 rejecting CFP's application in 2019, which was not
43 put to you yesterday, but it's what was
44 contemplated when the -- at the meeting, the
45 minutes of which were put to you this morning.
46 And so this in the common book volume 1, marked
47 Exhibit 1 for identification, at page 4168.

TAB 3

Paul Mastronardi (for MPL)

Exam for the Commission by Cnsl R. Hrabinsky

1 product from Ms. Glyckherr. Do you have any
2 comment about that?

3 A How would I?

4 Q And among other things you have alleged or rather
5 MPL has alleged that the named commission members
6 and Mr. Solymosi acted in bad faith towards MPL;
7 correct?

8 A Correct.

9 Q And, Mr. Mastronardi, I think it is important to
10 give you an opportunity to speak to MPL's
11 intentions and my question for you is this: Is it
12 your evidence that in making these allegations, MPL
13 has been acting in good faith?

14 A Yes.

15 CNSL R. HRABINSKY: Thank you, Mr. Chair. I have
16 nothing further.

17 THE CHAIRPERSON: Thank you, Mr. Hrabinsky.
18 Ms. Basham?

19 CNSL R. BASHAM: As I said, Mr. Donkers, I would like
20 to have a break. I want to consider my position
21 before I decide whether I need to do any redirect
22 or should.

23 THE CHAIRPERSON: Yes, let's come back at 12:35. It's
24 11:35 now and we'll hear from you then.

25 CNSL C. HUNTER: Mr. Donkers, before we break, I would
26 like to raise one issue. I sent [indiscernible]
27 early this morning in respect of document issues
28 and I would like to address that after this witness
29 completes. And the other thing is that I gave
30 notice this morning to Mr. Mitha that it is
31 possible that I will apply for adjournment of the
32 hearing at the conclusion of the discussion of the
33 documents issue. So I wanted to give notice before
34 lunch that I have that intention for other counsel.

35 THE CHAIRPERSON: Thank you, Ms. Hunter. It's my
36 understanding is we'll have that discussion after
37 Mr. Mastronardi has been excused.

38 CNSL R. BASHAM: 12:35 then?

39 THE CHAIRPERSON: 12:35. Thank you.

40 THE COURT REPORTER: Off the record until 12:35.

41 THE CHAIRPERSON: Yes, thank you.

42

43 (PROCEEDINGS ADJOURNED FOR THE NOON RECESS)

44 (PROCEEDINGS RECONVENED)

45

46 THE CHAIRPERSON: All right.

47 THE CLERK: We're back on the record, yes.

TAB 4

Marcel Andre Solymosi
Cross-exam by Cnsl R. Basham

1 We're off the record.
2 CNSL R. BASHAM: Mr. Donkers, I just want to make sure
3 that you understand that I --
4 THE CHAIRPERSON: I understand. Got it.
5 CNSL R. BASHAM: All right. Thank you.
6 THE CHAIRPERSON: 1:15.
7 THE RECORDING SECRETARY: Off the record 'til 1:15.

8
9 (WITNESS STOOD DOWN)

10
11 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
12 (PROCEEDINGS RECONVENED)

13
14 THE CHAIRPERSON: All right, thank you. Let's go on
15 the record, please.
16 THE RECORDER: Okay, we're on the record.
17 THE CHAIRPERSON: Ms. Basham.
18 CNSL R. BASHAM: Sorry, I just wasted five seconds.
19 Are we starting, Mr. Donkers?
20 THE CHAIRPERSON: That's five seconds I'm not going to
21 give you back. I did call you.

22
23 **MARCEL ANDRE SOLYMOSI**, a
24 witness, recalled.

25
26 **CROSS-EXAMINATION BY CNSL R. BASHAM:**

27
28 Q Mr. Solymosi, I'm Rose-Mary Basham. I represent
29 MPL and I'll be cross-examining on a number of
30 matters that you've testified to and were put to
31 my client earlier.

32 I just want to start with your role as the
33 general manager of the Commission. Do you agree
34 with me that in that role, you are a very active
35 participant in matters that pertain to the
36 Commission?

37 A I would agree.

38 Q Ms. Hunter's already taken you to the delegation
39 of authority in s. 11. I'm not going to take you
40 to that again, but you agree that other than
41 licencing issues, you have the delegated
42 authority to deal with [indiscernible] matters
43 that are contemplated in that statute, is that
44 right?

45 A Yeah, can you repeat? It's hard to hear you.
46 You're --

47 CNSL R. BASHAM: I've never had that problem. Let's

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

1 directly at the office, correct.
2 Q Fair to say that you have your fingers on the
3 pulse, so to speak, about what's going on in the
4 industry, from the point of view of the growers,
5 the agencies? Is that a fair statement?
6 A I would -- I wouldn't say it's -- it's fair that
7 I have my finger on the pulse at any --
8 everything. I -- I have my responsibilities and
9 there's -- my workload is related to work plans
10 that are put forward to the Commission, you know,
11 directives by FIRB, and initiatives taken to
12 ensure an orderly marketing framework is
13 happening as -- or performing as it should. And
14 so there's a lot of -- a lot of things on the go
15 and a lot of -- a lot of things that I do that
16 are initiated from the Commission itself.
17 Q But in the context of making sure that trust and
18 integrity in an orderly marketing system is a
19 very important mandate, that is something you
20 would keep your fingers on the pulse, correct?
21 A Correct.
22 Q And so you attend to things like compliance with
23 infractions. You take part in that kind of
24 thing, fair?
25 A Correct.
26 Q I mean we've heard a lot of evidence, which I'm
27 not going to ask you about, dealing with the
28 cease and desist order, and you were very much an
29 integral part of all that investigation and
30 decision-making. Is that a fair statement?
31 A I'm an integral part of it, correct.
32 Q And you agree with me that the industry operates
33 on the basis of trust?
34 A Correct.
35 Q And that would be Commission trusting agencies?
36 A Correct.
37 Q Agencies trusting Commission, or the
38 commissioners?
39 A Absolutely, correct.
40 Q Growers trusting agencies?
41 A Correct.
42 Q And growers trusting the Commission?
43 A Correct.
44 Q And part of your job as the general manager is to
45 make sure that the system of trust is maintained.
46 Is that a fair statement?
47 A That's a fair statement, correct.

- 1 Q If the industry loses that trust, the whole
2 system breaks down, is that a fair statement?
3 A Absolutely. Correct.
4 Q Okay. You are ordinarily present at all the
5 Commission meetings?
6 A Correct.
7 Q And you know what document's being presented,
8 because you're the one that collects a lot of
9 them?
10 A Correct.
11 Q You are the one that presents documents to the
12 Commission, as appropriate?
13 A Correct.
14 Q So you also know who voted in what way?
15 A I -- correct.
16 Q Okay. And you would know if any of the
17 commissioners recused themselves in any
18 particular issue?
19 A Those would be reported in minutes, and the
20 minutes are accurate, so that would be correct.
21 Q But you would know. All I was asking is whether
22 you would know.
23 A I would --
24 Q Not your staff.
25 A Correct.
26 Q Would it be fair to say that the commissioners
27 depend on information provided by you in the
28 discharge of their duties?
29 A That would be fair. Correct.
30 Q And traditionally, since you've been involved
31 anyway, the -- decisions have been made with the
32 general manager of -- who collects the evidence
33 and provides what he believes is necessary. Is
34 that a fair statement?
35 A Well, collecting the evidence and providing it to
36 the Commission, and the Commission will determine
37 what further evidence they need before they make
38 a decision.
39 Q But at first instance, you, as the general
40 manager who -- put together the documents and
41 evidence that you think are necessary and bear on
42 an issue that has arisen. Is that a fair
43 statement?
44 A That's a -- that's a fair statement. I would
45 bring forward all the doc -- all the documents
46 and everything I have that is not -- well, depend
47 -- is not confidential from the Commission.

1 was the way to do it.

2
3 Is that -- that's your evidence, right? Is that
4 true?

5 A It appears so, yes.

6 Q Okay. Now, do you agree with me that vegetable
7 growers on the Commission -- the commissioners
8 who are vegetable growers rely on the
9 commissioners who have potato [indiscernible] or
10 storage [indiscernible], on matters arising out
11 of storage crop infractions or issues --

12 A Yeah.

13 Q -- is that a fair statement?

14 A It's a fair statement, because they would have
15 the knowledge of that sector and the greenhouse
16 producers would have a knowledge of greenhouse
17 sector.

18 Q So you've answered my next question; vice-versa
19 is true. Storage crop commissioners relied on
20 green growers, is that --

21 A Correct.

22 Q That's correct, right?

23 A Yeah.

24 Q And so if there was a conflict in a matter
25 arising from vegetable growers o that the
26 Commission or commissioners are unable to vote
27 under this conflict of policy -- conflict of
28 interest policy, it would -- it'd fall on the
29 storage crop commissioners to do the vote?

30 A Well, yeah, the -- if there's a -- a -- a
31 conflict or [indiscernible] -- I guess a
32 conflict, then it would resolve -- it would fall
33 on the other producers that are not recused from
34 that process.

35 Q And the reverse -- the converse is true. If an
36 issue arose in a grower's -- or sorry, there --
37 the converse, where there's an issue involving a
38 storage crop, storage crop commissioners is
39 conflicted for some reason, then it falls on the
40 vegetable growers commissioners to make the vote.
41 Is that a fair statement?

42 A Fair statement, correct.

43 Q And of course commissioners who are green -- or
44 excuse my language, my thinking over this. The
45 vegetable growers commissioners and the storage
46 crop commissioners work hand in hand with the
47 Commission?

Marcel Andre Solymosi
Cross-exam by Cnsl R. Basham

- 1 A You also have the independent chair at this time,
2 so you have --
- 3 Q No, I'm talking about before you had an
4 independent chair.
- 5 A We've always had an independent chair.
- 6 Q Well, you had an independent chair, but you had a
7 number of commissioners who are vegetable rowers,
8 you had a number of commissioners --
- 9 A Correct.
- 10 Q -- for storage crop, and those two groups rely on
11 each other, correct?
- 12 A Correct.
- 13 Q And they work hand in hand?
- 14 A Well, they're all members of the Commission,
15 including -- so the Commission is composed of
16 three greenhouse producers -- or four greenhouse
17 producers, and you have four storage crop
18 producers and an independent chair. And that
19 scheme has been amended recently so that you have
20 two independents appointed by the Commission, and
21 -- along with the chair, and then you have three
22 greenhouse and three storage crop. But that's --
23 that's recent, as of -- as of 2020/2021, which
24 were progressing by itself. Just to give you a
25 little context.
- 26 Q No, that's fine. Thank you. I just want to put
27 certain evidence given by Mr. Newell in his
28 cross-examination by Ms. Hunter in 2018. I just
29 want you to tell me whether you agree with that
30 evidence. It's at 2487 in the first common book.
31 It's at line 35, so closer to the bottom of the
32 page. This is Mr. Newell giving evidence. I'm
33 not going to go through this with you in any
34 great detail. You remember this hearing, because
35 you were cross-examined then?
- 36 A I -- I remember the hearing, yes.
- 37 Q You probably have this memorized by now, but I
38 don't, so -- anyway, let's go --
- 39 A I --
- 40 Q Let's go to line 35. This is Mr. Newell giving
41 evidence, and that was a situation where Ms.
42 Hunter was examining both you and Mr. Newell at
43 the same time, in essence, and you
44 [indiscernible] answer. It seems like how that
45 was done. Am I correct?
- 46 A Correct. We were both up there at the same time.
47 Right.

1 Q So in answer to Ms. Hunter's question, do you
2 have any recollection at what point in the
3 discussions -- referring to an earlier question,
4 but where I really want to take you to is that --
5 you said you didn't take any notes, but in the
6 third line to the answer, line 36:

7
8 We have to rely on their knowledge...

9
10 -- referring to the crop -- storage crop people.

11
12 We've got our own opinions ...

13
14 -- you've seen that in -- in his notes.

15
16 ... and we, as an industry or industry
17 Commission, have to take advice from each
18 other. Is that true? Sure.

19
20 Mr. Newell:

21
22 And they're heavily invested, many of them
23 for 40-plus years. And that industry have
24 taught me an enormous amount as a greenhouse
25 commissioner, and I know there are other
26 greenhouse commissioners who are actually in
27 the same boat. They rely on us equally for
28 every ...

29
30 -- and carry on to the next page --

31
32 ... any -- anything that happens in the
33 greenhouse business, and that they're not,
34 as an agency manager, but a commissioner for
35 the greatest good of the industry. And I
36 want to be [indiscernible] to make sure that
37 this regulated industry stays strong.

38
39 You agree with that evidence?

40 A I -- I agree.

41 Q So I'd just like to get a -- an idea of your
42 perspective of your role vis-a-vis the
43 Commission. Do you consider the Commission to be
44 your Commission? Is that your perspective?

45 A Well, a -- a Commission is -- represents the
46 industry, so it represents all stakeholders in
47 the industry, and that's --

1 we follow the policy in place to bring it forward
2 to the Commission.

3 Q Well, the "we" is you, isn't it? You're the one
4 that takes a look at the agency application, and
5 then you bring it to the commissioners. Isn't
6 that the case?

7 A I -- I have -- I've not looked at the agency
8 applications that are brought -- have been
9 brought forward to the Commission. It launches a
10 process in place where we start the process of
11 appointing a panel and -- and we follow the
12 process -- the policy in the general order.

13 Q Do you participate in meetings in which the
14 commissioners consider an agency application?

15 A Normally I would.

16 Q And you give your input, from your perspective as
17 a general manager? You do that?

18 A On occasion, I provide a recommendation, and if
19 asked, I could pro -- I would provide my input.

20 Q You would provide your input. But surely --

21 A I would provide --

22 Q -- this -- okay. Mr. Solymosi, I'm not going to
23 dance around with you. You're not suggesting to
24 me that you go to these Commission meetings and
25 sit there with [indiscernible] unless being asked
26 a question. You're not suggesting that, I hope.

27 A I bring the matters to the Commission. I bring
28 the information to the Commission. They discuss
29 -- you know, there's deliberations, there's
30 discussions. That's -- they are the decision-
31 makers.

32 Q I get that. But I'm suggesting to you you
33 participate in that process. Can you not agree
34 with that? You don't vote. I get it. But you
35 participate in the discussions. Surely you'd
36 agree with that?

37 A It's -- well, not to the extent that you're
38 implying.

39 Q I'm not implying anything. I'm simply asking a
40 question. Do you or do you not --

41 A Well, I participate. I'm there.

42 Q Mr. Hira was very quick to correct some of the
43 other witnesses. Let me finish my question,
44 please. My question is pretty simple. Can you
45 not agree with me that you, as the general
46 manager, would participate in discussions? I'm
47 not saying you're voting. But do you not even

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- 1 agree with the simple proposition that you
2 participate in discussions?
- 3 A I would participate.
- 4 Q Thank you.
- 5 A Nothing stopping me from it.
- 6 Q All right. Well, of course you have your views.
7 You understood it meant something to the
8 commissioners?
- 9 A Pardon me?
- 10 Q Your views, as you understood it, would be
11 considered by the commissioners, correct?
- 12 A Correct.
- 13 Q Okay. Let's just turn -- let's go somewhere
14 else. Let's just go to a different topic. Bias
15 and conflicts of interest. That's a subject
16 matter that's been dealt with in this hearing
17 forever, so I'm going to have to ask you a few
18 questions.
- 19 Is it a fair statement that you've known
20 about the industry's concern with bias and
21 conflicts of interest in the Commission,
22 perceived or real?
- 23 A Perceived on who?
- 24 Q Perceived or real. You've understood that there
25 has been a lot of industry concern about bias and
26 conflict of interest?
- 27 A Yeah, absolutely.
- 28 Q Yes. And that's been going on for some years?
- 29 A Well, I started in 2015. We initiated a
30 [indiscernible] supervisory review and got
31 feedback through that process, and that's where,
32 you know, feedback was --
- 33 Q But you --
- 34 A It was centred around that.
- 35 Q I get it. There was a FIRB Panel struck to
36 consider this particularly, but even before then,
37 the whole problem within the industry, or this
38 lack of trust that could be -- your concern with
39 bias or conflicts of interest at the top, those
40 were matters that were known to you?
- 41 A As I -- yeah, since I became general manager,
42 they became known to me, correct.
- 43 Q So comments like "old boys' club," "corruption at
44 the top," those are not new to you. You've known
45 -- you've heard those type of comments for some
46 years?
- 47 A I've seen -- I've heard the old -- "old boys'

1 club" --
2 Q [Indiscernible] --
3 A "Corruption at the top," you know, that's not
4 something I've heard.
5 Q Not even since 2020?
6 A 2020? Well, I guess through the feedback from
7 the -- I guess with Dawn Glyckherr, there was
8 some feedback through that process, correct.
9 Q But -- so you heard about that kind of talk --
10 A Yeah, absolutely.
11 Q -- in 2020, correct?
12 A Correct.
13 Q I'm going to suggest to you that it was even
14 before that, say 2019?
15 A Well, Dawn Glyckherr was brought on in 2019, so
16 that's correct.
17 Q Dawn Glyckherr?
18 A Dawn Glyckherr, yeah. Sorry, yeah.
19 Q I'll get to her in a little while, but Dawn
20 Glyckherr is a -- or was a contractor to -- who
21 was hired by the Commission to conduct a
22 strategic review, correct?
23 A Correct.
24 Q And you recommended her highly to the Commission?
25 A Absolutely.
26 Q I'll get to that, but I'm going to ask you later
27 about just what kind of communications you had
28 with her, about what she found, but I just want
29 to make sure that the -- we have that down first,
30 and I'll move on to something else in a moment.
31 Can you agree with me that the Commission
32 has always recognized that the commissioners need
33 to act impartially?
34 A Absolutely.
35 Q They have to be seen to be impartial?
36 A Yes.
37 Q And that's why there's a conflict of interest
38 policy in place, correct?
39 A Correct.
40 Q I'm not going to take you to it again, but Ms.
41 Hunter went through that in some detail the last
42 couple of days with you, and you've identified
43 that [indiscernible] about what the definition of
44 a conflict of interest is, the fact that it
45 involves not just the person involved, but anyone
46 close to them and so on. I don't need to go
47 through all that with you.

- 1 A Well, that's when he came on the Commission.
2 Q So what? I mean you say that Mr. Newell, being
3 on the Commission, was not required to sign one?
4 A Pardon me? Pardon?
5 Q Are you saying that Mr. Newell was not required
6 to sign a form of undertaking, even if he might
7 have had a conflict, as the [indiscernible]
8 conflict of interest policy?
9 A Well, when -- when he was -- when he went to the
10 Commission, I would expect to see documentation
11 there where they sign off on this conflict of
12 interest undertaking.
13 Q Well, you keep saying you would expect. I
14 haven't seen any, and you haven't seen any,
15 correct?
16 A Well, Mr. Newell was there before my start at the
17 Commission.
18 Q But surely a form of undertaking would be a
19 matter of record in the Commission, would it not?
20 A It would be. Correct.
21 Q Okay. Well, I'll wait 'til Mr. Hrabinsky
22 provides the information.
23 In June of -- sorry, in September of 2019,
24 FIRB established a panel to undertake a
25 supervisory review to address the, in particular,
26 issues of bias and conflicts of interest. Is
27 that correct?
28 A In what -- can you repeat that, please?
29 Q In September 2019, FIRB established a panel to
30 undertake a supervisory review. Just answer that
31 first, and I'll --
32 A Correct.
33 Q -- ask you --
34 A Correct.
35 Q A large part of that review was focused at biases
36 and conflict of interest issues, is that correct?
37 A Correct.
38 Q And part of the reason was that as at the time
39 they struck that supervisory review, there were a
40 lot of appeals of decisions made by the
41 Commission?
42 A That is correct.
43 Q I'm going to ask you to -- I'm going to jump
44 ahead a little bit and come back to some of the
45 other things later. I'll rephrase that.
46 Before the June 2019 FIRB Panel, you -- or
47 the Commission retained Glyckherr to do a

1 strategic review, correct?
2 A Before June 19th?
3 Q Before June 2019, Glyckherr was [indiscernible]?
4 A Correct.
5 Q She was retained on April 1st, I believe. That
6 was the announcement, is that right?
7 A Correct.
8 Q And she was looking at issues related to bias as
9 well?
10 A A lot -- Ms. Glyckherr -- or Glyckherr had
11 conducted interviews, and that was the start of
12 the process of the strategic planning process.
13 Q But initially she was -- I'll get back to that a
14 little later, if necessary, but initially the
15 anticipation was that she would interview 35
16 people, but she ended up [indiscernible] of like
17 a hundred people?
18 A Exactly.
19 Q Yeah. Because the more she interviewed, the more
20 she felt like she needed to do some more
21 interviews. Is that a fair statement?
22 A Well, she interviewed the growers. You know, the
23 stakeholders want -- they wanted to talk, and it
24 was appreciated, and she wanted the -- the voice
25 -- voices to be -- everyone had an opportunity to
26 talk, so --
27 Q And you were all in favour.
28 A -- she expanded.
29 Q You were -- you supported that?
30 A Oh, totally.
31 Q And a lot of that, those interviews, related to
32 biases and conflicts of interest. Fair?
33 A I think concerns of trust, and those are
34 definitely concerns of trust.
35 Q When you say "concerns of trust," that is whether
36 the Commission acted fairly, correct?
37 A I -- I guess that's a trust factor, so correct.
38 Q And whether there were biases and conflicts of
39 interest in the Commission?
40 A Correct.
41 Q Also, the Commission's oversight of agencies,
42 that was another issue?
43 A Yeah, that was a process we started.
44 Q She went on for some time, but she never
45 completed a report. Do you know why?
46 A So she conducted those interviews over the summer
47 months, and they came to a completion I believe

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- 1 it was in July or August, and at that time she
2 didn't feel she had enough information to pull
3 together a strat plan that the Commission had
4 requested.
- 5 Q Did she report to you?
- 6 CNSL R. HIRA: Just a moment. He's still going
7 through his answer.
- 8 CNSL R. BASHAM: Just so -- counsel doesn't have to
9 keep interjecting. You stop, and I assume you
10 finished. But if you're not -- you can tell me
11 if you're not finished your answer. All right?
12 Fair enough.
- 13 CNSL R. HIRA: You can't see the smile on my face, Ms.
14 Basham.
- 15 CNSL R. BASHAM: No, I can't.
- 16 A So -- so she put forward a proposal of what it
17 would cost to -- I guess to continue with the
18 work, to bring -- bring the -- the process to a
19 final conclusion with a strat plan in hand.
- 20 Q Are you suggesting, sir, that she gave a
21 preliminary report about how there was a lot of
22 concern about bias, conflicts of interest. Her
23 findings were not favourable to the Commission,
24 and the Commission was not happy with that. Is
25 that a fair summary?
- 26 A She never did provide any -- any report. The --
27 with discussions from her, it -- you know, issues
28 of trust is a -- is a governance level, and that
29 if you want to restore trust, you've got to start
30 with the governance, and -- and that was -- that
31 was basically -- moving forward, you know,
32 governance is -- is an issue that needs to be
33 addressed first to restore trust in the system.
- 34 Q It wasn't well received by the commissioners. Is
35 that a fair statement?
- 36 A I provided the report of -- you know, FMO to the
37 Commission, based on what Dawn -- Mrs. -- Ms.
38 Glyckherr had recommended or put forward as a
39 proposal the -- what it would take to complete
40 the work to provide a strat plan, and the
41 commissioners felt -- they were not happy with --
42 that day there were no deliverables at that point
43 that could be brought forward to the Commission,
44 and that they had to -- in order to get that
45 deliverable, they were -- you know, had to spend
46 this extra money before they can get it.
- 47 Q So didn't Ms. Glyckherr attend at a Commission

1 A Correct. She was -- well, she was presenting --
2 trying to pull forward discussions of the
3 commissioners to bring forward I guess the --
4 develop a strat plan process. So --
5 Q Did she tell you that her findings were basically
6 interviews, that governance structure was
7 suspect, at the best? Did she tell you that?
8 A I heard that.
9 Q She told you that, right?
10 A Correct.
11 Q Did she tell you that she foresaw the death of
12 the family farm?
13 A Pardon -- pardon me?
14 Q Did she tell you that she foresaw the death of
15 the family farm?
16 A Correct.
17 Q Did she say there was an old boys' club? Some of
18 the people she interviewed had interesting points
19 of view, but the Commission -- or at the
20 Commission meeting, no one spoke up with those
21 points of view, they toed the line. Did she tell
22 you anything like that?
23 A Correct.
24 Q Many Commission decisions are not made at the
25 Commission meeting, but at the coffeeshop in
26 Delta. Did she tell you that?
27 A I heard that, correct.
28 Q From her? Did you hear --
29 A Correct.
30 Q Did she tell you that there were mental health
31 issues and that many farmers were feeling ignored
32 during the interviews, and many were crying?
33 A Correct.
34 Q In fact, there was quite a lot of racism. It's
35 the first settlers versus the Indo-Canadian
36 farmers. Did she tell you that?
37 A I don't recall that specifically.
38 Q But it wouldn't surprise you that she said --
39 A But it wouldn't -- if she said -- yeah, I would
40 -- I would say that that's correct.
41 Q That this industry wanted to get rid of the
42 little guys and there's middle class. Did she
43 say that?
44 A I can't recall that.
45 Q You just don't recall? You're not denying that
46 she said that?
47 A Not denying it.

1 Q No. The Commission -- sorry, the industry -- oh,
2 sorry. There's corruption at the top. Did she
3 tell you that?
4 A I can't -- you know, I can't deny that.
5 Q So surely, just from the few things that you do
6 acknowledge being told, the trust that was so
7 integral of the entire system was obviously not
8 there?
9 A The which?
10 Q The trust --
11 A Trust.
12 Q -- that you've testified was integral to this
13 whole system was obviously not there, at least
14 from the growers' point of view?
15 A Well, this is through the discussions that -- in
16 Dawn's report, if that's such, then -- then the
17 extent of the trust is not there, correct.
18 Q Do you have any reason to doubt the veracity of
19 what she told you, based on what she heard?
20 A Well, I -- I trust Dawn.
21 Q You, in fact, [indiscernible]. You -- you're
22 really high on her. You thought she was a great
23 moderator, that she had done a really good job,
24 and when she was over -- exceeding budget, you
25 wanted to keep her on and finish it up. Is that
26 a fair statement?
27 A Absolutely, yes.
28 Q You were getting opposition from some of the
29 commissioners, but you personally thought she was
30 good?
31 A Absolutely.
32 Q She's a trustworthy contractor?
33 A Absolutely. Trustworthy person.
34 Q Upstanding?
35 A Absolutely.
36 Q Okay. Were you aware that commissioners called
37 -- any commissioners her names?
38 A I -- I don't know if it's specifically
39 commissioners, but I've heard of -- of that from
40 Dawn.
41 Q So Dawn told you that the commission -- some of
42 the commissioners were calling her names as a
43 result of what she was reporting, is that right?
44 A Well, I heard -- the name "pirate" is one, and --
45 Q When Dawn told you that the commissioners were
46 calling her names, one of which you know about is
47 "pirate"?

1 A Well --
2 Q What --
3 A What's that?
4 Q What do you mean by "through the coffeeshop"?
5 What do you mean by that?
6 A Well, when -- when you mentioned just I guess
7 names, not commission -- not commission -- I --
8 like what -- what you were saying before around
9 the old boys' club, things like that, those --
10 those -- those kind of comments in a general
11 form. I don't remember that it was specific to
12 commissioners.
13 Q I don't know why we're talking at cross-purposes
14 here, Mr. Solymosi, but I'll rephrase my question
15 again. I asked you whether you had heard from
16 her that she was called names. You said yes,
17 that she --
18 A Yes.
19 Q -- had individual interviews with the
20 commissioners, not as a whole, and she reported
21 to you that she was being called names. Am I
22 right?
23 A Correct.
24 Q Who did she say of the commissioners that were
25 calling her names?
26 A She didn't say any commissioners. Specify.
27 Q But she did say she was being called names?
28 A Correct.
29 Q And you knew when she reported to you that she
30 was not well received by the commissioners that
31 she interviewed. Yes?
32 A By all commissioner -- I can't say all, but --
33 Q At least some?
34 A Could be. So --
35 Q At least the ones [indiscernible]?
36 A I guess if that -- yeah, correct.
37 Q Okay. She also told you that a significant
38 amount of work was required to restore the
39 confidence in the regulatory system. Fair?
40 A Correct.
41 Q And -- okay. Let me carry on with this. Who's
42 Ms. Delli Santi?
43 A Ms. Delli Santi is the executive director of the
44 BC Greenhouse Growers Association.
45 Q She is the highest level person representing the
46 growers. Is that about right?
47 A The Growers Association, correct.

Marcel Andre Solymosi

Cross-exam by Cnsl R. Basham

1 CNSL R. BASHAM: Second paragraph --

2 CNSL R. HIRA: -- from Dentons, yeah.

3 CNSL R. BASHAM:

4 Q Second paragraph is -- Morgan Camley refers to --

5

6 We would also like to advise the Commission
7 of certain concerning facts that have
8 recently come to MPL BC's attention. MPL BC
9 has been advised that there was a movement
10 to discredit its application by certain
11 entities, that they have a direct role in
12 deciding its agency application.
13

14 First of all, did you hear anything about that in
15 the industry?

16 A Where is this?

17 Q Did you hear anything about certain entities
18 opposing MPL's agency application --

19 CNSL R. HIRA: He's trying to read --

20 CNSL R. BASHAM:

21 Q -- on September 11th, 2020?

22 CNSL R. HIRA: He's trying to read the second
23 paragraph.

24 CNSL R. BASHAM: All right, read it.

25 A This was September --

26 Q 8th -- 11, 2020. Were you aware of that?

27 A I was not aware, no.

28 Q Did you look into it?

29 A No.

30 Q Why not?

31 A Why not? I -- I think we replied to this letter
32 to ask for some further information on it.

33 Q No, my question is why didn't you look into what
34 was being alleged?

35 CNSL R. HIRA: Well, in fairness, you have a letter
36 from him dealing with that issue.

37 CNSL R. BASHAM: No. Please, Mr. Hira, I'm asking him
38 whether he made an investigation and he said no,
39 and I'm asking him why not.

40 A Well, we had -- we had a letter -- I issued a
41 letter in reply, and that was the position.

42 Q No, I asked you whether you made any
43 investigation into that allegation, and you said
44 no. And I asked you --

45 A But --

46 Q -- why not?

47 A Well, it wasn't substantiated here what -- what

- 1 the -- I guess this in -- information had been
2 communicated.
- 3 Q Well, as the general manager, did it not concern
4 you whether there was a movement to discredit an
5 applicant?
- 6 A I guess -- I guess not.
- 7 Q Why not? We're talking about trust, confidence,
8 fair play. Why wouldn't it have made you
9 concerned?
- 10 A 'Cause I -- like I -- I guess I didn't see it as
11 a -- as a matter of -- I guess I didn't see it as
12 a matter of -- targeted to MPL or -- like I guess
13 that's what the answer would be.
- 14 Q No, I don't want the answer "would be." What
15 were you thinking? I don't want a would be.
16 What was your actual thinking at the time?
17 You're the general manager. You've been told by
18 an applicant that there was a movement to
19 discredit its application by certain entities
20 that may have a direct role in deciding the
21 agency application. Did it not concern you who
22 that might be and whether there's any merit to
23 it?
- 24 A I would get --
- 25 Q Sorry?
- 26 A At the time, I did not.
- 27 Q Okay. This is in the midst of a FIRB review that
28 was investigating exactly into matters of bias,
29 governance, conflict of interest. Here's a new
30 applicant and you're saying that that didn't
31 concern you?
- 32 A I guess the application -- if there's an
33 application here, it would be -- we would have a
34 process in place to manage the presumption of
35 bias at the Commission level, and that's how it
36 would -- it would be dealt with.
- 37 Q No, sir, I don't want you to presume. I don't
38 want you to assume. I want you to tell me what
39 your state of mind was and what you actually did.
40 I think you agree with me that you didn't do
41 anything about it.
- 42 CNSL R. HIRA: Well, just a moment. This ground has
43 been tilled well by Commission counsel, and the
44 questions here are frankly unfair, because you
45 know that a week later he wrote to your client,
46 saying please give me the particulars and there
47 was no response. [Indiscernible] --

1 Q

2 Once the Panel is satisfied that it has a
3 complete application, the application will
4 be accepted. The applicant will be informed
5 of his acceptance and that they will need to
6 submit a non-confidential briefing document
7 to all interested parties a minimum of three
8 weeks prior to the hearing date.
9

10 That was the process that was being suggested,
11 and that was the timeline that was being
12 suggested, correct?

13 A Correct.

14 Q Then paragraph 3:

15
16 If the application is complied with, all
17 considerations and the non-confidential
18 briefing documents provided by November
19 23rd, a hearing date can be scheduled in the
20 week of December 14 to 18.
21

22 Correct? That's the timeline we're looking at?

23 A That is correct.

24 Q And the hearing date of December 14 to 18, that's
25 when you were going to decide whether the
26 application would be granted, is that right?

27 A That is correct.

28 Q Okay. So right up 'til -- right -- on November
29 4th, that was the suggested timeline, correct?

30 A Correct.

31 Q Now, then on November 5, 4549 -- okay. Now, then
32 on 4555, on November 5, at 5:32 p.m., a day
33 later, you send an email to the Panel, and you
34 said Debbie spoke to Hugh and Brent, and you
35 spoke to Peter and Armand. Correct? You had two
36 different --

37 A Correct.

38 Q -- calls; one by Debbie, one by you?

39 A Correct.

40 Q And then you say there that Hugh and Brent
41 received the package but have not opened it. Is
42 that --

43 A Correct.

44 Q It's receiving it on November 16th, Armand had
45 not yet received the package, and Debbie has
46 received it but not opened it, and then all of a
47 sudden, you say:

1 All Panel members are instructed not to open
2 the package.
3
4 Why? What happened between November 4 and
5 November 5 for you to all of a sudden say don't
6 open the package?
7 A I had discussions with our Chair, the Chair of
8 Commission, and outside people, counsel.
9 Q What was that again? The discussion was what?
10 A There was a discussion with the Chair and outside
11 legal counsel.
12 Q So you had a meeting with counsel, is that what
13 you're saying?
14 A We had a meeting with counsel, correct.
15 Q And so on November 5, you decided to turn around
16 180 degrees; don't open the package. We're not
17 going to follow everything that we discussed
18 before. Is that right?
19 A Correct.
20 Q Okay. And then all of a sudden, you're now
21 working on making amendments to GO part 4 -- 14,
22 rather, and that you're now waiting for that to
23 be done before you would consider the
24 application, is that right?
25 A That is correct.
26 Q And that's notwithstanding FIRB saying to you you
27 have enough. You can make a consideration. You
28 don't have to finalize the changes to the general
29 order before you make a decision, you can ask for
30 things as you go along. But you changed your
31 mind. You decided that you wanted finalization
32 of the changes before you would consider the
33 package, correct?
34 CNSL R. HIRA: Just a moment. I object to that
35 question. In terms of you changed your mind, I
36 think a distinction needs to be drawn between the
37 general manager and the Commission.
38 CNSL R. BASHAM: All right, let's do that.
39 Q You participate in all these discussions, right?
40 You made calls to the commissioners? Two of
41 them, at least?
42 A I did, yeah.
43 Q You were acting in concert with Debbie, who spoke
44 to two others?
45 A Correct.
46 Q You conveyed to Peter and Armand the decision not
47 to open the package, correct?

1 asserting.
2 A I questioned that by going directly to Casey
3 Houweling.
4 Q I'll repeat my question. You never once
5 questioned Mr. Reed himself about the basis for
6 his assertion, correct?
7 A Correct.
8 Q I'm going o go on to a completely different
9 topic. I'm just going to ask you some
10 questions --
11 CNSL R. BASHAM: I won't be long, Mr. Donkers.
12 Q Were you aware that Mr. Cheema was saying that
13 the Commission was a scam, that the industry was
14 saying that the Commission was a scam?
15 A I'm aware he said that, correct.
16 Q Well, were you aware that that was the sentiment
17 of the industry, that the Commission was a scam?
18 A A sentiment of the industry?
19 Q The growers. We've gone through this. Can you
20 agree with me that your understanding was that
21 the sentiment of a large number, if not everyone,
22 was that the in -- the Commission was a scam. It
23 was all part of his --
24 A I don't agree with that.
25 Q What?
26 A I don't agree with that.
27 Q What? You didn't hear that or you don't agree
28 that it's a scam? Which is it?
29 A I don't agree that there's a scam.
30 Q No, I didn't ask that question. I asked you
31 whether the perception of the industry was that
32 the Commission was a scam.
33 A That's the perception of Mr. Ravi Cheema.
34 Q Oh, but that was supported by a number of growers
35 who were saying old boys' club, the trust that
36 was eroded, you agree with all that, don't you?
37 A I agree with hearing the comments around the old
38 boys' club and trust being eroded, correct.
39 Q Only a select few people run the show?
40 A Members of the Commission are -- represent the
41 industry as -- as a Commission. All members of
42 the Commission speak as one voice.
43 Q And there are people like you who have been
44 around for over 10 years, right? The same guys
45 there?
46 A No. We've had many commissioners that have been
47 on the Commission for numerous years.

TAB 5

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

1 Q It's now called Longvine; correct?
2 A That's correct.
3 Q It changed its name on January 18th, 2022?
4 A Yes.
5 Q Are you a shareholder of HMM?
6 A I am not. I was provided some shares at the sale
7 of the California facility last year, but it was
8 a quick turnover of the shares.
9 Q Were you ever a shareholder of HMM in Canada?
10 A No, I was not.
11 Q Have you ever been a director or officer of HMM?
12 A No, I have not.
13 Q The directors of HMM have always been
14 Chris Brocklesby and Keith [sic] Doran?
15 A Kevin Doran.
16 Q That's right, Kevin Doran. So what was your
17 position with HMM?
18 A I was the head of sales for the Canadian and the
19 US operations.
20 Q You were an employee?
21 A Correct.
22 Q Would you agree with me that all decisions
23 relating to HMM were made by Brocklesby and
24 Doran?
25 A Yes, as far as -- yes.
26 Q But you had no say in corporate decisions made by
27 them; correct?
28 A That is correct.
29 Q Country Fresh is the designated agency under the
30 natural products statute; correct?
31 A That is correct.
32 Q And their licence is for greenhouse tomatoes,
33 peppers, and cucumbers?
34 A Yes.
35 Q So for Country Fresh, the directors were
36 Casey Houweling and Jonathan Mackey; correct?
37 A That is correct.
38 Q They were also officers?
39 A Yes.
40 Q They were the shareholders and owners of that
41 company?
42 A That's correct.
43 Q You had no directorship or office position in
44 those companies?
45 A No.
46 Q And you were never a shareholder?
47 A Correct.

Michael Reed (a witness)
Cross-exam by Cnsl R. Basham

1 Q And can you agree with me that all corporate
2 decisions were made by Houweling and Mackey?
3 A As far as the overall ownership of the agency,
4 that's correct.
5 Q Well, you had no say in corporate decisions made
6 by that company; correct?
7 A I had no say in the corporate decisions of that
8 company.
9 Q Between January to March of 2021 that was the
10 case, you had no say in any decisions made by
11 Country Fresh or Houweling; is that right?
12 A We had a separate business service agreement with
13 Houweling's, Casey Houweling, as it related to
14 the sale of his products as well as all other
15 growers that fell within the Country Fresh
16 agency.
17 Q My question was whether you agree with me that
18 you had no say in any corporate decisions made by
19 either Country Fresh or Houweling between
20 December '20 to March 2021.
21 A Yes.
22 Q So Country Fresh was free to enter into any
23 business plan it chose without your
24 participation? Is that a fair statement?
25 A No, it's not.
26 Q Why?
27 A Because we had a business service agreement that
28 tied HMMSCI to the sales and marketing and
29 logistics of those products.
30 Q Right. I believe that that's the document that
31 you redacted almost completely and produced by
32 your counsel. It was document number --
33 CNSL K. MCEWAN: I believe it was produced by the
34 commission.
35 CNSL R. BASHAM: All right. I stand corrected.
36 Q It is in the Country Fresh licence records, but
37 I'm not sure if that document is listed yet
38 but -- I am going to put on the screen -- I don't
39 believe this document is in any of our books, so
40 is this the document you're referring to? This
41 is the agreement?
42 A Yes, it is.
43 CNSL R. BASHAM: Now, it's almost completely redacted,
44 but I'm going to mark this redacted version as
45 the next exhibit, please.
46 THE CHAIR: Thank you, Ms. Basham. I think we're at
47 35, please.

- 1 sales was strictly with HMM; is that a fair
2 statement?
- 3 A Correct.
- 4 Q I'm going to suggest to you that HMM managed only
5 some of Country Fresh's operations, not all.
- 6 A Then you would be incorrect in that assumption.
- 7 Q And I would suggest to you that was never a
8 condition of Country Fresh's licence -- agency
9 licence that HMM would have the exclusive
10 management function. Can you agree with that?
- 11 A No, I cannot.
- 12 Q Is there a document anywhere that you can show to
13 me that says that as a condition of
14 Country Fresh's licence, HMM would be exclusive
15 manager?
- 16 A If you had a redacted version of -- an unredacted
17 version of this contract, you would see that we
18 had the rights through this agreement.
- 19 Q No, I'm asking you whether it was a condition of
20 Country Fresh's agency licence that HMM would be
21 the exclusive manager. That was my question.
- 22 A We, as part of our business plan with the
23 commission, submitted that we were the exclusive
24 sales and marketing for Country Fresh --
- 25 Q I'm asking --
- 26 A -- as it related to this business agreement.
- 27 Q I'm asking you whether it was a condition of the
28 licence issued to Country Fresh that HMM would be
29 the exclusive marketing -- or manager for
30 Country Fresh's operations?
- 31 A We had it on record with the commission when the
32 ownership changed with the sale of the US and
33 Canadian site. So to clarify that, it was no
34 longer Houweling's doing those sales, it was
35 HMMSCI.
- 36 Q Was that a condition for the licence?
- 37 A I would assume that -- I can't answer that
38 question.
- 39 Q You have nothing from the commission that stated
40 that -- as a condition of Country Fresh's
41 licence, HMM would be the exclusive manager. Is
42 that a fair statement?
- 43 A I would -- yes, I guess so.
- 44 Q Okay. You agree with me that Country Fresh has
45 been in business well before it started a
46 relationship with HMM?
- 47 A That's correct.

Michael Reed (a witness)
Cross-exam by Cnsl R. Basham

1 Q Sir, you've redacted almost the entire agreement,
2 so we have no way of testing that evidence.
3 CNSL K. MCEWAN: Objection, Mr. Donkers. He redacted
4 nothing. He did not produce this document. The
5 commission did. And Ms. Basham -- I said that
6 earlier and she has three times attributed
7 redactions to him. That's simply --
8 CNSL R. BASHAM:
9 Q Do you have an unredacted version, Mr. Reed?
10 A Yes, I do.
11 Q Can you produce that?
12 A Yes, I can, and so can my counsel.
13 Q Fine. I'd like to see a copy of that document.
14 I'd like you to tell me where in that document do
15 you say you rely on for your assertion that you
16 had a right to have prior approval before
17 Country Fresh could make a business plan with
18 Cheema and his company. All right? I'd like you
19 tell me where it is when we see a document and I
20 suppose I'll ask you more questions about it.
21 Now, in -- can we agree on this?
22 Country Fresh took a completely different
23 position than you in the course of Cheema's
24 application. Is that a fair statement?
25 A Yes.
26 Q And Country Fresh's position was while you
27 managed some of Country Fresh's operations, you
28 didn't manage all of them; correct?
29 A That was their assumption, yes.
30 Q Was that true that you didn't manage all of
31 Country Fresh's operations?
32 A This was the first time since I arrived at
33 Houweling's in 2017 that I didn't -- I wasn't
34 apprised of anything going forward to the
35 commission on an agency application or a
36 PA application.
37 Q Can you answer my question, please. My question
38 was, do you agree that Houweling or HMM did not
39 manage all of Country Fresh's operations?
40 A This would be the first time that that happened
41 only because it was done without our knowledge.
42 Q Can you also agree that -- I'll rephrase the
43 question. You knew that Country Fresh's position
44 was that there was no provision in your business
45 arrangement with it that HMM would be the
46 exclusive marketer of Houweling's regulated
47 products. That was the position Country Fresh

- 1 took; correct?
- 2 A That's the position that Country Fresh took.
- 3 Q There was also -- Country Fresh's position was
- 4 also that there was no provision that HMM would
- 5 provide exclusive services for Country Fresh?
- 6 A Again, that's their position versus what's in the
- 7 agreement.
- 8 Q Now, sir, given that Country Fresh went ahead
- 9 based on its interpretation of the agreement
- 10 between HMM and CFP, which you thought was in
- 11 breach of your agreement, did you take any steps
- 12 against CFP to assert your position?
- 13 A I did not.
- 14 Q In fact, you accepted it, didn't you?
- 15 A We -- after our conversations with Ravi and with
- 16 Casey, decided we would not put forward any
- 17 objection although we felt that Houweling's were
- 18 in breach of our contract.
- 19 Q I'm going to say to you, sir, that what really
- 20 happened there was you had no trouble with Cheema
- 21 and his company -- I'll just call it "Cheema" --
- 22 getting product allocation with other people.
- 23 You had no trouble with that; your trouble was
- 24 that -- was when you found out it was going to be
- 25 MPL at the end? Isn't that what happened?
- 26 A No.
- 27 Q You disagree with that?
- 28 A I disagree with that.
- 29 Q Okay. You were quite happy -- are you aware of a
- 30 company called Mucci, M-u-c-c-i?
- 31 A Yes, that's the company that Casey Houweling
- 32 sells his product through currently.
- 33 Q Well, at the time in 2020/2021, did HMM sell
- 34 products or manage anything to do with Mucci?
- 35 A No, similar to Mastronardi, we traded product but
- 36 we did not have any direct relationship with
- 37 Mucci.
- 38 Q Mucci was an Ontario company?
- 39 A Yes.
- 40 Q And to your knowledge, in the industry, Mucci was
- 41 MPL's largest competitor in Ontario?
- 42 A That is also correct.
- 43 Q And in the time frame of 2020 to 2021, there was
- 44 no suggestion that Mucci was going to come out to
- 45 British Columbia?
- 46 A No.
- 47 Q So I'm going to suggest to you that you were

Michael Reed (a witness)
Cross-exam by Cnsl R. Basham

- 1 did you at any time assert the position that they
2 were in breach of that agreement?
- 3 A We asserted our position that we weren't happy
4 with how it was put forward.
- 5 Q Did you say to the principals of Houweling and
6 Country Fresh that they were in breach of your
7 agreement with them through HMM?
- 8 A I did not.
- 9 Q So I'm going to ask you to look at document -- a
10 document that's dated March 25th, 2021. This one
11 would be Exhibit 24 at page 93. This is an email
12 you sent to Mr. Solymosi?
- 13 A That's correct.
- 14 Q You asserted in there in paragraph 2 that this
15 whole plan was done without your knowledge and
16 that HMM contractually managed the day-to-day
17 functions, et cetera. Now, did you intend for
18 Mr. Solymosi to rely on the truth of that
19 allegation?
- 20 A Yes, I'm assuming. And we also wanted it on
21 record that we were not involved in the
22 application.
- 23 Q Did you intend Mr. Solymosi to rely on the truth
24 of that assertion, sir?
- 25 A Yes, because he also had a copy of our business
26 service agreement.
- 27 Q Did you give him a copy of it?
- 28 A I presented it -- yes, I gave it to him as part
29 of our agency compliance. And that's why you
30 have a redacted copy.
- 31 Q I see. All right. So this goes back and forth
32 and Solymosi asks questions of Ravi about it and
33 we've already talked about the response that the
34 Houweling group made. I'm going to ask you to
35 identify a document and see whether or not you
36 received it, but it's a document that's dated
37 April 27th, 2021, a letter from Casey Houweling
38 to the commission setting out its position with
39 respect to the agreement between HMM and CFP.
40 That document is BC_DMCB7098 to 7100, and I'm
41 going to put it on the screen for you. I may
42 have got the number wrong. Sorry. It's
43 Exhibit -- it's at the supplemental record at
44 page 129. It's now on the screen.
45 You've seen this letter, sir?
- 46 A No, I have not.
- 47 Q You have not seen it?

1 crop; correct?
2 A It was at the time, yes.
3 Q And according to Mr. Newell's evidence that he
4 gave in the 2017 time frame, 2018, there was a
5 mutual reliance by the greenhouse people and the
6 crop people on issues relating to their
7 respective interests?
8 A I would agree with that.
9 Q Now, while greenhouse members would not vote on
10 issues concerning them, they have input into
11 issues that are raised; is that right?
12 A Yes, I would agree with that.
13 Q And they expressed their views?
14 A On specific questions, yes.
15 Q Are you aware of any occasion throughout the time
16 that you were a member that the storage crop
17 people voted against views expressed by the
18 greenhouse vegetable people on the commission?
19 A No, not that I'm aware of.
20 Q There's some issue about some questions about
21 misinformation. You were at the October 19th,
22 2020 workshop?
23 A Yes, with Larry Doman, yes.
24 Q Somebody said words to the effect that they
25 didn't want any more competitors in the industry.
26 Do you remember that?
27 A I don't remember specifically, but ...
28 Q But was that a topic that was generally discussed
29 that some people said, we don't want any more
30 competitors?
31 A It could have been, but I don't recall it.
32 Q Was there some discussion about why somebody
33 thought Windset lost the Walmart business?
34 A I'd heard that comment before, but I don't
35 remember specific to that meeting that it was
36 discussed.
37 Q Did Newell ever tell you why they lost the
38 business?
39 A Not directly, no.
40 Q When you say, "not directly," was it indirectly?
41 A I've heard rumour as to how they -- why they lost
42 the business.
43 Q Was it because -- the rumours that you heard, was
44 that because Walmart simply wasn't happy with
45 them?
46 A Didn't hear that.
47 Q What's the rumour that you heard?

TAB 6

1 A Yes.

2 Q I understand you didn't vote to impose the
3 moratorium, but you were a commissioner at the
4 time; correct?

5 A Yes.

6 Q And you understood that it would take another
7 vote by the commission to lift the moratorium;
8 correct?

9 A Yes.

10 Q When did you first learn that Mastronardi or MPL
11 was interested in applying for an agency licence
12 in BC?

13 A I don't recall the date, but it was probably a
14 year, year and a half ago, I would think. It
15 would have been close to when the panel was
16 supposed to be struck, which I think was
17 September 2020, if my memory serves me correctly.

18 Q My understanding is that MPL filed an agency
19 application in September 2020, but would you
20 agree with me that the commissioners were aware
21 that MPL was interested in filing for an agency
22 application prior to that?

23 A I didn't know. I don't really know much what's
24 going on in the greenhouse side of things.

25 Q I'd like to take you to Exhibit 2. My colleague
26 is going to bring it up in share screen, so I'll
27 show it to you in a second. So these are the
28 meeting minutes of the commission meeting on
29 March 7th, 2018, and I believe it shows you in
30 attendance in the middle of the list of
31 attendees; is that correct?

32 A Yes.

33 Q I'm going to take you to page 6. I think you've
34 just gone past it. Scroll up a bit. It's
35 bullet 5.5. So there in the meeting minutes it
36 refers to:

37

38 Agency inquiries have been received from Red
39 Sun Farms and Sunset Farms located in
40 Ontario (Mastronardi).

41

42 Do you see that?

43 A Yes.

44 Q So would you agree with me that after seeing
45 this, the commissioners were aware by at least
46 March of 2018 that MPL or Mastronardi had
47 expressed an interest in an agency licence in BC?

Cory Gerrard (a witness)
Cross-exam by Cnsl E. Irving

1 A It says, they inquired, yes.

2 Q So you'd agree with me, then?

3 A Well, I -- yeah, yes.

4 Q And I'd also like to take you to Exhibit 1, and
5 these are meeting minutes from a commission
6 meeting on March 10th, 2020; correct?

7 A Yes.

8 Q And again, I believe you're listed second from
9 the bottom in attending; is that correct?

10 A Yes.

11 THE CHAIR: Ms. Irwin, is there any way that that
12 could be made bigger if you're going to refer to
13 it, or larger, I should say. Thank you.

14 CNSL E. IRVING.

15 Q And I'm just going to take you over to the third
16 bullet or note, which refers to "greenhouse
17 industry current matters of interest." And it
18 states that:

19

20 The commission was informed of a letter from
21 Mastronardi Produce Limited that was
22 addressed to the BCFIRB. The letter states
23 that it seeks to apply for an agency licence
24 in greenhouse production allocation in BC
25 and wishes to identify itself to BCFIRB as
26 an industry stakeholder in the ongoing
27 supervisory review process. Greenhouse
28 commissioners were aware that Mastronardi
29 has been approaching growers.

30

31 Do you see that?

32 A Yes.

33 Q So would you agree with me, then, that by March
34 2020, the commission was aware that MPL was
35 actively approaching growers and expressed an
36 interest in applying for an agency licence?

37 A Yeah, I would think our kind of thinking would be
38 they would need growers before they could apply
39 for an agency application.

40 Q But you were aware that they were approaching
41 growers?

42 A Yes.

43 Q And you were aware that they were interested in
44 applying for an agency licence?

45 A Yes.

46 Q And you understood that as long as the moratorium
47 was in place, MPL would not be able to apply for

- 1 and obtain an agency licence; correct?
- 2 A That's -- yes.
- 3 Q And am I correct that one of the reasons the
- 4 moratorium was put in place was for the
- 5 commission to conduct a strategic review?
- 6 A Yes.
- 7 Q And am I correct that Dawn Glykherr was retained
- 8 as part of that process?
- 9 A Yes.
- 10 Q Now, I understand then -- Mr. Mitha took you to
- 11 these meeting minutes, but I can take you to them
- 12 again if you like -- that on October 21st, 2020,
- 13 the committee had a meeting to discuss BCFIRB's
- 14 request that the commission consider lifting the
- 15 moratorium; is that correct?
- 16 A Yes.
- 17 Q And at the time of that meeting, the commission
- 18 was already in possession of two agency
- 19 applications; correct?
- 20 A Yes.
- 21 Q And one was from MPL?
- 22 A Yes.
- 23 Q And as Mr. Mitha took you through, at the time of
- 24 that meeting, the commission agreed that it was
- 25 not sound policy to have the moratorium in place
- 26 indefinitely; correct?
- 27 Sorry. The camera might pick up your nod,
- 28 but the record won't. If you could just orally
- 29 give your answer, I'd appreciate it.
- 30 A I did. I said, yes.
- 31 Q Apologies. I guess it's just the speakers. And
- 32 at that meeting, the commission ultimately voted
- 33 not to lift the moratorium at that time; correct?
- 34 A I think we instructed our legal counsel on
- 35 what -- how to proceed.
- 36 Q You didn't vote to lift the moratorium; correct?
- 37 A Yes. Correct.
- 38 Q And were you part of that decision-making
- 39 process?
- 40 A Yes.
- 41 Q And you were aware during the October 21st, 2020
- 42 meeting that any discussions the commissioners
- 43 had would be recorded in the minutes; correct?
- 44 A Yes.
- 45 Q And am I correct that later that day BCFIRB
- 46 directed that the commission lift the moratorium?
- 47 A Yeah, that's correct.

- 1 Q You've been a commissioner for I think you said,
2 nine to ten years; is that correct?
- 3 A Yes.
- 4 Q And I believe that you worked in the storage crop
5 sector; correct?
- 6 A Yes.
- 7 Q And am I correct that until recently, the
8 commission -- until recently -- let me start
9 again. Am I correct that until recently two
10 independent commissioners were appointed, there
11 were equal numbers of greenhouse growers and
12 storage crop growers on the commission?
- 13 A Yes.
- 14 Q And is it fair to say that there was a mutual
15 alliance of interest between the storage crop
16 members on issues that related to their interest?
- 17 A Sorry. Can you repeat that.
- 18 Q Is it fair to say that on issues related to
19 storage crop, the storage crop members were
20 aligned in interest?
- 21 A Not necessarily.
- 22 Q Now, I understand that when a storage crop issue
23 came before the commission, the general practice
24 was that the commissioners with interest in the
25 storage crop sector would recuse themselves --
- 26 A Yes.
- 27 Q -- and the commissioners -- and the commissioners
28 with an interest in the hot house sector would
29 then vote on the issue; correct?
- 30 A Correct.
- 31 Q But am I also correct that before the vote took
32 place on a storage crop issue, the storage crop
33 commissioners would have an opportunity to
34 express their views or give their insight into
35 the issue?
- 36 A Up until -- I would say, until Debbie took over
37 as chair and then that probably -- we don't even
38 do that anymore. Once it's an issue, there's
39 absolutely no discussion whatsoever since Debbie
40 has been on.
- 41 Q And when did Debbie take over?
- 42 A I believe January of 2018 or -- I think January
43 of 2018, I believe.
- 44 Q So prior to that, the storage crop commissioners
45 would have an opportunity to give their views but
46 not post; is that your evidence?
- 47 A Yeah, we had a meeting with BCFIRB probably back

- 1 in 2015 or 2016 and we were directed -- because
2 that was always an issue is we were always
3 concerned about making decisions on other -- the
4 other industry with little to no knowledge about
5 it. So it was directed from BCFIRB to have the
6 people with the knowledge to answer questions,
7 and then once any decision or deliberations --
8 those people recuse themselves and then the other
9 industry makes the decision.
- 10 Q Now, am I correct that Mr. Guichon left the
11 commission in March of 2021?
- 12 A Yes.
- 13 Q Prior to Mr. Guichon leaving the commission, can
14 you recall a time when the hot house
15 commissioners voted on a storage crop issue
16 against the views expressed by storage crop
17 members?
- 18 A I don't recall -- I don't know. Do you have a
19 decision that you want to take me to, or ...?
- 20 Q No, I'm asking for your recollection.
- 21 A I can't recollect.
- 22 Q And prior to Mr. Guichon leaving the commission,
23 do you recall a time when you and the storage
24 crop commissioners voted on a hot house issue
25 against the views expressed by the hot house
26 commissioners?
- 27 A No, I don't.
- 28 Q Now, would you agree with me that it's important
29 for industry members to have confidence in the
30 commission and its decision-making process?
- 31 A Yes.
- 32 Q And it's important for industry members to have
33 trust in the commission?
- 34 A Yes.
- 35 Q And this includes growers having trust in the
36 commission?
- 37 A Yes.
- 38 Q As you previously said, I believe it was in 2019
39 the commission hired Dawn Glykherr to conduct a
40 strategic review of the commission; correct? And
41 as part of that, I understand that she
42 interviewed industry members, including growers,
43 regarding concerns they had with the commission;
44 is that correct?
- 45 A Yes, I believe she interviewed every grower in BC
46 or close to it.
- 47 Q Did you ever talk to Ms. Glykherr about her

TAB 7

Blair Lodder (a witness)
Cross-exam by Cnsl E. Irving

1 to take him on and not be able to market his
2 product, then there would be an issue, right, and
3 we and, of course, Lillian, that's why this says
4 that. She did not feel confident in being able
5 to market that amount of product at that time
6 with that short of notice in that situation.

7 Q And had you been involved in discussions with
8 Ms. Posch about that concern?

9 A We talk constantly.

10 Q Had the question -- had the question been taken
11 to the Okanagan Grown board about whether
12 Okanagan Grown would accept Prokam as a grower?

13 A We did discuss it, but not in any length or any
14 meetings of -- she had talked to the other
15 directors, also, individually.

16 Q And ultimately, on January 30th, Mr. Solymosi
17 indicates, "I had sign-off from everyone on the
18 decision document." Do you see that?

19 A Yeah.

20 Q And that was all commissioners who had
21 participated in the conference call; correct?

22 A Yeah, yeah.

23 Q Mr. Guichon, yourself, Mr. Gerrard, Mr. Schlacht,
24 Mr. Reynolds, Mr. Newell, Mr. Moerman, and
25 Mr. Reed?

26 A Yeah. As far as I know, if they signed off on it
27 they signed off on it, right?

28 CNSL C. HUNTER: Thank you. Those are my questions.

29 THE CHAIR: Thank you, Ms. Hunter. Ms. Basham.

30 CNSL R. BASHAM: Ms. Irving will deal with this
31 witness. Thank you.

32

33 **CROSS-EXAMINATION BY CNSL E. IRVING:**

34 Q Good morning, Mr. Lodder.

35 A Good morning.

36 Q My name is Emma Irving. I'm one of the lawyers
37 for Mastronardi/MPL. I'm just going to ask you
38 some more questions. So as we said under -- when
39 Mr. Mitha was asking you questions, you're aware
40 that the commission voted to impose a moratorium
41 on greenhouse agency licenses in June of 2019;
42 correct?

43 A Yes.

44 Q And you voted to impose that moratorium; correct?

45 A Yes.

46 Q And you understood that it would take another
47 vote by the commission to lift the moratorium;

Blair Lodder (a witness)
Cross-exam by Cnsl E. Irving

1 correct?

2 A Yes.

3 Q I'd like to take you to Exhibit 2. It will pop
4 up on the screen shortly. So these are meeting
5 minutes from a commission meeting on March 7,
6 2018, and you were in attendance; correct?

7 A Yes, it looks like it.

8 Q I'd like to take you to bullet 5.5.

9 A Okay.

10 Q And there under the heading "Agency Inquiries,"
11 it says:

12
13 Agency inquiries have been received from Red
14 Sun Farms of Sunset Farms located in
15 Ontario. Mastronardi.

16
17 Do you see that?

18 A Oh, yeah. Okay. I was reading the wrong bullet.
19 Sorry about that. Yeah, yeah. I see that.

20 Q So you agree with me that in March of 2018, the
21 commission was aware that Mastronardi will at
22 least be making agency inquiries; is that
23 correct?

24 A I guess, yeah.

25 Q And I'd like to take you to document 16 which I
26 believe is -- is it Exhibit 2 -- sorry Exhibit 1.
27 These are meeting minutes from a commission
28 meeting on March 10, 2020, and you're again noted
29 being in attendance; correct?

30 A Yes.

31 Q And I'd like to take you over to the second page,
32 bullet 3. And there it states that:

33
34 The commission was informed of a letter from
35 Mastronardi Produce Limited that was
36 addressed to the BCFIRB. The letter states
37 that it seeks to apply for agency license
38 and greenhouse production allocation in BC
39 and wishes to identify itself to BCFIRB as
40 industry stakeholder in the ongoing
41 supervisory review process. Greenhouse
42 commissioners were aware that Mastronardi
43 had been approaching growers.

44
45 Do you see that?

46 A Yeah.

47 Q So would you agree with me, then, that in March

Blair Lodder (a witness)
Cross-exam by Cnsl E. Irving

- 1 2020, the commission was aware that Mastronardi
2 had actually stated an intention to apply for an
3 agency licence?
4 A That's what it says, yeah.
5 Q Do you have any reason to disagree with my
6 statement that the commission was aware of that?
7 A No, no, no.
8 Q And you understood that as long as the moratorium
9 was in place, MPL or Mastronardi would not be
10 able to apply or obtain an agency licence;
11 correct?
12 A No. The agency licence, no person.
13 Q And am I correct that one of the reasons the
14 moratorium was put in place was for the
15 commission to conduct a strategic review?
16 A Strategic review and an agency review.
17 Q And Dawn Glyckherr was retained as part of that;
18 correct?
19 A Yes.
20 Q And as we went to earlier this morning, I
21 understand that on October 21st, 2020, the
22 commission had a meeting to discuss BCFIRB's
23 request for the commission to consider lifting
24 the moratorium; correct?
25 A Yes.
26 Q And at that time, the commission was in
27 possession of two agency applications; correct?
28 A Yes, as far as I know.
29 Q One was from MPL?
30 A Okay.
31 Q Do you agree with me?
32 A Yeah, I guess, yeah.
33 Q And at the time of that meeting, the commission
34 agreed that it was not sound policy to have the
35 moratorium in place indefinitely; correct?
36 A Correct.
37 Q But at the meeting, the commission ultimately
38 voted to not lift the moratorium yet; correct?
39 A Yeah. It wanted to seek more legal advice,
40 et cetera, yeah.
41 Q And you voted on that motion; correct?
42 A Yeah.
43 Q And you were aware at the time of that meeting
44 that any discussions the commissioners had at the
45 meeting would be recorded in the minutes;
46 correct?
47 A Correct.

Blair Lodder (a witness)
Cross-exam by Cnsl E. Irving

- 1 A Yeah, yeah.
- 2 Q But before a vote takes place or took place on a
3 storage crop issue, my understanding is that the
4 storage crop commissioners would have an
5 opportunity to kind of express their views or
6 give their, you know, two cents on the issue
7 before it was voted on; is that correct?
- 8 A Yes, and the industry as a whole, also.
- 9 Q So, sorry. I just want to make sure I understand
10 your answer. The storage crop commissioners
11 would give their views on the industry as a whole
12 as well as a particular storage crop issue?
- 13 A The commissioners and the industry as a whole.
- 14 Q By that, you mean other members in the industry
15 could give their views?
- 16 A Yeah.
- 17 Q And the vice versa again?
- 18 A Yes.
- 19 Q So if it's a hothouse issue?
- 20 A Back and forth, yeah.
- 21 Q The hothouse commissioners would give their views
22 before the vote took place?
- 23 A Yeah.
- 24 Q And am I correct that Mr. Guichon left the
25 commission in March 2021?
- 26 A I'm not sure of the exact date but yeah,
27 something like that.
- 28 Q Thereabouts?
- 29 A Yeah.
- 30 Q And to the best of your recollection, prior to
31 Mr. Guichon leaving the commission, was there a
32 time when the hot house commissioners voted on a
33 storage crop issue in the matter that was
34 inconsistent with the views that had been
35 expressed by the storage crop commissioners?
- 36 A You're going to have -- excuse me, you have to
37 repeat that question again.
- 38 Q To the best of your recollection, prior to
39 Mr. Guichon leaving the commission, was there a
40 time when the hot house commissioners were voting
41 on a storage crop issue and they voted in a
42 manner that was inconsistent with the views that
43 the storage crop commissioners had expressed
44 prior to the vote?
- 45 A No.
- 46 Q And again, prior to Mr. Guichon leaving the
47 commission?

TAB 8

**PETER GUICHON, a
witness, recalled.**

1
2
3

4 THE CHAIR: Mr. Mitha.

5 CNSL N. MITHA: Thank you. Chair Donkers, I had set a
6 date about the lifting of the moratorium
7 incorrectly to Mr. Guichon and I just wanted to
8 clear up the date of the lifting of the
9 moratorium with him.

10 Q Mr. Guichon, I suggested to you that the
11 moratorium was lifted in the spring of 2022 after
12 you stopped being a commissioner. In fact, that
13 was the spring of 2021 that you stopped being a
14 commissioner; correct?

15 A That's correct.

16 Q And so MPL's application was considered in 2021
17 after you stopped being a commissioner; right?

18 A That's correct.

19 Q So the moratorium, then, obviously, was lifted in
20 the spring of 2021, not 2022, correct?

21 A That's right.

22 CNSL N. MITHA: I just wanted to clear that up. Thank
23 you.

24 THE CHAIR: Thank you for that, Mr. Mitha.
25 Ms. Basham.

26 CNSL R. BASHAM: Thank you.
27

28 **CROSS-EXAMINATION BY CNSL R. BASHAM:**

29 Q Mr. Guichon, I'm Rose-Mary Basham. I represent
30 MPL. You served on a commission with Mr. Newell
31 for a number of years. Is that a fair statement?

32 A Yes.

33 Q By the time you left the commission, you were the
34 most long-standing storage crop commissioner?

35 A Of the current sitting members, you mean?

36 Q Yeah. At the time you left, were you the longest
37 standing --

38 A Yes, I was. Yes.

39 Q And was it also correct that Mr. Newell at the
40 time was the most long-standing greenhouse
41 commissioner?

42 A Yes, probably.

43 Q Okay. And you and Mr. Newell shared information
44 with each other about your respective sectors
45 during the time you were commissioners?

46 A Not very much. You know, everybody was busy and
47 stuff and doing their own thing, but I didn't

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

- 1 talk to him much about the greenhouse industry
2 and he didn't talk to me much about the root
3 crop.
- 4 Q Well, I'm going to suggest to you that you did.
5 Whenever you had commission meetings to the
6 extent that issues relating to storage crop came
7 up, you shared that information and vice versa;
8 correct?
- 9 A Yeah. At commission meetings, yes, but I
10 understood your question to be outside of that.
- 11 Q Well, surely, sir, you communicated with him from
12 time to time; correct?
- 13 A At the commission meetings, yes.
- 14 Q Even outside the commission meetings, you met him
15 from time to time?
- 16 A I haven't talked to John for probably five or six
17 years, until the last annual meeting.
- 18 Q Right. I'm going to be fair and move on to
19 something else. Is it fair to say in these
20 commission meetings, storage crop commissioners
21 rely on greenhouse commissioners to provide them
22 with the requisite information pertaining to
23 greenhouse issues when a greenhouse issue came
24 up?
- 25 A Only if we had to ask for information, but we
26 wouldn't rely on actually what they said if there
27 was a decision to be talked about.
- 28 Q What about their views?
- 29 A Pardon?
- 30 Q Didn't you ask them for their views? Didn't they
31 express their views to you about what they
32 thought about a matter pertaining to a greenhouse
33 issue that you needed to decide on?
- 34 A They would -- what was the question again?
- 35 Q I'm suggesting to you, sir, that in these
36 commission meetings, if there was an issue
37 pertaining to greenhouse matters, the greenhouse
38 commissioners including Mr. Newell would provide
39 you with their views and their take on matters?
- 40 A On preliminary -- on commission matters if there
41 was no decision to be made, yes.
- 42 Q Vice versa, you would relate your views to the
43 greenhouse people on matters relating to storage
44 crop?
- 45 A I wouldn't relay my views to them unless they
46 asked them.
- 47 Q But surely, sir, you're not suggesting that it

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

1 relating to Prokam but you were not recused in
2 this part of the meeting. Is that a fair
3 statement?

4 A Yeah, that's right.

5 Q I'm going to ask you to take a look at the
6 content of 7.4. That might refresh your memory,
7 sir. It says:

8
9 There has been some inquiries, one quiet
10 [phonetic] --

11
12 Should be "quite."

13
14 -- recently, into applying for a new
15 greenhouse agency.

16
17 See that?

18 A Yes.

19 Q So there was a discussion about that and the
20 discussion focused on first bullet moratorium on
21 agencies after the Village Farms decision. See
22 that?

23 A Yes.

24 Q So the first thing you wanted to talk about that
25 was focused on was a moratorium on agencies;
26 correct?

27 A Yes.

28 Q And then when you look at the bottom part, the
29 last paragraph in this section:

30
31 The general manager --

32
33 That would be Solymosi:

34
35 -- has been instructed to request from each
36 greenhouse agency the ownership composition
37 of their agency and to research the position
38 to place a moratorium on greenhouse agency
39 applications.

40
41 Does that refresh your memory now?

42 A Yeah, I remember some discussion about the
43 ownership of agencies.

44 Q No, there's more than that. He was instructed to
45 research the decision to place a moratorium on
46 greenhouse agency applications; is that right?

47 A Yes, yeah. M'mm-hmm.

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

- 1 Q And this discussion came about when there was no
2 application before the commission; is that a fair
3 statement?
4 A Yes, that's fair.
5 Q And the only evidence of any kind of inquiry we
6 have is set out in the previous email that I
7 showed to you that those manner -- that didn't
8 receive it. The issue of a greenhouse inquiry
9 was raised in that email and Mr. Solymosi said,
10 I'm going to round everybody up, in essence, and
11 talk about this and have a meeting; correct?
12 CNSL W. STRANSKY: I'm sorry. Can that question be
13 broken down? I think I lost the thread.
14 CNSL R. BASHAM: All right.
15 Q I'm saying to you, sir, that preceding this
16 meeting, the only evidence of any kind of inquiry
17 you have is that on November 29, 2017.
18 Mr. Solymosi told Mr. Newell that Jason Witcher
19 from Sunset, which is one of the MPL companies,
20 was asking about securing a BC product. And in
21 that context, Sunset was told needed to get an
22 agency. And then Mr. Solymosi says to Jos, I'm
23 going to reach out to everybody to get everybody
24 together to talk about this, in essence; correct?
25 CNSL W. STRANSKY: Sorry. Are you asking Mr. Guichon
26 if he's aware of other agency inquiries?
27 CNSL R. BASHAM:
28 Q I'm going to suggest to you, Mr. Guichon, it's
29 not for me to choose here. You were not aware of
30 any other greenhouse agency applications or
31 inquiries on December 14 except for what
32 Mr. Solymosi said about an inquiry made by
33 Jason Witcher? Is that right?
34 CNSL W. STRANSKY: I'm sorry. The minutes don't
35 reflect that an inquiry was made by Mr. Witcher.
36 It says, there's been some inquiries one quite
37 recently.
38 CNSL R. BASHAM:
39 Q Well, who was he referring to? Did he refer
40 to -- he said there was some inquiries, one quite
41 recently. Did he tell you who it was?
42 A I can't -- I can't recall if he said who it was.
43 Q But do you remember that it was Sunset Grown,
44 something to do with Sunset, the MPL?
45 A Well, if he brought it to the meeting, obviously
46 it was a greenhouse inquiring.
47 Q Right. And you know of no greenhouse inquiry in

1 THE WITNESS: Sorry.
2 CNSL R. BASHAM:
3 Q I think you were trying to say something but I
4 couldn't hear you?
5 A No. Maybe you can start by starting again and
6 then I'll -- because I lost my train of what I
7 was going to say to you.
8 Q I'm going to suggest to you throughout the time
9 that you were a commissioner, there was not
10 once -- not once did the commissioners, the
11 storage crop commissioners vote on a matter
12 concerning the greenhouse crop that was
13 inconsistent with views expressed by the
14 greenhouse commissioners?
15 A No, that's not true. I can remember many times
16 us not all agreeing on stuff. Everybody is an
17 independent thinker. You're asking me about the
18 storage crop group. We're independent thinkers
19 and we didn't agree all the time on -- even on
20 greenhouse issues.
21 Q But was there not -- that you actually voted in a
22 manner that was inconsistent with what the
23 greenhouse commissioners position was on the
24 greenhouse issue?
25 A We never -- we never voted on block, if that what
26 you're asking?
27 Q No, I'm asking --
28 A We have at times but not every time, no.
29 Depending on -- you know, we look at -- we look
30 at the market information that's presented to us
31 by Mr. Solymosi and no, we -- I'm sure we didn't
32 vote -- I know we didn't vote at times on maybe
33 what they thought was right or what they viewed
34 as different than us.
35 Q Can you point to any particular example that you
36 can say that you voted in a manner that was
37 inconsistent with what the greenhouse
38 commissioners stated view was in a manner
39 relating to greenhouse industry or the
40 greenhouse --
41 A I can remember one for sure. It was setting a
42 commission charges between greenhouse group and
43 the storage crop group. They thought that they,
44 being some of the greenhouse members thought that
45 they should be paying us charges and the root
46 crop paying more, and no, we didn't agree.
47 Q Okay. Besides that, any other example you can

TAB 9

Ravinder Cheema (a witness)
Exam by Cnsl N. Mitha

- 1 just myself and my parents.
- 2 Q I understand. Okay. Thank you. Now, the farms
3 that you have, both Fresh4U and Creekside, sell
4 potatoes, bell peppers, and eggplants; right?
- 5 A That is correct, yes.
- 6 Q And tomatoes and bell peppers are regulated crops
7 in the BC industry; right?
- 8 A Yes, it is.
- 9 Q Now, sir, you have had a chance to review the
10 interview report that was prepared for you?
- 11 A Yes. Briefly.
- 12 Q And you would agree that at the time you reviewed
13 it, it accurately summarized our discussion?
- 14 A Yes, sir.
- 15 Q Sir, from your perspective, your view was that
16 there are a select few people that make decisions
17 and favour their own economic interests when
18 they're making those decisions at the commission
19 level?
- 20 A Yes.
- 21 Q But you've indicated, as you did in your
22 interview report, you acknowledge that there are
23 also, as you put it, some good persons on the
24 commission who do not act in that manner?
- 25 A Sure. When you stated that question, I was
26 thinking of people like Debbie Etsell,
27 Brent Royal, Armand VanderMeulen.
- 28 Q Okay. Sir, would it be fair to say that your
29 main concern with the commission is that you feel
30 commissioners act in the conflict of interest to
31 benefit themselves when they make decisions?
- 32 A Yes.
- 33 Q And you feel that way because you consider that
34 many of them are owners of farms or agencies and
35 have economic interests when they make decisions?
- 36 A Yes. Or they're working for an agency
37 themselves.
- 38 Q Sir, are you aware of any specific decision you
39 can point to where you say a particular
40 commission member voted in his own interest or
41 her own interest instead of the interest of the
42 industry? Is there any specific decision?
- 43 A No.
- 44 Q So you were personally interviewed by
45 Ms. Dawn Glykherr; right?
- 46 A Yes, I was. My wife and I.
- 47 Q As a producer; right?

Ravinder Cheema (a witness)
Exam by Cnsl N. Mitha

- 1 A Yes.
2 Q And I believe that you're aware of a meeting
3 with -- where Ms. Glykherr had and she spoke to
4 some members of the BC Growers Association?
5 A M'mm-hmm.
6 Q Were you at that meeting, sir?
7 A Yes, I was.
8 Q All right. And who else was at that meeting?
9 A The other directors as well.
10 Q Of the BC Growers Association?
11 A Yes, sir.
12 Q All right. And how many people were at that
13 meeting?
14 A I don't remember. Probably one, two, three,
15 four, five, six, seven-ish. Six, seven.
16 Q Six or seven people? All right. And at that
17 meeting, she communicated that farmers felt they
18 were being treated very poorly and were
19 powerless?
20 A Yes.
21 Q What else do you recall she communicated at that
22 meeting?
23 A She communicated the frustrations of the farmers,
24 the issues they were having, they were seeing how
25 there was racism involved, there was one-sided
26 and that the commission was an old boys' club;
27 you scratch my back, I scratch your back sort of
28 deal.
29 Q Those are the things she communicated at that
30 meeting?
31 A From what I remember, yes.
32 Q Did she refer to any specific decisions which
33 commissioners had made or give any specific
34 examples where commissioners had made decisions
35 that gave rise to her conclusion?
36 A No, not that I can remember. Like, she mentioned
37 a lot of stuff about, like, she interviewed many
38 farmers in that she dug into it. She had to
39 interview more farmers, farmers crying, farmers
40 upset, farmers happy that, you know, they're
41 finally being heard. They felt -- farmers felt
42 helpless and stuck.
43 Q So she was communicating to you the view that
44 farmers had expressed to her?
45 A That's right. Not just to me, to the whole
46 board.
47 Q At this meeting?

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

1 was upset about the fact that you had made an
2 application to the commission without telling
3 him. You're saying something a little bit
4 different. And I want to understand what your
5 evidence is about that.

6 A I think it's both. The application was done
7 through Casey Houweling, through Country Fresh.

8 Q Okay. So that was one thing he was upset about;
9 fair enough?

10 A Yeah.

11 Q And you're saying he was also upset about the
12 fact that you were doing it -- you were
13 supporting MPL?

14 A Yes. He was upset about that, yeah.

15 Q And what did he say to you about that?

16 A He had mentioned, like, not much. He said that
17 in this light market that just -- it's more
18 competition.

19 Q Is that all he said about that?

20 A Yeah.

21 CNSL N. MITHA: All right. Those are my questions.
22 Some of the other lawyers will have questions for
23 you, sir.

24 THE CHAIR: Can you confirm that it's Ms. Hunter next
25 followed by Ms. Basham?

26 CNSL N. MITHA: Yes, I think so, yes.

27 THE CHAIR: Ms. Hunter.

28 CNSL C. HUNTER: I actually did not believe I had any
29 time with Mr. Cheema, and I have no questions for
30 him.

31 THE CHAIR: Thank you very much. Ms. Basham.

32
33 **CROSS-EXAMINATION BY CNSL R. BASHAM:**

34 Q Hi, Mr. Cheema.

35 A Hello.

36 Q So I just have some questions for you about some
37 of the things that you were asked by Mr. Mitha.
38 First, start by saying, you've talked about
39 conversations and communications with Mr. Reed
40 about your application for product allocation.
41 You were referring to the time frame of January
42 to March of 2021; is that correct?

43 A Yeah. Around there, probably, yes.

44 Q Right. And you said the conversation from
45 Mr. Reed and you kind of jokingly said about
46 Mucci. Is it correct to say that Mr. Reed had no
47 problem with you dealing -- transferring the

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

- 1 agency license if you were dealing with Mucci, he
2 didn't have any trouble with that at all?
- 3 A No. He had no trouble. He joked around about
4 it. And he was okay with it. And that was one
5 of the things I said to him when he was upset.
6 I'm like, you were okay with Mucci, then why
7 aren't you okay with these guys? Same thing.
8 They're from out east. At the end of the day, in
9 my head, I wasn't competing with none of my
10 colleague growers. I'm taking business away from
11 Mexico and growers from out east through
12 Mastronardi.
- 13 Q What did he say to that when you said, well, why
14 are you upset?
- 15 A I don't recall. I think at the end of the
16 conversation, he got it.
- 17 Q You mentioned that he didn't want competition.
18 Did he say to you that he didn't want Mastronardi
19 because he was competition?
- 20 A He had said that day we had a Zoom meeting next
21 day with his board, and I was like, oh, boy, here
22 we go. But the only thing Mike really said was,
23 in a light market, we don't need more
24 competition.
- 25 Q Was that in response to your question about
26 you're okay with Mucci, so what's the problem
27 with MPL?
- 28 A That was brought up, but it was brought up
29 previously, but that day, that was his main
30 concern, yeah.
- 31 Q When he said there was competition, was he
32 referring to Mastronardi?
- 33 A Yes, he was, but what's the difference between
34 Mastronardi and Mucci? They're from east.
35 They're in competition anyways.
- 36 Q But Mucci was not expanding to British Columbia
37 as far as you knew?
- 38 A As far as I knew, no. I had no idea.
- 39 Q Because the difference between Mucci and
40 Mastronardi, as far as you knew, was that Mucci
41 was an Ontario company, but their business was
42 not in the West Coast?
- 43 A At the time, they might have been working on it
44 in the background. I had no idea about that.
45 None of my business, to be frank. What drives me
46 kind of nuts is Mucci and Sunset compete with
47 each other, probably the biggest competitor with

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

- 1 each other, and even one of the Mucci owners had
2 stated to me that, you know what, the best thing
3 for the growers is having someone like Paul and
4 us over out west. And I was thrown back because
5 I was like, wow, that's your competition, but
6 you're making this comment. And he said it a few
7 times to me, and I was like, oh, that's pretty
8 cool. And to me, it's always growers are first;
9 farmers are first; money comes second.
- 10 Q Okay. I'd like to go back and clarify the
11 conversation between you and Mr. Reed. You had a
12 meeting with him, Brocklesby, and Doran on about
13 March 23rd, 2021?
- 14 A That's right, yeah.
- 15 Q That was in order to talk about the fact that you
16 were applying for product allocation to someone
17 other than Country Fresh; is that right?
- 18 A That is, and I think it was just to talk about
19 what just happened about me working with Sunset.
- 20 Q Sorry. I missed that. What did you say?
- 21 A That in the fact that we wanted to talk about
22 what happened, like, that I'm working with
23 Sunset.
- 24 Q Is that -- I would expect that would kind of
25 smooth things over with Mr. Reed. Is that part
26 of the reason?
- 27 A Again, Mike, after the conversation we had the
28 day before or a couple of days before, I think at
29 the end of it, he understood what I was doing and
30 how I was wanting to work with two agencies and
31 my interests were not just for me but for all the
32 growers. Like, if I was being selfish, I
33 wouldn't look at them. The fact that the product
34 I'm going to be growing for them is a product
35 that I'm cut off from Mexico and out east.
- 36 Q Is it fair to say, then, that Reed registered
37 this displeasure with you when he found out that
38 you were talking about Mastronardi; is that a
39 fair statement?
- 40 A He was choked, yes.
- 41 Q You were a director in the growers association;
42 is that right?
- 43 A That is correct, yes.
- 44 Q And Delli Santi is also a director there?
- 45 A Yes. She's our ED.
- 46 Q That's executive director, is it?
- 47 A That's correct.