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January 17, 2023

BY EMAIL

Attention: Nazeer T. Mitha, K.C.

MLG Law Corporation
543 Granville Street, Suite 920
Vancouver BC, V6C 1X8

Re: In the Matter of the *Natural Products Marketing (BC) Act* and Allegations of Bad Faith and Unlawful Activity Review – Part II Process

We are counsel to MPL British Columbia Distributors Inc. (“MPL”). We request that you bring this letter and its attachment to the attention of the Chair, Peter Donkers.

MPL is a subsidiary of Mastronardi Produce Limited, led by the company’s President and CEO Paul Mastronardi. I am attaching a letter from Mr. Mastronardi dated January 17, 2023.

As you know, in September of 2020 MPL applied to the British Columbia Vegetable Marketing Commission (“BCVMC”) for a Class 1 designated agency licence. An amended application was submitted to BCVMC on May 27, 2021. On January 12, 2022, a panel of the BCVMC approved of MPL’s application.

In May, 2021, BCFIRB decided to initiate a Supervisory Review after learning of allegations made against members and the general manager of the BCVMC by MPL in its civil claim (SCBC Action No. S-214043, filed April 22, 2021), and in another civil action commenced by another industry participant. On July 14, 2022, Chair Donkers issued his decision, concluding, *inter alia*, that there is no evidence to substantiate the allegations made against the members and general manager of the BCVMC. In turn, Chair Donkers issued a further decision on October 21, 2022, deciding, *inter alia*, to amend the Terms of Reference of the Supervisory Review to consider whether the civil actions were filed for improper purposes.

As is set out in Mr. Mastronardi’s letter, MPL is dedicated to working with all participants in the industry, and particularly BCVMC, to bring benefits to growers and to the industry more broadly. MPL recognizes that litigation is not conducive to this goal. As a first step toward shifting the focus back to marketing of greenhouse vegetables and the question of how MPL can benefit the

industry, MPL has taken steps to bring the civil action to an end. MPL has acknowledged that its concerns could have been brought to BCFIRB rather than commencing the civil action. MPL has expressed regret that it did not explore that option. MPL acknowledges the findings of Chair Donkers relating to disruption and in recognition of this MPL has agreed to compensate the BCVMC for 50% of their legal costs arising from the Supervisory Review up to a maximum of \$90,000.

Mr. Mastronardi further explains that MPL is dedicated not only to the development of the BC greenhouse vegetable sector, but also to the need to build positive relationships within that sector. MPL seeks a more constructive path forward, focussed on the question of how MPL can benefit the British Columbia industry as a licensed agency. In our submission, bringing the civil claim to an end, along with the other commitments outlined above, puts those words into action and represents a fundamental shift in the dynamic of this matter.

Lastly, and in recognition of the need to demonstrate its continuing commitment to the industry and orderly marketing, should MPL be successful in the prior approval process, Mr. Mastronardi has committed MPL to voluntary quarterly reporting to BCFIRB for an 18-month period.

With these developments, we submit that it is appropriate to revisit the stated purpose that underlay Chair Donkers' decision to order an amendment of the Terms of Reference, i.e. the need restore orderly marketing and confidence in the industry.

First, in Chair Donkers' July 14, 2022 decision, he publicly concluded that there was no evidence to support the allegations made against the members and general manager of the BCVMC. Second, with the steps now taken by MPL, the termination of the civil action, and the acknowledgements in Mr. Mastronardi's letter, the circumstances have changed. Right-thinking observers of this process will understand that MPL is dedicating itself to the advancement of the BC greenhouse vegetable sector and to be an active, engaged, and cooperative team player in that sector. As set out by Mr. Mastronardi, its history is the best evidence of its commitment to orderly marketing going forward.

BCFIRB has the power to stop exercising a supervisory function, or change the manner in which it exercises that function, as appropriate in the circumstances. This flows from s. 7.1(2) of the Act and from BCFIRB's power to control its own process. In this case there are new circumstances.

In all of the circumstances, we submit that there is no longer a need, and it is not in the public interest, to pursue the Part II Process as it relates to MPL.

The remaining central issue of public interest, i.e. whether MPL will be a suitable licensed agency, will be addressed in BCFIRB's prior approval process.

Accordingly, MPL seeks an order from the Chair that, as a result of changed circumstances, the Part II Process will not proceed and will be concluded as against MPL.

Yours sincerely

GUDMUNDSETH MICKELSON LLP

A handwritten signature in black ink, consisting of several overlapping loops and a trailing flourish.

Andrew D. Gay, K.C.
ADG/

Enclosure