

PRINCE EDWARD ISLAND LEGISLATIVE ASSEMBLY



Speaker: Hon. Kathleen M. Casey

Published by Order of the Legislature

Standing Committee on Fisheries, Intergovernmental Affairs and Transportation

DATE OF HEARING: 6 DECEMBER 2007

MEETING STATUS: PUBLIC

LOCATION: POPE ROOM, COLES BUILDING, CHARLOTTETOWN

SUBJECT: MOTION #6 - REVIEW OF POLAR FOODS

COMMITTEE:

Bush Dumville, MLA West Royalty-Springvale (Chair)
Jim Bagnall, MLA Montague-Kilmuir
Michael Currie, MLA Georgetown-St. Peters
Charles McGeoghegan, MLA Belfast-Murray River
Alan McIsaac, MLA Vernon River-Stratford
Robert Mitchell, MLA Charlottetown-Sherwood
Pat Murphy, MLA Alberton-Roseville
Buck Watts, MLA Tracadie-Hillsborough Park

COMMITTEE MEMBERS ABSENT:

Wes Sheridan, Provincial Treasurer

GUESTS:

Colin Younker, Auditor General; Jane MacAdam, Office of the Auditor General

STAFF:

Marian Johnston, Clerk Assistant and Clerk of Committees
Ryan Conway, Research Officer

The Committee met at 1:30 p.m.

Chair (Dumville): I guess we're all set to go so I'll call the meeting to order. Thank everybody for coming here today, everybody on the committee. I'd also like to thank the Auditor General for coming back again today to help us along with our discussions.

I guess what I'll do is first ask for a motion to approve the agenda that's before you.

Mr. M. Currie: Agreed.

Chair: Agreed. Mike, thank you.

All in favour?

Some Hon. Members: Aye!

Chair: Contrary? Carried.

I guess we have Colin here today to answer questions to the members. The good news is that you have some books there that you got last week. I imagine it was very light reading and probably not enough paperwork for you. You probably wanted some more. But anyway, I guess the bad news is we have some more paperwork. The Clerk Assistant has a few boxes over here and she'll be handing them out. We'll distribute those materials to you now.

The briefing material that she's handing out consists of questions asked by the Auditor General at the Standing Committee on Public Accounts and the auditor's answers while they were reviewing the Polar issue. As soon as she has these handed out I'll open the floor up to questions to the auditor.

An Hon. Member: (Indistinct).

Chair: This is just case you get bored over Christmas.

The floor is open to questions to the auditor.

Mr. Watts: Colin, I was just wondering. Around the time that Polar was formed, I know there was some fishermen that showed some interest in the possibility of fishermen themselves having shares in this company. Anyway, to make a long story short, that never did happen.

Could you elaborate - or maybe you couldn't - as to why that wouldn't have happened? I think - well, I was one of the fishermen that was involved and we were kind of told, in no uncertain terms, that no fisherman was having anything to do with this company with regards to owning shares. Could you explain why fishermen wouldn't be considered to have shares in this company?

Colin Younker: We didn't run across that at that time. In any of the interviews we did it wasn't brought up or I wasn't aware of that.

Mr. Watts: No?

Colin Younker: No. So I can't really answer it.

Chair: The Chair recognizes Charlie.

Mr. McGeoghegan: I guess in regards to the 67% of the shareholders that would have to sign off, how come in any of the sign just for voting there was only 65.5 met? I wonder, is there an explanation for that?

Colin Younker: I don't have an explanation other than some agreed to sign and some didn't. That's the only explanation that we received.

Mr. McGeoghegan: That was set up in 1998, right, that that was how things would have to happen is that 67% or more would have to in order for things to be changed?

Colin Younker: That's the company shareholder's agreement, Polar itself.

Mr. McGeoghegan: Okay.

Colin Younker: I'm not exactly sure when they would set that up but most of those agreements are set up when the companies are formed.

Mr. McGeoghegan: All right. I was just wondering how they added up the 65.5 within 1.5% of making the limit but not making it, if that was done intentionally or what.

Colin Younker: It would just be based on the split of the shares, and I'm not sure they anticipated that at the time when they did set up the shareholder's agreement.

Mr. McGeoghegan: Right.

An Hon. Member: (Indistinct).

Chair: The Chair recognizes Mike Currie.

Mr. M. Currie: The market value of the assets, Colin, at their original offset was for plant and equipment and license as a going concern. That's the way you word it in the accounting profession.

Colin Younker: Yes, the appraisal was at market value in use.

Mr. M. Currie: Market value of assets in use.

Colin Younker: That's what the appraiser called it.

Mr. M. Currie: Yes.

Colin Younker: And it was based on the equipment and plant. He may have factored the license in. The value was assigned to the plant and the equipment, the appraised value.

Mr. M. Currie: Then when Polar went by the wayside and the assets were reassigned by the receiver, you're selling assets that didn't have licenses. So the value of those assets was greatly reduced because the license was - a decision was made by government, I guess, to do that at the time, to rationalize the licenses. That's mainly because, I think, nobody wanted to buy them as they were.

Colin Younker: Licenses went from six to two at the time. There were two licenses sold by the receiver at the request of government -

Mr. M. Currie: Yes.

Colin Younker: - at the time. Our question on the market value in use was because of the overcapacity in plants that that was considered at the time. That was our question, one of our questions on that at the time.

Mr. M. Currie: I think also, then, probably some reason for government purchasing the assets was the bank was wanting to sell the assets with the licenses but the industry had to rationalize, because nobody would buy the assets unless a decision was made by government. Did you get that in your look through the Polar file?

Colin Younker: At the time when the government - in late 2003 and 2004, when the government and the bank and the company were trying to sell the business, I think the people that were looking at it at the time, this is one of the factors, that there would be less license. There'd be a rationalization of the plant.

Mr. M. Currie: You did understand that then, yeah.

Colin Younker: Yes.

Mr. M. Currie: Okay.

Chair: Are you finished?

Mr. M. Currie: Yes.

Chair: The chair recognizes Pat Murphy.

Mr. Murphy: Hello, Mr. Younker. I was wondering. The plant in Anglo there was sold for - how much was it? Do you have an actual figure on that?

Mr. M. Currie: Forty-five or \$50,000 or something.

Mr. Murphy: I guess what I'm really asking is, at the time it seemed like a ridiculously low price, so I was just wondering how that price would be arrived at.

Colin Younker: Some of the equipment from Anglo was sold to Ocean Choice. The plant, the last receiver's report we had, it had no value. I'm not sure when it was sold after that. But the plant and equipment was appraised in 2004 by the receiver at 907,000 at that time.

Mr. Murphy: That's the plant and equipment?

Colin Younker: That's the plant and equipment, yes.

Chair: Are you done, Pat?

Mr. Murphy: Yes.

Chair: The Chair recognizes Mike Currie.

Mr. M. Currie: I think, Colin, what I was, I guess, asking at the start was - the member from Alberton raises a good question. You have a facility that has equipment in it, has land and a building and has a license attached to it, and it has a value when it's in use and when it's not in use, and you forgave or taken away a license. Then you have an empty building.

At the time the building was put up for tender - and you're right, I think the equipment was sold to Ocean Choice - then whatever equipment was left, I think the individual from Howard's Cove, Reuben's Fish, bought some of it and the rest was sold by tendering. I think it might have been a Gavin or somebody bought it. I can't remember their exact name.

But when those assets were put up after the fact, the individuals that were looking to buy the assets found out that the buy for Anglo mostly came from Tracadie and that the buy from Howard's Cove, what they found was the fishermen had a falling out with Polar individuals and they had since moved onto another buyer. So there was no direct buy at the facilities and that was their rationale for: they're of no value. Because they didn't know if they could maintain that buy. That's probably some of the rationale behind it, where the prices were reflected.

Chair: The Chair recognizes Robert Mitchell.

Mr. Mitchell: A question and a follow-up there to Mr. Currie's question. The original appraisal done on the companies, like the original merge, they were done just based on what each company said their company was worth. Is that correct? It's wasn't an official -

Colin Younker: No, it was an official appraisal done.

Mr. Mitchell: It was an official appraisal. Okay.

Colin Younker: Both plant and equipment.

Mr. Mitchell: Okay.

Chair: The Chair recognizes Pat Murphy.

Mr. Murphy: Just one or two. The evaluation of \$940,000, would that be - is

that when the plant was holding the license or was that -

Colin Younker: That was at the time when the company went into receivership. So it was at that time.

Mr. M. Currie: Still had the license

Mr. Murphy: So they'd still have the license to process.

Mr. M. Currie: Until.

Mr. Murphy: Would that be (Indistinct) -

Colin Younker: They did until the RFPs were issued. I'm not sure of the exact timing, but until the license is removed, which is part of the RFP process, (Indistinct) -

Mr. Murphy: So would it be devalued if there was no license attached to it, or would the plant and equipment still be worth \$940,000?

Colin Younker: I'm not sure. That would be a question for the appraiser.

Mr. Murphy: You don't know if there's any value to the license itself.

Colin Younker: When we looked at the original prices they didn't talk about any value on the licenses. It was the plant and the equipment.

Mr. Murphy: So, in theory, I guess it would still be worth 940,000 if it had the equipment.

Colin Younker: Yeah, based on the appraisal. That's what they appraised it at at that time as a realizable value.

Mr. Murphy: Thank you.

Chair: The Chair recognizes Mike Currie.

Mr. M. Currie: Would you not have to agree, Colin, that if you have a plant and equipment, if you can't buy and process lobsters, there's no value?

Colin Younker: It has less value (Indistinct), yeah.

Mr. M. Currie: Thank you.

Mr. Murphy: Mr. Chair, may I for a moment?

Chair: The Chair recognizes Pat Murphy.

Mr. Murphy: I was just thinking here. I would certainly like to have the opportunity to ask Mr. Younker more questions, but to be perfectly honest with you, a week wasn't really a long enough period of time for me to digest all this information.

Chair: We understand. We'll be patient here today. I'm just trying to give everybody a chance to ask Mr. Younker before we break for the holidays.

Mr. Murphy: Okay. Thank you.

Mr. Bagnall: Might it be better for the committee, Mr. Chair, if we put a date immediately after the holidays for Mr. Younker to come back where everybody's had three weeks over the holiday season to review all this information and come back with questions?

Because it seems like everybody is not ready for questions and they would probably have to go through, read something and ask something. So maybe it might be wise and more productive for Mr. Younker if we did that.

Chair: If everybody's bogged down, we will move on, as you suggest. Is there anybody got anything?

Mr. M. Currie: I have one.

Chair: Mr. Currie, go ahead.

Mr. M. Currie: Colin, you've spent a great deal of time on this file, along with your staff members, and I feel confident, I guess, that you've done a thorough job. Is there anything that you think that this committee should do that you haven't done or recommend besides your recommendations?

Colin Younker: Our report was dealt with, the involvement of government with Polar Foods, that part of it. I feel we covered a lot of territory there.

The forensic auditor, they went through the period from March 2003 to February 2004 and they looked at a considerable amount of documentation when they did that. The RCMP, I'm not sure what detail they've gone into. So I guess it's what the committee itself, what other questions they want answered. I felt we answered a lot of the questions as far as government's involvement with Polar Food itself. We made a number of recommendations on that.

Mr. M. Currie: So you've got all the information from all the bureaucrats that you felt relevant to this file, shareholders, and everything else?

Colin Younker: Yes.

Mr. M. Currie: Yes.

Colin Younker: I think it'd be up to the committee, once you have a chance to go through both reports and the information we provided in the second handout that Marian gave you today. I think from that you can decide - that would help you decide where you want to go. It's up to the committee, really.

Mr. Bagnall: Do you think probably it would be in the best interests to read all of this before we have you back again and then make our questions and be ready for you?

Colin Younker: Again, it's up to the committee. We can come back if the committee so wishes.

Chair: The Chair recognizes Buck Watts.

Mr. Watts: Yes, Mr. Chairmen, I certainly would agree that we need some more time to digest what's in the literature that we're handed. I know I didn't have time to virtually read any of it so I'm just kind of - but I do have another question or comment for Colin.

Regarding, like, the failure of this company - and it seemed to be doomed to failure right from the start - and I don't know how intricate you became with the workings within this company as it went along - but it seems to me, and did you see yourself, that there was animosity and there were two camps within this company very shortly after it was set up? Like, it appeared to me that the owners or the directors weren't getting along right from the start. Did you detect that at any time?

Colin Younker: We didn't get it. There was some change in the shareholders and management and directors over the period of the operation of the company but we didn't delve into that part of it. But there was some changes. Shareholders bought out and change in directors and change of management. So there may have been some conflict there.

Mr. Watts: Yes, and like that may - because that situation existed that may have added to the problem a little bit too, along the way. But anyway.

Chair: Charlie.

Mr. McGeoghegan: I just had a question on page 23. It'd be about the middle of the binder. I'm just trying to figure out what tab it's under -

An Hon. Member: Five.

Mr. McGeoghegan: Five, I think it is. It's got: preferred shares, BDI, \$7 million, right across the board. Then it goes down to in 2003 we got \$14 million. That would have been the money right before the 2003 election, right, that we talked about last week? But the 12 in a loan guarantee, I was just wondering what that was for.

Colin Younker: Under the March 2003?

Mr. McGeoghegan: Yes.

Colin Younker: When Polar entered into the marketing agreement and the sale of the shares, some of the shares between the shareholders in March 2003, part of that agreement was that the province would guarantee 12 million in long-term debt. So that was part of that restructuring in March 2003. Three of the shareholders were bought out at that time by two of the other shareholders and they entered into the marketing agreement at that time.

Mr. McGeoghegan: With FPI?

Colin Younker: With FPI.

Mr. McGeoghegan: That was where FPI came up with the \$3 million, or whatever it was.

Colin Younker: The idea with FPI was that they were going to supply the working capital. So if you notice there, the working capital guarantee is gone below the \$7 million in preferred shares. But there was a term guarantee that they wanted as part of that package, the \$12 million term loan guarantee, which would be on equipment fixed assets.

Mr. McGeoghegan: Right. So that was guaranteed by the Provincial Treasury.

Colin Younker: Yes.

Mr. McGeoghegan: Is that normal to do that half-way through a term?

Colin Younker: I think if you notice throughout the thing there's different - each time they came back for money, or if there was renewals on guarantees, there would be different negotiations at that time. There were some term loans guaranteed by BDI through the life of the company as well.

Mr. McGeoghegan: Right.

Mr. Mitchell: So do you expect that that 12 million in March 2003, would that enable them to secure that working capital in July of 2003? Just because of the 12 million involvement then with the Provincial Treasury?

Colin Younker: No. The idea at that time was that the government's overall exposure be reduced. It went from 21 to 19, and that was part of the deal. The idea at that time was that the government was going to get out of guaranteeing working capital. But then by the summer of 2003, because product was being held off the market by the agent, by FPI, the working capital situation, Polar got into a crisis and the government was asked to guarantee working capital loans at the bank at that time. So they increased their exposure at that time, really.

Mr. Mitchell: But also guaranteed that loan -

Colin Younker: Yes.

Mr. Mitchell: - per se as well.

Mr. McGeoghegan: So basically, they went from 21,000 exposure to 19, and within three or four months they went to 33.

Colin Younker: Thirty-three, yes.

Mr. McGeoghegan: That seems kind of strange.

Colin Younker: A significant drop-off in the sales to the company. The inventory would be building up through the spring and the agent was trying to hold back on selling to get the price up. So the inventory stock was increasing. Of course, it costs, then, to produce that inventory. You have to buy the product and you have to produce the inventory. So you use your working capital line up to do that.

So the working capital line kept going up, and then in July the bank was talking about not extending them any more credit unless there was a government guarantee. They went back to the government and got the guarantee at that time, on the working capital.

Mr. McGeoghegan: On page 28, the second paragraph, it says:

We would have expected at least an attempt to obtain additional security given the increased risk to the province. Typically, security would include personal guarantees and a direct charge on current assets. We noted that there was no additional security taken. In addition, at that time, on the request of Polar Foods, the annual audited financial statements for the company were being provided only to the deputy minister of development. Under this arrangement, the development officers could not monitor the financial results of the company on a regular basis. It would be reasonable to expect that with an increased exposure of 3.5 million in working capital credit, the monitoring requirements would be more stringently applied.

There's a few things there that don't seem to make sense. I mean, if the province is out on a limb three times more than what they originally wanted to be - and they still never took out any personal guarantees. Furthermore, the books were only shown to the minister of development, or the deputy minister, according to this.

Colin Younker: There was a period of time when the statements were only given to the deputy minister, which was from 1998 to 2001.

Mr. McGeoghegan: Nineteen ninety-eight to 2001?

Colin Younker: Yes. After that the staff did have access to the statements, staff at BDI.

Mr. McGeoghegan: How could Polar Foods request that and get it?

Colin Younker: Part of our recommendations is that, you know, the compliance with the agreement should be carried out and that proper monitoring should be done. That's part of our recommendation in government dealing with these situations is normally you would want to monitor the operations of the company.

Mr. McGeoghegan: So that's why you recommended that, because they weren't doing it. They weren't doing it properly.

Colin Younker: Yes.

Mr. Mitchell: I have one more question. In regards to the July 2003 guarantee of the operating loan or the capital loan, would that go through Provincial Treasury or would that go through Cabinet approval? How does that work?

Colin Younker: In July 2003, the 14 million?

Mr. Mitchell: Yes. The guarantee for, what was it now, yeah, 14 million.

Colin Younker: It went through as a Decision in Council. If it goes through Provincial Treasury it has to go through an Order in Council, which is a public document. Decision in Council is not a public document. Since BDI did the guarantee, it didn't have to go through a

Decision in Council. We've recommended a change in that and there are new regulations in BDI to cover that type of situation now.

Mr. Mitchell: (Indistinct) at that point in time again, one time, Colin, how did it go through again?

Colin Younker: It went through as a Decision in Council.

Mr. Mitchell: A Decision of Council. Okay.

Mr. McGeoghegan: And which - sorry to interrupt you - which one was public and which one wasn't?

Colin Younker: The Order in Council is public.

Mr. Mitchell: Normally, would there be an audit done at that time, or not?

Colin Younker: On Polar itself?

Mr. Mitchell: Yeah, on assets and things to guarantee any -

Colin Younker: No, there wasn't at that time. There was just some in-term financial statements received.

Chair: Which person or group would authorize that Decision in Council?

Colin Younker: It was Exec Cabinet.

Chair: Executive Cabinet.

Colin Younker: Yes.

Chair: Any further questions?

Mr. McGeoghegan: Just in regards to that, why would they have went with a Decision in Council instead of an Order?

Colin Younker: We didn't get an answer to that. It would be up to the Cabinet at that

time how they'd want to do it.

Mr. McGeoghegan: In other deals that BDI has done, is that how typically it's done?

Colin Younker: We noted in page 43 that there were three done by Order in Council and three done by Decision in Council on the guarantees that were put in place over the period of time between 1998 and 2003.

Chair: Would there be an executive number for - you know, would you have the number of what date that was authorized?

Colin Younker: On the decisions?

Chair: Yes. Like, usually they say Cabinet Executive Order number such and such. Do you have that?

Colin Younker: We would have that. Yeah. I'm not sure if we supplied it, if it's on the list here or not.

Mr. McGeoghegan: In regard to the 8.2 million in shareholders' loans, I was just wondering if you could kind of clarify that a bit more. That was paid out in 2001, wasn't it?

Colin Younker: When the company was set up all the submissions to Executive Council said that it was to be a roll-in of plant assets, plant and equipment, totaling the 25 million. At the time, though, there was about 8.2 million in working capital assets rolled in inventory, packaged in inventory and accounts receivable.

Mr. McGeoghegan: So inventory that the six separate companies had going into the -

Colin Younker: Yeah. So our point on that was is that if government had known that at the time they might have negotiated the way it was paid out, or how it was paid out, and also the preferred share agreements said that no shareholder loans were to be repaid. So

that once these rolled in, then you had a shareholder's loan. They were paid partially in cash and then there was a shareholder's loan set up for the balance. So shareholder's loans were paid out between 1998 and 2000.

Mr. McGeoghegan: So the 8.2 was paid out in that another time or -

Colin Younker: Yes, some cash up front and then some paid out over time.

Mr. McGeoghegan: Okay, because I thought that it was a one-time deal in 2001. That's not the case?

Colin Younker: No, it was paid out - there was some paid up front, I think, roughly 2.9, and then 5.2 over a period of time. In the information you have that Marian gave you today there's a breakdown of that.

Mr. McGeoghegan: There is?

Colin Younker: Yes.

Mr. McGeoghegan: Oh good.

Colin Younker: We supplied that to the committee.

Mr. McGeoghegan: That's separate from the 7 million they got when the - was it 7 or 11 million?

Colin Younker: Eleven million, that's separate.

Mr. McGeoghegan: Eleven million they got when they formed it first. So basically they got 19.2 million to form the company.

Colin Younker: At that time, yes, plus preferred shares back, for the balance of the 25.

Mr. McGeoghegan: I'm sorry?

Colin Younker: They got 14 million in

preferred shares for the balance of the 25 million.

Mr. McGeoghegan: So it's 19.2 plus the preferred shares, comes up to 25.

Colin Younker: No, the 11 million initial cash -

Mr. McGeoghegan: Yeah.

Colin Younker: - plus the 14 preferred shares is the 25.

Mr. McGeoghegan: Okay.

Colin Younker: And then the 8.2 was over and above that.

Mr. McGeoghegan: Okay.

Colin Younker: For inventory and accounts receivable. The 25 related to the plant and equipment.

Mr. McGeoghegan: So we're up to 33.2, then. So they made out pretty good.

Colin Younker: Some of the preferred shares, they wouldn't have realized on those, the 14 million.

Mr. McGeoghegan: Some of them weren't realized.

Colin Younker: No.

Mr. McGeoghegan: How much?

Colin Younker: There would be the 2.9 million that three of the shareholders received when the marketing agreement was entered into. There was 600,000 roughly paid to another shareholder in 2002 for his shares.

Mr. M. Currie: (Indistinct).

Chair: Are you done?

The Chair recognizes Mike Currie.

Mr. M. Currie: The 8.2. If you took an asset in such as inventory and you sold it, it's a flow through, isn't it?

Colin Younker: I don't have - that would be fine, but the question was is that government wasn't aware that that was going to happen.

Mr. M. Currie: No, I understand that part of it.

Colin Younker: Yeah.

Mr. M. Currie: I think the previous member was asking a question, he thinks like it's 8.2 million into the plant, but it was - you took stuff in and we paid for it. It's like - it's an account payable, right?

Colin Younker: Yeah, there'd be accounts receivable in inventory were received in exchange for the 8.2.

Mr. M. Currie: Yes, so it was not like they got -

Colin Younker: So then Polar had that -

Mr. M. Currie: - they could have sold it to somebody else.

Colin Younker: - Polar would have collected the accounts receivable -

Mr. M. Currie: Yes.

Colin Younker: - and would have sold the inventory.

Mr. McGeoghegan: And then resold (Indistinct).

Mr. M. Currie: (Indistinct).

Chair: The Chair recognizes Pat Murphy.

Mr. Murphy: It appears to me just by briefing through here that BDI wasn't doing a lot of its homework.

Colin Younker: We had a number of recommendations in monitoring the loan conditions.

Mr. Murphy: Are you aware if those have been corrected since?

Colin Younker: We made a number of recommendations and all the recommendations were responded to that those things were in place. We haven't gone back and checked them on an audit basis.

Mr. Murphy: Who would be the head of BDI? Would that be the minister of -

Mr. McGeoghegan: Development.

Mr. Murphy: - and there'd be a deputy minister, I guess, under him.

Colin Younker: Well, it's a Crown corporation, so it has its own CEO and board.

Mr. McGeoghegan: While we're on the BDI subject, roughly two years ago I think you guys audited the books and they had about 4 million on the books in other loans, right? There was some practices there that, I don't remember all the details, but things weren't being followed quite correctly and you made some recommendations to them at that time too. About a year later you went back and it was somewhere around 50 million that was on the books at that time? Is that correct?

Colin Younker: I'm not sure of the amounts. There were some recommendations in our 2002 report. It related to BDI being in the lending business when the lending agency -

Mr. McGeoghegan: Yes.

Colin Younker: -was already in place lending money -

Mr. McGeoghegan: Right.

Colin Younker: - at that time. And yes, the portfolio has grown since that time. I'm not sure of the exact amount of portfolio now in BDI, but it would be up there.

Mr. McGeoghegan: So your recommendation was that they not be in the lending business?

Colin Younker: I can't remember the exact recommendation, but that they consider not being in the lending business because the lending authority was there. It was set up at the time.

Mr. McGeoghegan: And then roughly a year later it was -

Colin Younker: It has increased, yes.

Mr. McGeoghegan: - somewhere around \$50 million more than what it was the year before. So obviously they didn't listen to you.

Colin Younker: That would be government's policy whether they wanted to lend money and it's really up to government.

Mr. McGeoghegan: Yeah, okay. So is that information in here too?

Colin Younker: No, that wouldn't be in there. That would be in our 2002 report, I think.

Mr. McGeoghegan: The 2003.

An Hon. Member: Auditor General's report.

Colin Younker: The 2002 Auditor General's report.

Mr. McGeoghegan: The 2002?

Colin Younker: I'll have to check that year, Charlie, and I'll let Marian know.

Mr. McGeoghegan: Yeah, I thought it was more recent than that. I thought it was like somewhere in 2004 or 2005, but that's just a guess. You'd know better than me.

Chair: Has anybody got any further questions? I'm just giving them the liberty of having some time there because they got a lot of material to go through. Do you need a bit more time? Are you through or are you (Indistinct)?

Mr. McGeoghegan: Just one question, kind of a general, in regards to who polices, I guess, BDI and government in general as far as business deals, in making sure they have personal guarantees and making sure they're not in contravention of original deals and things like that. I mean, who is there to protect the taxpayer in regards to that, in making sure that somebody's neck is on the line to make sure it's done right?

Colin Younker: We do some work in all different areas of government involvement in loans. I mean, when it's government itself, when it sets up its regulations and it sets up its Crown corporations they're going to lend, it sets up how it's supposed to operate and what the board functions are. So really, you know, it should be regulating itself. They've had different recommendations over the years on Crown corporations and on lending practices.

Mr. Bagnall: But you, as Auditor General, you go in and audit the books, correct?

Colin Younker: We can audit a program or we can audit a crown corporation. We don't necessarily audit the books of Business Development, all the Crown corporations. We don't do Business Development.

Mr. Bagnall: Okay.

Mr. McGeoghegan: You don't?

Colin Younger: No. I think you're talking a different thing than when - audit the books. You're talking more - I think Charlie's talking more about who controls -

Mr. McGeoghegan: What the guidelines are.

Colin Younger: - the job (Indistinct) what the guidelines should be.

Mr. Murphy: In the previous inquiry, were there people from BDI that testified before the committee?

Colin Younger: No.

Mr. Murphy: Like bureaucrats?

Colin Younger: No.

Mr. Bagnall: The minister was in

Colin Younger: Just the minister.

Mr. Bagnall: The minister and his staff that he felt that he needed to bring with him or whatever was asked to appear before and answer questions for the committee.

Chair: So there was yourself, the minister and some staff, but nobody else?

Colin Younger: I think the premier was in -

Mr. Bagnall: The premier was in.

Colin Younger: - and the treasurer. I'm not sure what staff -

An Hon. Member: The minister of fisheries.

Colin Younger: The minister of fisheries. I'm not sure what staff they brought.

Chair: I'll go around the table here. Have you got another question, Charlie?

Mr. McGeoghegan: I just wondered about when the receivables to - say that the different fishermen that were selling to Polar at the time, if they owed Polar \$2,000 for rope and buoys or whatever, that was turned over to the receiver, Ernst & Young, and then that was rolled back to Ocean Choice. Ocean Choice is collecting on that, have collected probably a lot of it already, but I think there's some that's still errant.

What about the companies that supplied the supplies? Because I know that there's a lot of them that never did get paid. When they supplied those same very supplies to Polar, they never got paid from Polar, but Ocean Choice is getting paid for those supplies, although they never paid for them, and neither did Polar. So those companies, and I could name a bunch of them, were out \$30,000 and \$40,000, a lot of them were, and how can that happen? How can they collect on that when Polar didn't really go bankrupt? The government took them over.

So somebody should be paying those people, I would think, being as the fishermen are forced to pay and some of them are being taken to court to pay. Some of those fishermen went themselves to pay those companies for the supplies because they knew that Polar didn't pay. So I'm just wondering: How can that happen?

Colin Younger: I think there's about 450,000 unsecured trade at the time of the receivership.

Mr. McGeoghegan: How much?

Colin Younger: I think it was about 450,000.

Mr. McGeoghegan: Right.

Colin Younger: The receiver hasn't

supplied a final report yet. I think that would be part of that report as to what the disposition on those were. I'm not sure what the final disposition on those were.

Mr. Mitchell: So are they paid or are they outstanding (Indistinct)?

Colin Younker: I'm not sure what - I'm not sure how many were paid and what would be outstanding. As I say, the receiver hasn't issued a final report yet on how issues were dealt with and how those things would be finalized or what the options were to finalize them.

Mr. Mitchell: But wouldn't that have trickled down before now to some of those individuals (Indistinct)?

Mr. McGeoghegan: Not to my knowledge. Any of the companies that I talked to haven't been paid, unless it's been in the last couple of months, but before that I know they haven't.

Colin Younker: They would be unsecured creditors at the time, and their recourse would be against Polar.

Mr. McGeoghegan: And Polar's not there. But how does that work when they didn't go bankrupt? Because they didn't go bankrupt, somebody should have to pay that, right? Especially seeing how the fishermen are paying for those very same supplies, but it's not going to the person who they were originally bought from.

Colin Younker: Yeah. I'm not exactly sure of the legal part of how that receiver should be wound up. Again, that would be in the receiver's final report, you know, about whether they were paid or not and any recourse that might be had by the unsecured creditors.

But normally they would just have recourse against the company itself which would be

Polar. So whether they can put it into bankruptcy or make a claim through the normal judging process, I'm not sure.

Mr. McGeoghegan: Yeah, I was just wondering where that leaves them when they can't sue Polar because Polar doesn't exist.

Colin Younker: Yeah.

Mr. McGeoghegan: So it seems like it's not right the way it happened. Anyway, a lot of the companies, there were some that almost went bankrupt over that. Small companies can't handle a 30,000 or 40,000 loss in one year. So do you know when the last report will be?

Colin Younker: No, I'm not sure. We're following up on that recommendation at the current time.

Mr. Bagnall: So in your -

Chair: Go ahead, Jim.

Mr. Bagnall: In your new Auditor General report, will there be a report on the finalizing of Polar on this? Will it be in the next report, or is it - no?

Colin Younker: We'll just be following up on recommendations, any outstanding recommendations.

Mr. Bagnall: So it will be in the followup -

Colin Younker: Followup sections, followup sections.

Mr. Bagnall: - the recommendations, okay.

Chair: Okay, I don't want to drag this out any more. How are you doing, Charlie? Are you done? Are you satisfied? Pat? Jim?

Mr. Bagnall: Yeah, we're going to have an opportunity, if the committee decides to

bring the Auditor General back in -

Chair: Most -

Mr. Bagnall: - after everybody's had a chance to go through all the material?

Chair: Most certainly.

Mr. Bagnall: Okay.

Chair: Mike.

Mr. M. Currie: I'm fine.

Chair: Okay. Rob?

An Hon. Member: (Indistinct).

Chair: Well, look, on behalf of the committee, I want to thank you very much for coming in and I hope you think your time was well spent. I realize we were struggling a bit here with - till the boys, everybody gets briefed, the committee gets up to speed. We look forward to you coming back at the request of the committee, if you would do so. We'd greatly appreciated it. If we don't see you before Christmas, have a good holiday.

Colin Younker: Same to you, gentlemen, and Marian, and enjoy your reading. There's lots of reading.

An Hon. Member: You should have highlighted the parts (Indistinct).

Chair: I guess what I'd like to do now is get consensus of the committee of how we should proceed. This'll probably be our last meeting before Christmas unless anybody really wants one. There's lots of committee meetings and I think we've got enough to keep ourselves busy over December.

How do you wish to proceed? I've asked the clerk to - we were talking - go ahead, Pat.

Mr. Murphy: So it would be too early to call for public input? Like, from the public to come and testify and then maybe from that we can generate more questions for Mr. Younker before he comes back?

Chair: Anybody else?

Mr. Bagnall: Just a question. What do you mean by public input here? I guess that's all I'm asking. Like what do you (Indistinct) -

Mr. Murphy: I don't know, put an ad in the paper and ask if there's anybody that would like to make a presentation to the committee. I don't know, like fishers that might have lost money or that sort of thing. Then it might from their presentations it might generate more questions that we can ask Mr. Younker when he comes back or that we can ask BDI representatives, if we have them come in.

An Hon. Member: Yeah, that's true.

Chair: I'll ask the clerk. Can you prepare that for us?

Clerk Assistant and Clerk of Committees: I happen to have a draft ad with me, Mr. Chair. So perhaps I'll send it out around to committee members and you can see if this will satisfy you, and then discuss when you might like to have it appear in the paper.

Mr. Bagnall: When do you anticipate starting up, Mr. Chair, following Christmas?

Chair: Mid-January, give or take a few days.

Mr. Bagnall: Good. Would it be relevant to hold the ad until after the first of January, till Christmas is over, and all the ads and all of the shopping stuff is all out of there and that we could run the ad and then proceed after that?

Chair: I totally agree with you, excellent

suggestion.

An Hon. Member: Looks good.

Clerk Assistant and Clerk of Committees: Wednesday is sort of the first day in January, Wednesday the 2nd is the first Wednesday that it could appear in the weeklies, which might be a little bit early. Wednesday the 9th would be the next Wednesday that (Indistinct).

Mr. Bagnall: I think that would be better because you're going to have the Boxing Day, New Year's Day sales -

Clerk Assistant and Clerk of Committees: Absolutely.

Mr. Bagnall: - and all of that just filling the papers. It gives people a week after the new year to get ready to make presentations.

Clerk Assistant and Clerk of Committees: So it could appear perhaps on Wednesday in every paper and then again in the dailies on the following Saturday, which is the 12th of January. If the wording looks all right that's what we'll go ahead with. It basically just follows the motion that was passed in the House.

Chair: Is everybody happy with meeting 1:30 on Thursdays? We may have a conflict there going into January. Any particular dates and times that would suit you, any members of the committee?

Mr. McGeoghegan: Thursday's good for me.

Mr. Bagnall: I just question the time. It doesn't make any difference to me, but I like 1:00 p.m. better in that we can get through a little earlier in the evenings, the trip home, you know, it's not dark hopefully, or whatever.

Chair: The only reason why, like, I moved

it to 1:30 -

Mr. Bagnall: I know.

Chair: - but, and plus a lot of people have dinner engagements. The 12:00 to 1:00, that extra half hour just gives them enough time to get here.

Mr. Bagnall: No diff, it's not a big issue for me. I just -

Chair: I moved it up from 2:00 to 1:30 because 2:00 was kind of draggy also, I agree with you.

Mr. Bagnall: We're okay with whatever time you set (Indistinct).

Chair: Does the clerk have a date that we could reconvene or an estimated time in January?

Clerk Assistant and Clerk of Committees: We could get together again with the Auditor General to go over the material that you have already received and/or we could wait until the results of the ad come in and get together and try to do both in one meeting.

The ad will run on the 9th and the 12th. The responses will probably come in that following week, the week of the 14th to the 18th. We could meet that following week or we could meet once before that and again once that week.

Mr. McGeoghegan: I think you'd probably do both in one meeting, could you? (Indistinct).

Chair: To Pat's point, though, it might be nice to, if we - depending on the ads. I think we should wait to see what kind of interest we get. We may not get any, you know.

An Hon. Member: Well, that's what I'm (Indistinct).

Chair: We may get none from -

An Hon. Member: (Indistinct).

Chair: We may get none up west. We may get a lot down east. Who knows? Why don't we just see what the ads do for us?

Mr. Bagnall: Why don't we, after we get that, have a meeting and decide what we're going to do, like as far as review what we have, whether we're going to have to - if there's 50 up west, then we decide that we wanted to go up, maybe the committee go up there a day. But I think we should, as you say, see exactly what the interest is in this committee.

Mr. Mitchell: But with the exception of a number of inquiries, that would be all we'd have to discuss that day, if we have 58 inquiries.

Mr. Bagnall: Well, maybe you could have the Auditor General come in.

Mr. Mitchell: Yeah, maybe, that's my point, Jim. Maybe -

Mr. Bagnall: Finish off these questions.

Mr. Mitchell: - he can come back that day, for sure.

Clerk Assistant and Clerk of Committees: That would take us to January 24th. The ad would be in on the 12th. You have to give people about 10 days to respond, to be fair, and if we met on the 24th of January with the auditor and with a report from what came back from the ad, would that be agreeable?

Mr. Bagnall: Super. I think the 24th - isn't the Public Accounts booked for that day?

Clerk Assistant and Clerk of Committees: No, actually, Public Accounts would be booked for the 22nd of that week, the Tuesday.

Mr. Bagnall: Okay, the 22nd.

Clerk Assistant and Clerk of Committees: So it looks like it could work.

Mr. Mitchell: What is that date, Marian, on the ad going out? The committee invites those interested in participating in this review to contact them by -

Clerk Assistant and Clerk of Committees: I didn't know what we would decide. Probably the 18th of January. Which gives people about a week to read it and think about it and (Indistinct).

Mr. Mitchell: Perfect.

Clerk Assistant and Clerk of Committees: That seems to work pretty good. I'll just pass, then, a note around so everybody can book it in their calendars. It seems so far away but it's actually pretty soon.

Chair: Is there any member that wants to bring something before the committee before we adjourn?

Okay everybody?

Could I have a motion to adjourn?

Mr. Bagnall: So moved.

Chair: Thank you. Have a good Christmas, everybody.

Clerk Assistant and Clerk of Committees: The wording's okay?

Mr. Bagnall: It's okay, yeah.

Chair: Yeah.

The Committee adjourned

