

April 26, 2023

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By Email (Wanda.Gorsuch@gov.bc.ca)

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Our file 1041.001

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

Attention: Wanda Gorsuch

Dear Sirs and Mesdames:

**Re: Allegations of Bad Faith and Unlawful Activity  
Supervisory Review Phase II**

I write this letter further to the October 21, 2022 decision of the BC Farm Industry Review Board (“BCFIRB”) and the corrigendum issued November 2, 2022 which amended the Terms of Reference for Phase II of the Supervisory Review.

In light of the January 25, 2023 decision concerning MPL British Columbia Distributors Inc. (“MPL”), Phase II of the Supervisory Review will now be focused only on Prokam Enterprises Ltd. (“Prokam”). Therefore, this letter and future submissions will focus only on Prokam.

In its October 21, 2022 decision, BCFIRB stated, in part, the following:

para 26: “It appears to be well-accepted by all of the participants that orderly marketing requires trust and confidence. That includes mutual trust and confidence between the Commission and industry participants (particularly for those participants who might potentially act as an agent with delegated fiduciary responsibilities from the Commission) as well as public confidence in the Commission’s ability to effectively regulate and (sic) industry participants’ willingness to follow that regulation to achieve industrial stability.”

Para 27: “The concern at the heart of this next phase is the very significant disruption of, and loss of trust and confidence in the Commission and regulated vegetable industry as a result of the allegations of wrongdoing advanced in the civil claims...”

Para 28: “... if the allegations of wrongdoing were brought forward without a proper foundation and for an improper purpose, this panel has to consider what steps are required, including providing direction and assistance to the Commission, to restore orderly marketing and confidence in the industry. Depending on my ultimate findings, those orders could potentially include restrictions on the future role and participation of Prokam ... and [its] principals in the industry...”

On November 2, 2022, BCFIRB issued the Amended Final Terms of Reference (“AFTOR”) which included a consideration of whether Prokam advanced allegations of bad faith and unlawful conduct against the Commissioners and Mr. Solymosi in bad faith or for strategic or ulterior purposes.

The AFTOR also provided that BCFIRB would consider what orders or directions it has the authority to make to restore orderly marketing, trust, and confidence in the BC regulated vegetable industry, including, but not limited to:

- a. orders of costs against Prokam;
- b. advocacy by BCFIRB for legislative reform;
- c. restrictions on the participation of any of Prokam, CFP or their principals in the BC regulated vegetable industry;
- d. directions or recommendations to the Commission on how to address future applications by or further dealings with, Prokam, CFP or their principals; and
- e. directions or recommendations to other BCFIRB panels on how to address appeals or other processes involving Prokam, CFP.

In my view, what is apparent from the foregoing, is that an important factor in ensuring orderly marketing in the future is how Prokam, as a producer, might or could market its regulated storage crop. In order to properly assess this, information is required about the business or marketing relationship between Prokam and its current designated agent, Okanagan Grown Produce Ltd. (“Okanagan”).

In my view, for purposes of making my recommendations to address the AFTOR, I require additional information or evidence about not only the relationship between Prokam and Okanagan, but also if there are possible marketing arrangements with other storage crop agencies of Prokam’s product in the future.

As a result, I request time to investigate the issue of Prokam’s current business or marketing relationship with Okanagan and to potentially consider other feasible agency arrangements. As part of my investigation, I propose to speak with a representative of Okanagan and to speak to Prokam about their business or marketing relationship and to discuss with them their views of other potential marketing agreements with other storage crop agencies. After speaking with these two organizations, I

may speak to other designated storage crop agencies. Whether I speak to other agencies will depend, to some extent, on the information I gather from my discussions with Prokam and Okanagan.

As I did in the past, I will prepare summaries of all my discussions and circulate those summaries. Once I have completed this investigation, I will propose a revised schedule for submissions for comment by the parties and a decision by the panel.

In summary, I seek until **May 26, 2023** to conduct the above proposed investigation. I invite other parties to make submissions on my proposal contained in this letter by **May 2, 2023**.

Yours very truly,  
Mitha Law Group

Per:

A handwritten signature in blue ink, appearing to read 'N. Mitha', with a long horizontal flourish underneath.

Nazeer T. Mitha, KC \*  
\* Law Corporation

*NTM/nm*

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