

DECISION

Prokam v. BCVMC

RE: Variance Application and Extension of February 1st GMA Deadline

January 30, 2018

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INTRODUCTION

1. On December 22, 2017, the Commission issued a decision related to allegations of non-compliance by IVCA, Prokam, and Thomas Fresh. The decision led to the following Orders being issued:
 - 1.1. Effective February 1st, 2018, BCfresh is the designated Agency for Prokam. Prokam is to sign a GMA with BCfresh under the Agency's standard terms.
 - 1.2. Prokam's 2017-18 Crop Year potato shipments on Kennebec potatoes and all potato exports are not to be included in the calculation of delivery allocation for the 2018-19 crop year.
 - 1.3. The Class 1 Producer Licence issued to Prokam is to be revoked and replaced with a Class 4 Licence. The Commission may choose to replace this licence with a Class 3 or Class 5 licence on review of the producer's compliance with these orders.
 - 1.4. The suspension of Mr. Bob Gill's 2017-18 certificate of authority is to be addressed as an Agency matter. IVCA is to inform the Commission General Manager if the certificate is to be re-instated or cancelled.
 - 1.5. The Class 1 Wholesaler Licence issued to Thomas Fresh is to be revoked and replaced with a Class 4 Licence.

In addition to the above orders, the Commission also provided;
- 1.6. If Prokam wishes to argue that they should be directed to another Agency, it may make such a submission and the Commission will give it due consideration. The submission is also to address the questions and considerations the Commission had reflected upon in making their choice.

2. On January 17th, 2018 the Commission received a letter from Prokam's legal requesting that the decision to direct Prokam to sign a GMA with BCfresh be reversed or suspended and that the Commission agree to extend the deadline for signing a GMA.

AGENCY SUBMISSIONS

3. On January 19th the Commission general manager shared the letter from Prokam with OGP (Okanagan Grown Produce Ltd.) and VIFP (Vancouver Island Farm Products Inc.) , Agencies named as alternatives to BCfresh, and asked for their positions relating to the statement below:
 - 3.1. 'Prokam would prefer to be directed to any agency other than BCfresh. It has made inquiries and two agencies have responded positively: Vancouver Island Farm Products Inc. and Okanagan Grown Produce Ltd. VIFP in particular has indicated that it would accept Prokam as a member if the Commission will permit it. In Prokam's submission, VIFP is an appropriate agency to which to transfer Prokam.'
4. On January 22nd VIFP submitted a letter stating that VIFP *'is and has declined applying for being an agency for Bob Dhillon, Prokam Enterprises Ltd.'* Furthermore, it goes on to say,
 - 4.1. *'Approximately ten days ago I apprised Mr. Dhillon of our decision in a telephone conversation. Upon receiving a letter from the VMC from Prokam Enterprises Ltd. attorney, I phoned Mr. Dhillon again on Friday, January 19, 2018 and informed him again that Vancouver Island Farm Products is declining moving forward in applying to the VMC to have Prokam Enterprises Ltd. to be part of our agency.'*
5. On January 25th OGP submitted a letter stating that OGP *'is of the view the best Agency for Prokam is BC fresh Inc.'* Furthermore, it goes on to say,
 - 5.1. *'Currently, BC Fresh has the larger market access for both Canadian and Export sales.'*
 - 5.2. *'With the potential volume of product grown by Pro Kam, BC Fresh should be considered the best option.'*
 - 5.3. *'BC Fresh values their Agency status and has respect for orderly marketing as do most of the other Agency's.'*
 - 5.4. *'Therefore, we are confident BC Fresh would logically work with and monitor Pro Kam to become compliant.'*

DECISION

6. On January 26th the Commission held a conference call to review and make a decision on the variance application and the request for an extension of the deadline for signing a GMA.
7. As indicated in the January 17th letter to the Commission and the agency submissions, Prokam had entered into discussions with both VIFP and OGP but both agencies declined to support an application for Prokam to be part of their agency.
8. On review of the arguments presented in the January 17th letter, the Commission does not find that the alternative agencies can be proficient in managing Prokam's growth ambitions. The move to BCfresh is the best option that enhances orderly marketing.
9. Furthermore, the Commission remains of the view that BCfresh is in the best position to monitor Prokam Enterprises Ltd. and maintain the producer's compliance to orderly marketing.

10. The deadline for Prokam to sign a GMA with BCfresh is extended from February 1, 2018 to February 15, 2018. The primary purpose of the extension is to provide Prokam with a sufficient opportunity to make inquiries to BCfresh regarding the standard terms of the GMA. Prokam can, and should, make direct inquiries to BCfresh regarding these matters.

Yours truly,

A handwritten signature in black ink, appearing to read "Andre Solymosi". The signature is stylized and cursive.

Andre Solymosi,
BC Vegetable Marketing Commission General Manager