



Ministry of Health British Columbia - Report on the PHSA Matter

February 09 2021



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09 February 2021

Peter Pokorny
Associate Deputy Minister
Ministry of Health
British Columbia Ministry of Health – Corporate Services
PO Box 9639, Stn. Prov Govt
Victoria, British Columbia, V8W9P1

Re: Provincial Health Services Authority Matter

Dear Mr. Pokorny:

Please find attached our report outlining the results of our review regarding the Provincial Health Services Authority Matter.

If you have any questions or would like to discuss further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Ernst & Young LLP'.

John Bethel, Partner

Steve Whitla, Partner
CPA, CA•IFA, CBV, CFE, CFF

Background

On December 21st, 2020 Ernst & Young LLP (“EY”) was retained by Mr. Peter Pokorny, Associate Deputy Minister of the British Columbia Ministry of Health to provide advisory services in connection with the issues raised related to the Provincial Health Services Authority (“PHSA”) including concerns about the appropriateness of the PHSA’s handling of a problematic purchase of personal protective equipment (“PPE”) through a vendor in Montreal (the “Montreal Vendor”), the conduct and decisions of the PHSA CEO, Benoit Morin, (the “CEO”) and other related concerns (the “Matter”).

Scope of work

Our procedures were performed to address the following areas of concern as outlined to us:

1. Concerns regarding the PHSA CEO’s role and personal interests (if any) in all aspects of the transaction with the Montreal Vendor,
2. Concerns that the CEO did not take appropriate action (or support action by PHSA executives) to seek recourse from the Montreal Vendor as a result of the problematic respirators,
3. Concerns that the CEO made decisions to dismiss members of the PHSA’s executive team and the Chief Internal Auditor based on their raising concerns about the failed transaction with the Montreal Vendor,
4. Concerns that the PHSA’s “write-off” of the problematic respirators was opposed by the CEO; and
5. Information regarding other areas of concern that were raised during this process.

Procedures

We performed the following procedures:

- ▶ Received from the PHSA and processed electronic documents for 8 former or existing employees with the PHSA. Over 1.8 million electronic documents were uploaded to a review tool for analysis by EY. These documents included:
 - Emails from January 1st, 2020 to December 17th, 2020
 - Documents saved to the PHSA shared folders
- ▶ Applied industry standard review techniques including the use of keywords and filters to analyze the electronic documents obtained from the PHSA. We analyzed the keyword search results for potentially relevant documents.

- ▶ In addition to the data above, we received and processed the following PHSA company issued devices from the CEO: iPhone, iPad and MacBook. We applied industry standard review techniques including the use of keywords and filters to analyze this data set.
- ▶ Conducted interviews with 40+ individuals, including the CEO, employees, former employees and Board Members. Current and former employees were granted full protection by the Board of Directors to share information related to our mandate in confidence and without risk of retaliation.
- ▶ Conducted detailed and extensive searches related to the personal and professional backgrounds of the CEO and the Founder of the Montreal Vendor using publicly available data. This included public legal and financial records and media and internet searches to identify items such as previous business relationships and/or family connections.
- ▶ Analyzed an obituary document linked to an allegation of a potential personal connection between the CEO and the Founder of the Montreal Vendor using the procedures identified above.
- ▶ Analyzed the data sources to identify relevant documents in connection with the Matter. Data sources included:
 - Over 1.8 million electronic documents including: emails and the PHSA server documents collected,
 - The CEO's electronic devices,
 - Source documents provided including invoices and other internal records, consultant reports, employee memos and documentation; and
 - Information obtained through interviews.
- ▶ Conducted verbal briefings with the Deputy Minister and the PHSA Board of Directors on the analysis and our findings.
- ▶ Conducted verbal briefing with the Deputy Minister and Board of Directors on other issues not included in the formal scope of our analysis that are referenced under Question 5 below.

Scope limitations

Our work to date was limited to the documents provided to us, the discussions held, our analysis of the electronic documents obtained, and our understanding of the information brought to our attention during the interviews conducted.

Restrictions on use of this Report

This Report is intended for the information and use of the BC Ministry of Health and is not intended to be and should not be used by anyone without the authorization of EY. EY assumes no responsibility to any other user of this Report. Any unauthorized persons who choose to rely on our Report do so entirely at their own risk.

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This Report is based on our review of information and documents available to date as described in the Scope of Work. In the event further documents or other information become available that could impact our findings, we reserve the right to review such records and reconsider and amend the findings set out in this Report.

Our work was not performed in accordance with generally accepted auditing, review, or other assurance standards in the relevant jurisdiction and accordingly does not express any form of assurance. None of the services, updates or reports constitute any legal opinion or advice.

Notwithstanding the parties outlined in our statement of work dated December 21st, 2020 or in our engagement agreement, we do not assume any responsibility for any third-party products, programs or services, their performance or compliance with your specifications or otherwise. The services do not consider the interests of third parties. They are for the BC Ministry of Health and their internal use only and are therefore not designed or intended to serve third parties as a basis for their decisions, unless we expressly agree otherwise in writing. Third parties can neither infer rights nor otherwise benefit from this agreement unless we expressly agree otherwise in writing. In addition, it is not to be disclosed to third parties either in part or in whole without our written consent.

Our findings are based primarily on business documents provided to or obtained by the investigation team, as well as verbally acquired information.

Summary of Observations

#1: Concerns regarding the CEO's role and personal interests (if any) with the Montreal Vendor

The PHSA placed orders for Personal Protective Equipment ("PPE") in March and in April 2020 with the Montreal Vendor (the "Problematic PPE Purchase"). The original order was outside of normal PHSA procurement practices which would have included due diligence procedures on the Vendor. The unusual nature of the procurement resulted from global challenges in sourcing PPE at the time and the CEO's involvement in the original purchase, including directing staff to issue a multi-million dollar deposit to the Montreal Vendor. After these orders were placed, an obituary document was identified within the PHSA. This obituary document identified an individual with the same name as the PHSA CEO, and the name of the Founder of the Montreal Vendor. This obituary document led to rumors circulating within the organization about a potential personal relationship between the CEO and the Founder of the Montreal Vendor (the "Conflict of Interest Allegation").

While we observed that the CEO personally initiated and directed the initial purchase, our procedures did not identify any pre-existing relationships between the CEO and the Founder of the Montreal Vendor. We could not find any indications that the individuals identified in the obituary were the CEO or the Montreal Vendor. Our procedures confirm the introduction of the Montreal Vendor to the PHSA was made by the CEO's contact: a health executive in Quebec who confirmed previous business dealings with the Vendor.

To summarize, our analysis did not identify any pre-existing relationship between the CEO and the Montreal Vendor that would support the Conflict of Interest Allegation raised.

#2: Concerns that the CEO did not take appropriate action to seek recourse from the Montreal Vendor

The PHSA placed orders with the Montreal Vendor for PPE in March and in April 2020. In early April it was determined that the respirators received from the Montreal Vendor did not pass provincial PPE testing protocols and some of them were determined to be counterfeit. Action was taken to negotiate with the Montreal Vendor, determine legal action alternatives against the Montreal Vendor, and ultimately book a write-off for the prepayment of the PPE. Concerns were raised regarding whether or not the CEO supported these actions against the Montreal Vendor.

We observed that PHSA staff attempted to negotiate with the Montreal Vendor, and wanted to start legal action shortly after the discovery of the issues with the PPE. The Board of Directors ("BOD") and the CEO supported negotiations by PHSA staff with the Montreal Vendor rather than pursuing legal action. When such negotiations apparently failed other executive members decided to pursue legal action against the Montreal Vendor without informing the CEO or the Board of Directors. We were also informed that in January 2021 the Montreal Vendor filed for bankruptcy, rendering the likelihood of any significant recovery to be low.

To summarize, there was a disconnect between the actions of the CEO, BOD and PHSA staff regarding the appropriate action to be taken with the vendor, and the timing of those actions.

#3: Concerns that the CEO made decisions to dismiss members of the PHSA’s executive team and the Chief Internal Auditor based on their raising concerns about the failed transaction with the Montreal Vendor

In 2020 three executives and the Chief Internal Auditor (“CIA”) departed the organization. These departures occurred after the Conflict of Interest Allegation and the issues with the Montreal Vendor were raised, as discussed above. There were concerns that the departures of these employees were directly linked to the CEO’s response to questions having been raised about his role and involvement in the Problematic PPE Purchase.

We observed that terminations for three of these individuals were sought at the end of April by the CEO. Internal legal counsel reviewed the matter and the opinion of two external firms was obtained to determine if a “for cause” termination could be applied. We have been informed that the then desire to terminate these individuals was due to a perceived “lack of loyalty” to the CEO related to their roles and involvement in the Problematic PPE Purchase.

- For the CIA who was terminated, the CEO sought to have the CIA terminated in late April 2020 for the CIA’s role in examining the Conflict of Interest Allegation. Ultimately the decision to terminate was made by the BOD several months later. The BOD represents that this termination was related in part to the CIA’s handling of the Conflict of Interest Allegation but also an assessment of the CIA’s capacity to continue with the organization.
- For the first executive who was terminated, the timing of the termination may have been impacted by their connection to the Problematic PPE Purchase and the Conflict of Interest Allegation. However, ultimately a number of factors, including a desire by the CEO and the BOD to make changes to the leadership of the PHSA appear to be the primary reasons for the first executive’s termination.
- For the second executive who departed, while there was an initial attempt to terminate due to a “lack of loyalty” note above, the retirement was primarily related to issues not connected to the Problematic PPE Purchase or to the Conflict of Interest Allegation.
- For the third executive who was terminated, we were informed that the termination was due to an inability to continue working with the CEO. This inability to continue working together was due to friction between the two. This friction was related to, but not limited to, the write-off of the prepayment for the Problematic PPE Purchase, and the organization’s decision to restructure this executive’s department.

In summary, all of the employees’ departures were at least in part related to a perceived lack of loyalty to, and/or friction with, the CEO.

#4: Concerns that the PHSA’s “write-off” of problematic PPE was opposed by the CEO

The first PPE order with the Montreal Vendor was placed before year end on March 24th, 2020 with a deposit of USD \$4.8M; CAD \$6.95M. As a result, a pre-paid asset was booked before the March 31, 2020 year end. Subsequently, when the goods arrived in April and it was determined that the respirators did not pass provincial testing protocols, a write-off of the prepaid balance in the amount of \$6.95M was recorded on the financial statements at the March 31, 2020 year end. There were concerns that this write-off was opposed by the CEO.

We observed that the CEO was opposed to the write-off of the prepaid balance associated with the PPE. The CEO raised his opposition with the BOD. The opposition to the write-off by the CEO was initially supported by representatives of the BOD, who thought the issue should be further examined by the PHSA external auditors and an engineer who was contracted to determine if the masks could be repurposed. The challenge to the write-off by the CEO and BOD created a significant amount of friction with the Finance team at the PHSA as it raised concerns over their ability to make accounting decisions based on their professional judgement.

In summary, this write-off was ultimately supported by the PHSA's external auditors and the Chair of the Audit Committee on behalf of the BOD. The BOD and the CEO continue to have concerns that a write-off of this magnitude should have been raised with them in advance of it being recorded.

#5: Other areas of Concern

Other issues of potential concerns were raised with EY by interviewees through the course of our work. These concerns have been discussed with the Deputy Minister of Health. The concerns discussed included the following issues: (i) renovations to the PHSA executive offices including discrepancies in reported vs. actual costs; (ii) hiring and compensation within the CEO's office; (iii) the culture, work environment, and confidence in leadership at the PHSA.