

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

REGINA

AND:

UDHE SINGH (DAVE) BASI, BOBBY SINGH VIRK,  
ANEAL BASI

---

STATEMENT OF FACTS

---

1. Udhe Singh (Dave) Basi (“Basi”) and Bobby Singh Virk (“Virk”) admit that they committed breaches of trust between April 1, 2002 and December 28, 2003 contrary to section 121 and 122 of the *Criminal Code*. At all times material to the charges in the Indictment, Basi was the Ministerial Assistant to Gary Collins, the House Leader and the Minister of Finance. Virk was the Ministerial Assistant to Judith Reid, the Minister of Transportation. At all material times, Basi and Virk were officials within the meaning of section 118 of the *Criminal Code*.

2. Specifically, in Counts 3, 4, 7 and 8 of the Indictment, Basi and Virk admit that they provided cooperation, and assistance and about the sale of the freight division of BC Rail to partners (Eric Bornman, Brian Kieran and Jamie Elmhirst) of Pilothouse Public Affairs Corporation, a lobbying firm representing Omnitrax Inc. (“Omnitrax”) in its bid to acquire BC Rail. As a result of the delivery of the confidential information and assistance provided, Basi and Virk admit that they received benefits and advantages including money (as against Basi only) and a trip to Colorado to an NFL football game (as against Basi and Virk). With respect to counts 7 and 8 of the Indictment, Basi and Virk admit that they disclosed confidential information about the proposed sale of the operations of the BC Rail Port Subdivision to Bruce Clark, a consultant to the Washington Marine Group in its bid to acquire the Port Subdivision and hence put the bidding process at risk contrary to section 122 of the *Criminal Code*.

3. In disclosing the confidential information that is the subject of these charges, Basi and Virk acted without the knowledge or consent of B.C. Rail or the Evaluation Committee.

4. The confidential information about B.C. Rail that Basi and Virk disclosed included information about the financial affairs of B.C. Rail, information protected by solicitor-client privilege, information about other bidders and their bids, information shared at Evaluation Committee meetings, advisory reports prepared by investment bankers and information obtained in meetings with government officials (“Confidential Information”).

5. On December 28, 2003, the RCMP executed search warrants and, in relation to the Fort Nelson Short Line and the BC Rail Freight Division bidding processes, the RCMP seized a number of documents from the Pilothouse offices in Vancouver and Victoria that had been improperly disclosed by Basi and Virk to Pilothouse. What follows are but some examples of the Confidential Information that Basi and Virk disclosed to Pilothouse between April 1, 2002 and December 28, 2003:

a) A communications note marked “Confidential” and “Contains Information which if Released may be Harmful to the Economic Interests of BC Rail” dated October 7, 2002 relating to the Fort Nelson Short Line;

b) The information contained in a briefing note dated July 5, 2003 containing the first round indicative bid numbers of three of the bidders for the Freight Division of BC Rail; and

c) A document marked “for presentation to Cabinet for decision” called Round Two Evaluation Criteria dated July 23, 2003, containing confidential economic valuations of the Freight Division of BC Rail that would be the benchmark figures against which the second round bids would be considered.

6. With respect to the indicative bid numbers, on June 30, 2003, five bidders submitted first round bids for the Freight Division. Measures were taken by the financial advisor to protect the confidentiality of the bids, including blacking out the bid values and referring to bidders by code names and ensuring that the distribution list of any of the bid values was minimized and controlled.

7. On July 2, 2003, there was a meeting to review the indicative bids prior to CIBC’s presentation to the Evaluation Committee on July 8, 2003. Yvette Wells, project manager for the Freight Division divestiture process, received the indicative bid numbers at that meeting. She telephoned Virk to give him the bid values for the purpose of briefing his minister.

8. On or before July 5, 2003 and contrary to his oath of office and confidentiality agreement, Virk provided to Pilothouse the bid values for the CN, CP and Omnitrax's bids. Kieran recorded the numbers on a piece of paper and on or about July 5, 2003, Pilothouse delivered a briefing note to Omnitrax containing the bid values for the top three bidders, being CN, CP and Omnitrax. This was three days before the Evaluation Committee learned the bid values at their meeting on July 8, 2003.

9. The personal benefits received by Basi or Virk from Pilothouse between April 1, 2002 and December 31, 2003 were as follows:

- a) Basi and Virk received a trip to Denver, Colorado with their wives to watch a Denver Bronco's football game. Bornman and Kieran, through Pilothouse, paid for or reimbursed Basi and Virk for their flights, hotel and meals during the trip. The value of this trip was approximately \$1,500 each, not including the hotel costs, football ticket costs and hospitality they received while they were there. This trip took place during the time that Omnitrax was bidding on the Fort Nelson line and when Basi and Virk were disclosing confidential information to Pilothouse about the Fort Nelson bidding process.
- b) Basi received payments totaling \$25,695.00 from Eric Bornman during the same time that Omnitrax was bidding on the Fort Nelson line and the Freight Division.

10. Basi and Virk did not obtain the consent of their superiors to demand or accept these personal benefits.

11. With respect to the payment of money referenced in paragraph 9(b) above, from July 19, 2002 to December 28, 2003, Bornman paid Basi \$25,695.00 and the payments were routed through Aneal Basi. On October 13, 2010 Basi, through his counsel, advised the Crown that Aneal Basi had no knowledge of the offences Basi was committing or the money arrangement he had with Bornman. These payments according to Bornman were for political favors and support, client referrals and the provision of information.

12. After the Freight Division bidding process concluded, Basi set up a dinner between Dwight Johnson and Pat Broe of Omnitrax and Minister Collins at the Villa del Lupo. Basi told the Omnitrax representatives that Minister Collins would be discussing with them some form of consolation prize such as another opportunity to do business with the Provincial Government as a reward for their participation in the bid. At no time did Minister Collins offer a consolation prize

to Omnitrax. Minister Collins' meeting with Mr. Johnson and Mr. Broe occurred after CN had been announced as the successful bidder on the Freight Division.

*counts 748*

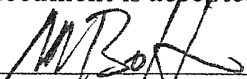
13. With respect to ~~count 10~~ in the Indictment and in relation to the Port Subdivision bidding process, the RCMP seized a number of documents from Bruce Clark's office and residence, which Basi and Virk disclosed to Bruce Clark between January 1, 2003 and December 28, 2003.

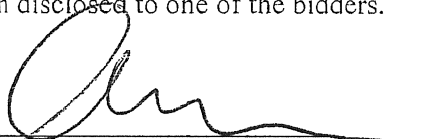
Two examples of documents that Basi and Virk had improperly disclosed to Clark are:

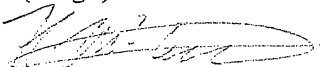
- a) The draft Request for Proposals for the Port Subdivision bidding process which was received by Clark prior to the RFP being finalized by the Evaluation Committee; and
- b) A "confidential Presentation" made by TD Securities to the Evaluation Committee dated October 14, 2003 containing a detailed economic analysis of what B.C. Rail considered to be the value of the Port Subdivision.

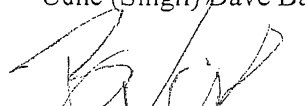
14. In March 2004, the Government of British Columbia and the Evaluation Committee cancelled the Port Subdivision bidding process because it learned that Confidential Information, including the Port Subdivision Valuation, had been disclosed to one of the bidders.


This document is accepted and confirmed by:

  
 P. Michael Bolton, Q.C., counsel for Mr.  
 Udhe (Singh) Dave Basi

  
 Udhe (Singh) Dave Basi

  
 Kevin McCullough, counsel for  
 Bobby Singh Virk

  
 Bobby Singh Virk

  
 William S. Berardino, Q.C.  
 Special Prosecutor