



BC Farm Industry Review Board

November 2, 2022

File: 44200-60VAREV

DELIVERED BY EMAIL

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Dear all:

CORRIGENDUM PHASE II OCTOBER 21, 2022 DECISION

On October 27, 2022, I received a letter from Hearing Counsel seeking clarification on whether I intended to make reference to “bad faith” in Clause 3 of the Amended Terms of Reference which are Appendix A to my decision of October 21, 2022.

I can confirm that it was my intention to include the term “bad faith” to reflect my reasons at paragraph 269 of the July 14, 2022 decision, and the failure to do so was an oversight. I am therefore further amending the Terms of Reference as set out in Appendix A to this decision.

Regards,

A handwritten signature in black ink, appearing to read "Peter Donkers".

Peter Donkers
Chair

Attachment: Appendix A Amended Final Terms of Reference

cc: Nazeer Mitha, Q.C.
Mark Underhill

Kate Phipps
BCFIRB web site

APPENDIX A

AMENDED FINAL TERMS OF REFERENCE

Scope and Focus

BCFIRB's supervisory review is directed by two objectives:

- ensuring effective self-governance of the Commission in the interest of sound marketing policy and the broader public interest; and,
- ensuring public confidence in the integrity of the regulation of the BC regulated vegetable sector.

The Supervisory Review will consider the following allegations, which form the terms of reference for the supervisory review:

1. The Commission's exercise of powers to direct producers to agencies and the issuance of new agency licenses in a manner that is designed to further the self interest of members of the Commission, including:
 - a. Self-interested prevention of new agencies from entering the British Columbia market to further the Commission members' economic interests, by both failing to adjudicate agency licence applications, and preventing the granting of additional production allocation to growers thought to be aligned with applicants;
 - b. Collusion by members to "vote swap" on agency applications; and,
 - c. Self-interested direction of producers to agencies in which the Commission members have a financial or personal interest.
2. Commission members and staff exercising or failing to exercise statutory duties in bad faith, for improper purposes, and without procedural fairness due to a personal animosity toward at least one producer, specifically Prokam.
3. Prokam and MPL advancing allegations of bad faith and unlawful conduct against the Commissioners and Mr. Solymosi in bad faith or for strategic or ulterior purposes.

The Supervisory Review will also consider what orders or directions it has the authority to make, and which may be required to restore orderly marketing, trust, and confidence in the BC regulated vegetable industry, including, but not limited to:

- a. orders of costs against Prokam and MPL;
- b. advocacy by BCFIRB for legislative reform;
- c. restrictions on the participation of any of Prokam, CFP, MPL 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, MPL or their principals; and
- e. directions or recommendations to other BCFIRB panels on how to address appeals or other processes involving Prokam, CFP or MPL.