

Court of King's Bench of Alberta

Citation: Primerica Inc v Moukhaiber, 2026 ABKB 346

Date: 20260506
Docket: 2303 13143
Registry: Edmonton

Between:

**Primerica Inc., Primerica Life Insurance Company, Primerica Financial Services LLC,
PFSL Investments Canada Ltd., and Primerica Life Insurance Company of Canada**

Plaintiffs/
Respondents

- and -

Marco Moukhaiber

Defendant/
Applicant

**Endorsement
of the
Honourable Justice Michael J. Lema**

I. Introduction

[1] Which refused undertakings on a cross-examination of a Primerica executive on an affidavit supporting Primerica's summary-judgment and opposing Mr. Moukhaiber's application to set aside an interim injunction must be answered?

[2] Per Primerica, the refusals were proper, as the questions were beyond the proper scope of a cross-examination on affidavit, irrelevant to the issues on the two applications, or both.

[3] Per Mr. Moukhaiber, the questions were in-bounds and on relevant issues.

[4] I find that the refusals were proper, as explained below.

II. Background

[5] The background was reviewed in, and in part comes from, *Primerica Inc v Moukhaiber*, 2024 ABKB 472 (under appeal). In a nutshell, Mr. Moukhaiber, a consumer advocate, maintains that the Primerica companies (collectively “Primerica”) carry out their businesses in an unorthodox fashion, labelling it a “fraud”, a “con”, a “scam”, a “pyramid scheme”, and a “crime”, among other labels.

[6] He posted various videos and other materials on social media reflecting the outcome of his solo investigation of Primerica.

[7] As reflected in the noted judgment, Primerica sued Mr. Moukhaiber for defamation and obtained an interim injunction obliging him to take down the videos and refrain from further adverse commentary on Primerica.

[8] Primerica is seeking summary judgment in defamation. Mr. Moukhaiber has applied to set aside the interim injunction.

[9] On both fronts, Primerica relies on an affidavit sworn by Mark Beauchamp, a US-based Primerica executive.

[10] Mr. Moukhaiber’s counsel cross-examined Mr. Beauchamp on July 19, 2024. During the examination, Primerica’s counsel refused a number of undertaking requests and took others under advisement. He later provided an update on the overall undertakings refused.

[11] Mr. Moukhaiber’s counsel applied for an order compelling answers to the refused undertakings.

[12] For most of the refusals, Primerica argues that the information sought was and is outside Mr. Beauchamp’s knowledge and that he has no obligation to inquire after it. Mr. Moukhaiber responds that the information is relevant to the noted applications and can likely be obtained and provided without undue trouble and expense.

[13] Primerica responds in turn, for most of the refusals, that the information is not relevant.

[14] I heard the compel-answers application on March 2, 2026 and reserved my decision.

[15] In the analysis below, I focus on the relevance aspect as well as the impact of the burden of proof.

III. Analysis

A. Issues in play

[16] Both sides agree that relevance is gauged with reference to the issues raised by the pleadings and on the noted applications, all of which centre on whether Mr. Moukhaiber’s comments defamed Primerica and, if so, whether he can defend based on justification, fair comment, or responsible communication on matters of public interest.

[17] Primerica's Statement of Claim refers to the various objected-to videos and highlights the following statements made by Mr. Moukhaiber in them:

- Primerica is a “pyramid scheme”;
- Primerica has a “cult culture” and is an “illegal pyramid scheme”;
- Primerica is predatory, like a cult;
- Primerica is a “commercial cult”;
- (effectively) Primerica is more accurately called “Crimerica” or “Primericult”;
- Primerica engages in “criminal fraud”, its business is “crime” and “fraud”, it is a “scam”, it is a “con”, and it is a “pyramid”; and
- Primerica is “definitely a multi-level marketing company” ... in [Mr. Moukhaiber's] opinion, it is a pyramid scheme.”

[18] Primerica anchors its claim for defamation relief on these statements.

[19] Mr. Moukhaiber's Statement of Defence asserts that these statements are “accurate, factual, true, represent fair comment, are subject to absolute privilege and qualified privileges, and [constitute] responsible communication on matters of public interest”, such that “there is no basis in law to assert that they are defamatory.”

[20] As noted, the two applications are both centrally concerned with these issues.

[21] Mr. Beauchamp's Affidavit (in part) echoes the Statement of Claim's inventory of impugned statements, highlighting the following from-video statements by Mr. Moukhaiber:

- [Primerica is] “definitely a multi-level marketing company ... in my opinion it is a pyramid scheme” (para 34(a) of affidavit);
- [repeated references to Primerica] as “Crimerica” and “Primericult” (para 35(a));
- “Primerica – has such a deep history of political lobbying that continues today ... brainwashing people, this cult culture, ... the methodology of how they get around being classified as an illegal pyramid scheme” (40(a));
- “[Primerica was] absolutely ... a pyramid scheme” ... [and an individual was] illegally recruited ...” (40(c));
- “[Primerica is a] pyramid scheme” (41(a));
- “[one video is titled] Infiltrating A Pyramid Scheme: Primerica” [in which the Defendant describes Primerica as a] commercial cult” (41(b));
- “[Primerica is engaged in] criminal fraud” (41(c)(ii));
- “ ... this is crime. This is fraud” (41(c)(iii)); and
- “[Primerica's business] is completely fake, it is a scam, it is a fraud, it is a con, it is a pyramid ...” (41(c)(iv)).

[22] Accordingly, the relevance of the information sought and refused on the cross-examination of Mr. Beauchamp will be gauged by the extent to which it illuminates whether the impugned statements defamed Primerica and, if so, whether Mr. Moukhaiber can defend on one or more of the noted bases.

B. Questions about Primerica associates

[23] Some of the refused undertakings sought information about individuals, actually or apparently Primerica representatives (whether employees or independent contractors, present or former) featured in one or more of Mr. Moukhaiber's videos e.g. people he interviewed as part of his investigations.

[24] Primerica characterized these undertakings (#s 3, 6, 7, 8, 11, 12, 13, 16, 17, and 18) this way:

[undertakings] [relating] to the identity of the Primerica agents in the Primerica Videos, their earnings and recruitment claims, and what steps were taken [by Primerica or outside regulators] to address the alleged deceptive marketing and sales claims made by them.

1. Moukhaiber position

[25] Mr. Moukhaiber asserts that this information is relevant here:

[Mr.] Beauchamp's evidence is relevant and material to both the review application and Primerica's summary [judgment] application. Both are set to be heard at the same time and engage the ultimate merits of this action.

The outstanding answers to undertakings, address the merits of this action and inform whether the statements of [Mr.] Moukhaiber are defamatory and if he has defences to them. The names, circumstances, and disciplinary history of the Primerica agents Moukhaiber showcases in the videos of making deceptive marketing and earnings claims are relevant and material to determining if the statements made about them are defamatory, as Primerica alleges. Undertakings #3, #6, #7, #8, #11, #12, #13, #16, #17, and #18 all relate to the identity of Primerica agents in the videos, their earnings and recruitment claims, and what steps were taken to address the deceptive marketing and sales claims they have made on behalf of Primerica.

This will help the Court contextualize Moukhaiber's statements and whether they are true, constitute fair comment, or are responsible communications in the circumstances.

2. Primerica position

[26] Primerica answers:

None of the Refused Undertakings are relevant or material to the Set-Aside Application or the Summary Judgment Application. The Defendant appears to assert that the Refused Undertakings are relevant to defending the defamation claim, which suggests that they may assist with the Court's determination of whether the Defendant's statements that Primerica is "criminal", a "pyramid scheme", a "scam", "con", "fraud", "cult", "corrupt", "not real" and "completely

fake” can be supported by the defences of justification, fair comment, qualified privilege, or responsible communication. They do not. Each defence is addressed below.

3. Burden of proof

[27] Before turning to Primerica’s positions on Mr. Moukhaiber’s potential defences, I discuss the impact of the burden of proof here. Primerica included copies of the videos in question in its affidavit because they contain Mr. Moukhaiber’s allegedly defamatory characterizations of their business. The videos happen to include Mr. Moukhaiber’s interviews of actual or ostensible Primerica representatives, but Primerica does not rely on the content of the interviews in advancing its defamation claim (as reflected in Mr. Beauchamp’s affidavit, which does not include any interview content).

[28] The videos originate with Mr. Moukhaiber. The interview segments are the evidence on which he anchors his characterizations (“pyramid scheme”, etc.). This batch of undertaking requests reflects his efforts to top up the interview evidence with Primerica internal information.

[29] However, it is not Primerica’s responsibility to make, or help make, Mr. Moukhaiber’s case for him.

[30] For example, one refused undertaking asked Primerica to advise whether one individual he interviewed is (or was) a contractor or employee of Primerica.

[31] I accept Primerica’s position on the irrelevance of this information:

The identity [or role] of “the woman in the video” is irrelevant: she is not identified in any of the pleadings, is not at issue in any of the Primerica Videos, and is not the subject of the Defendant’s defamatory remarks. Further, the fact that this woman was never identified by the Defendant, is indicative that no [or at least insufficient] diligence was conducted prior to the Defendant’s defamatory statements.

[32] The latter comment reflects the more fundamental problem for Mr. Moukhaiber.

[33] With him – and not Primerica -- relying on the interview segments of the videos, him having had the opportunity (not exercised) to obtain this information from the individual, and him having the burden of proving the defences raised, he cannot fairly oblige Primerica to fill in the gaps in his investigation.

[34] Per Primerica (effectively): “If you want to “infiltrate” [using Mr. Moukhaiber’s own term] our business by interviewing unsuspecting representatives, don’t expect us to turn over information about those representatives or, for that matter, information about our internal policies on acceptable (and unacceptable) marketing and recruitment practices, and our internal policing of them i.e. if you find that your investigation was incomplete.”

[35] I find that Mr. Moukhaiber had no legitimate basis to question Mr. Beauchamp about Moukhaiber-side evidence found, post-interview, to be incomplete and on which Primerica itself does not rely.

[36] This applies to this entire batch of undertakings, all of which represent Mr. Moukhaiber’s attempts to enlist Primerica in making his case against them.

[37] In any case, as Primerica argued, the information sought is not relevant to the potential defences, as explained next.

4. Justification

[38] Primerica argues:

The defence of justification requires the defendant to prove the substantial truth or main thrust of the impugned statements [citing *Kent v Martin*, 2016 ABQB 314 at para 120 and *Grant v Torstar Corp*, 2009 SCC 61 at para 3]. The Defendant suggests that the Refused Undertakings may assist the Court in determining whether his statements about Primerica are true; they do not.

Justification is the only available defence to the Defendant’s statements calling Primerica “criminal” and an illegal “pyramid scheme.” **Referring to another party as criminal is a statement of fact, capable of proof. It is not a statement of opinion** [citing *West Edmonton Mall Property Inc v Proctor*, 2020 ABQB 161 at para 105 and *I Buy Beauty LLC v Dong*, 2024 BCSC 815 at para 48] [see also paras 81-85 of *WEM*]. In the defamation context, **to defend a statement that another party is a criminal, “it is necessary to show that the person has been convicted of [a] criminal offence, not that, in one’s opinion, the person has committed criminal acts.”** [citing *WEM* at para 82].

However, without a conviction, such a statement cannot be justified. The Refused Undertakings do not assist with justifying these statements. **Undertakings for, among other, “the identify of Primerica agents in the videos, their earnings and recruitment claims” or “what specific guidelines and standards its agents are subject to”, do not assist this Court with determining whether the Defendant’s unfounded references to Primerica as “criminals” are true.** [footnote omitted]

With respect to the Defendant’s other statements about Primerica, as a “con”, “fraud” and “cult”, these are statements of opinion, which can only attract the defences of privilege and fair comment, as discussed below [citing *Grant* at paras 30-33].

In short, the Refused Undertakings do not assist the Defendant in establishing the truth of his defamatory statements, made in 2023. Rather, the fact that the Defendant cannot now prove these statements with documents in his own possession (obtained prior to posting the Primerica Videos) is telling. Indeed, **in seeking to require the Plaintiffs to hand over a large tranche of records to try to substantiate his own statements is an implicit admission that he cannot discharge his burden to prove their truth.**

[39] Mr. Moukhaiber did not offer detailed written submissions on justification, simply that the requested information would assist him in showing that his characterizations of Primera are true.

[40] In assessing these submissions, I start with the cited passages from Mah J.’s judgment in *WEM*:

Under Canadian common law, no one can complain about the truth. Truth or justification provides an absolute defence to a defamation action: see Raymond E. Brown, *The Law of Defamation in Canada*, Chapter 10, p 2; *550433 Alberta Ltd. v. Stealth Alarms Systems Inc.*, 1998 ABQB 1081 at para 12 and *Guccione v. Bell*, 1998 ABQB 613 at para 17.

As noted above, Ms. Proctor has put forward no facts tending to prove that David and WEM are criminals. **When referring to someone as a “criminal”, it is necessary to show that the person has been convicted of criminal offence, not that, in one’s opinion, the person has committed criminal acts.** As Erb J observes in *Hall v Kyburz*, 2006 ABQB at paras 37-41:

With respect to justification based on truth, it is clear that none of the Applicants have been convicted or charged with a criminal offence. The Respondent simply presents and interprets facts which he states occurred. Some of it is through third parties.

The defence of justification based on truth requires “substantial truth” be proved. The onus is on the Respondent to prove it on a balance of probabilities with the degree of probability commensurate with the gravity of the charge. The more serious the allegation the more “cogent must be the evidence”.

In my interpretation of this defence, the Respondent is not at liberty to assert that he can prove that the Applicants are, for example, “criminals” based on his interpretation of the law or on alleged events respecting which no charges or convictions were ever commenced or indeed contemplated.

The Respondent may have been unhappy with the manner in which police treated him on a certain occasion, he may dislike them for all manner of reasons but that does not entitle him to discredit them with loose language and imputations and accusations of criminality, dishonesty and other unsavoury characteristics.

In my opinion, the Applicants have discharged the onus of establishing there is no genuine issue for trial. It is “plain and obvious” that the action in this case cannot succeed. The Applicants have been defamed, that is, their reputation has been lowered in the esteem of reasonable members of the community by the unfounded allegations of the Respondent which are not defensible.

...

In the absence of such facts, Ms. Proctor’s belief in the statements, no matter how sincere, does not establish their truth: see *Hall* at para 20 and *Fort McKay Metis Community Association* at paras 40-44.

There is no triable defence on this record based on truth or justification. [paras 81, 82, 84, and 85] [emphasis added]

[41] Erb J.'s decision in *Hall v Kyburz* was affirmed in 2007 ABCA 228.

[42] In *Giesbrecht v Prpick*, 2024 ABKB 51, Devlin J. concluded that the trial decision in *Hall* was wrongly decided. Here is his analysis:

...Ms. Prpick does not have to prove that the individuals referenced in the Organized Crime Letter have been convicted of a crime. The Plaintiffs rely on *Hall v Kyburz*, 2006 ABQB at para 39, where Erb J held as follows:

In my interpretation of this defence, the Respondent is not at liberty to assert that he can prove that the Applicants are, for example, “criminals” based on his interpretation of the law or on alleged events respecting which no charges or convictions were ever commenced or indeed contemplated.

Respectfully, that is not the law. There may be myriad reasons why charges are not laid or pursued, and why a conviction to the criminal standard of proof beyond a reasonable doubt is not achieved. Many of those contingencies do not relate truth of the fact that an individual has committed criminal acts, as that concept is understood by members of the public. The law in this regard is correctly stated by Myers J in *Kulyk v Guastella*, 2021 ONSC 584 at para 34:

...a civil court hearing a defamation case does not rule on the propriety of the criminal charges. If the criminal case leads to a finding of guilt, the civil case will be defeated by the doctrines of issue estoppel, abuse of process, and/or collateral attack as discussed above. **If the criminal charges do not result in a finding of guilt, they are largely irrelevant to the question of proof on a balance of probabilities of the truth of the defendant's statements in the defamation case.**[2] [emphasis added]

Defamations involving allegations of criminality do not form a special class of libel which can only be defended by reference to the conduct or outcome of criminal proceedings. They operate under the same rules and principles as any other defamation action, and a defendant who establishes the “substantial truth” of their defamatory words is entitled to succeed.

The Court will now consider each of the justifications Ms. Prpick advanced in her closing submissions for the defamatory words. These include the factual defence she advanced in respect of the BMO Letter, even though that is no longer in play. [paras 82-86] [emphasis added]

[43] Devlin J.'s decision was affirmed on this point (and others): *Giesbrecht v Prpick*, 2025 ABCA 222 (para 12).

[44] On the *Hall / WEM* analysis, Mr. Moukhaiber produced no evidence of criminal convictions against Primerica, whether for conducting a pyramid scheme (under s 206(1)(e) of the *Criminal Code of Canada* or s 55.1 of the *Competition Act*) or otherwise.

[45] And none of the refused undertakings, if answered, would change that.

[46] If the *Giesbrecht* analysis is correct, we have the same result. Mr. Moukhaiber did not point to any particular criminal offence – *Criminal Code*, *Competition Act*, or otherwise – or (in any case) provide or point to pre-existing evidence on the elements of the cited offence(s) or (in any case) argue that such evidence was, or would have been, sufficient to prove each of the elements beyond a reasonable doubt.

[47] In any case, he did not show how answers to any of the refused undertakings would assist in that exercise.

[48] All to say: Mr. Moukhaiber’s justification efforts would not be boosted by answers to any of the refused undertakings.

5. Fair comment

[49] On this aspect, Primerica argues:

The defence of fair comment applies to expressions of opinion on matters of public interest [citing *WEM* at para 104]. Opinion includes any “deduction, inference, conclusion, criticism, judgment, remark or observation which is generally incapable of proof” [citing *Grant* at para 31]. If a defendant “passes beyond what can fairly be deemed comment or criticism, he puts himself outside of the rule” [citing *Huff v Zuk*, 2019 ABQB 691 at para 147]. **Fair comment requires that the factual basis for the comment is adequately articulated or is already known to the audience at the time the statement is made**, enabling listeners to independently assess the validity of the comment [citing *WIC Radio Ltd v Simpson*, 2008 SCC 40 at para 31]. The Defendant has the burden to establish the truth of this factual foundation, and it must be based on evidence available at the time the defamatory statements were made.

Primerica claims that the Defendant is liable in defamation for repeatedly referring to Primerica as a “scam”, “con”, “fraud”, “cult”, “not real”, and “completely fake.” These are statements of opinion. **The answers to the Refused Undertakings would not assist the Court in determining whether these statements are fair comment or criticism. For example, undertakings to identify the employment history and status of certain representatives have no bearing on the defence of fair comment [footnote omitted]. Undertakings to “provide all records” relating to investigations of certain individuals do not assist in determining whether Primerica is a “scam” or “completely” fake” [footnote omitted].** These representatives are not parties to this action and their conduct is irrelevant. Similarly, undertakings about Primerica’s social media guidelines or regulatory investigations cannot help the Defendant establish the factual basis of any of his comments at the time they were made [footnote omitted]. **None of the Refused Undertakings provide any basis whatsoever to fairly critique Primerica as a “scam”, “con”, “fraud”, or “cult.”**

None of the Refused Undertakings are relevant because they cannot help the Defendants establish the factual basis of his comments at the time they were made. By asking the questions, the Defendant implicitly admits that he did not possess such information at the time he made these comments. On the contrary, the Refused Undertakings are an attempt to retroactively vindicate the

Defendant's statements and bolster further criticism of Primerica, and ought to be refused. [emphasis added]

[50] Mr. Moukhaiber did not offer detailed written submissions on how the requested information would assist him with fair comment.

[51] Mr. Beauchamp testified in cross that Primerica has approximately 10,000 independent-contractor sales representatives in Canada (compared to "a couple hundred" employees in Canada).

[52] With the possible exception of the unidentified person (whose role – employee or contractor – was unclear), the Primerica-associated individuals in Mr. Moukhaiber's own videos and in publicly available (online) videos woven into his videos were all independent contractors.

[53] Mr. Moukhaiber interviewed or wove in videos of four or five such contractors (at least as reflected in the cross-examination).

[54] For sake of analysis, I will accept his position that each made outlandish, exaggerated, or otherwise inaccurate statements about potential earnings as a Primerica rep.

[55] Mr. Moukhaiber did not provide evidence that Primerica directed, approved, or acquiesced in the making of such statements. Or that it had or has no guidelines on acceptable (and unacceptable) content in marketing and recruitment efforts. Or if it has any, that it does not police them responsibly.

[56] He tried to obtain that information via other refused undertakings.

[57] For the same onus-of-proof reasons outlined above, I find that Mr. Moukhaiber cannot oblige Primerica to fill any gaps in his investigative findings.

[58] Moreover, he provided no evidence or even argument that obtaining the requested information about the noted five or six people would assist him in painting Primerica overall as a "con", "fraud", etc. i.e. that it as a corporate entity (or group of entities) warrants any of those labels i.e. that its business methodologies should be so branded because a handful of its independent contractors may have gone out of bounds in their marketing or recruitment efforts. Or that a sample of four or five reps (out of approximately 2,000 in Canada) is likely to be representative.

[59] Especially where at least two of the highlighted individuals have no apparent connection to Canada (instead to California).

[60] On fair comment, per the SCC decision in *Hansman v Neufeld*, 2023 SCC 14 and the majority's analysis of "comment versus imputation of fact" (paras 108-114), I find that the labels "illegal pyramid scheme" and "fraud" (at minimum) are imputations of fact, not statements of opinion, precluding recourse (for those terms) to a fair-comment defence.

[61] Overall, I find that none of the requested information has any logical connection to showing whether any of the impugned labels are warranted or not i.e. would not assist Mr. Moukhaiber on the fair-comment front.

6. Qualified privilege

[62] Here Primerica argues:

The defence of qualified privilege applies only where the maker of a defamatory statement has a legal, public, or social duty to communicate the information in question, and the recipient has a corresponding valid duty or interest in receiving it [citing *WEM* at para 101]. Qualified privilege typically does not extend to media or press communications [citing *Grant* at paras 34-37].

The Refused Undertakings are not relevant to the defence of qualified privilege because the Defendant cannot establish that he has a special “duty” or “reciprocal interest” justifying publication of the defamatory statements, with or without the answers to the Refused Undertakings. Consequently [they] are irrelevant and immaterial.

[63] Mr. Moukhaiber did not offer any written submissions on this aspect.

[64] I accept and adopt Primerica’s reasoning and position here, with no real counter-position offered and Primerica offering what appears to be a reasonable synopsis of the law on this aspect.

7. “Responsible communication”

[65] Primerica argues:

Responsible communication on matters of public interest applies where the maker of a defamatory comment exercised diligence in attempting to verify the defamatory allegations and the matter is of public interest [citing *WEM* at para 98]. The degree of diligence required to verify the allegation increases in proportion to the seriousness of its potential effects on the person defamed, and verifying corruption or other criminality demands the highest degree of diligence [citing *Grant* at para 111].

The Refused Undertakings do not assist the Court with determining whether the Defendant exercised diligence or whether the impugned statements were made in the public interest. On the contrary, [they] demonstrate that the Defendant did not exercise any [or insufficient] diligence prior to making the defamatory statements and is using the undertakings to retroactively try [to] support his statements. In particular, undertaking #24, to “provide *all* investigations done of Primerica, Inc. by *all* bodies that regulate businesses and industries involved with Primerica, Inc.” is the opposite of stringent diligence required for this defence, and should not be answered to assist the Defendant in doing what he failed to initially complete. As a result, the answers to the Refused Undertakings are not relevant to the defence of responsible communication.

[66] Mr. Moukhaiber did not offer detailed written submissions here.

[67] I agree with and adopt Primerica’s submissions. Conducting a miniscule sample (of independent contractors to Primerica), tagging Primerica with the dirty-laundry-list of charged terms, and *then* asking Primerica whether it has in-house policies and guidelines regulating its reps’ marketing and recruiting efforts and whether it polices them, is not sufficiently diligent.

C. Primerica’s guidelines and standards for sales reps

[68] Another batch of refused undertakings relate to Primerica’s internal marketing and recruiting guidelines for its sales force (undertakings #s 4, 5, 19, and 21).

[69] Mr. Moukhaiber argued:

The specific standards Primerica employs to monitor and prevent deceptive marketing and sales claims is also relevant and material to the merits of this action, as [I state] that Primerica is aware of and failing to police the agents who make these claims. This is based on the DSSRC ruling [discussed further below] that outlines that Primerica has standards to prevent such deceptive marketing claims and that it polices the claims made by its agents. [I myself] uncovered some Primerica policies that outline the claims [that] agents can make to recruits and customers, which Primerica appears to dispute as being accurate. Undertakings #4, #5, #19, and #21 will clarify what specific guidelines and standards its agents are subject to in relation to the representations they can make around recruitment, sales, and marketing. The Court can then rely on this information to determine if [I am] correct that Primerica is either permitting the deceptive statements its agents are making or failing to act against them when they do.

[70] The same burden-of-proof analysis above applies here. If Mr. Moukhaiber had produced any evidence showing or suggesting that Primerica has no such guidelines or that it does not enforce the ones it has, he might have shifted the evidentiary burden to Primerica to show otherwise.

[71] But he adduced no evidence or at least no current evidence of either aspect.

[72] He did point to a US Better Business Bureau (Direct Selling Self-Regulatory Council -- DSSRC) report on instances in 2017 and 2020 of Primerica sales reps painting unduly optimistic pictures of potential earnings (discussed further below) but no counterpart report or any similar report at all for the period of Mr. Moukhaiber's investigation (starting in 2023) or for Canada.

[73] In any case, the same relevance analysis above applies here too. Obtaining this information would not assist Mr. Moukhaiber in showing that Primerica is a "crime" or behaving "criminally" or that it is an "illegal pyramid scheme." Or that Primerica overall – i.e. not just (arguably) a tiny subset of its independent contractors – is a "con", "not real", etc.

D. DSSRC-related records

[74] Refused undertaking #23 asked for production of all Primerica records relating to the DSSRC report.

[75] Mr. Moukhaiber argued that "[t]his information can assist the Court in determining if the issues [I am] highlighting is widespread within Primerica, and if the same agents that the DSSRC has investigated Primerica for are the ones [I highlight] in [my] videos."

[76] I accept Primerica's position that this report (as noted, reflecting activities of certain Primerica reps, in the US, in 2017 and 2020) and any related Primerica records "[would] not assist the Defendant with establishing the factual basis of his comments *when they were made*, nor do they help him establish that he conducted appropriate diligence prior to making his statements" (emphasis added).

E. Primerica average annual sales in 2021 annual report (refused undertaking #14)

[77] I agree with Primerica that it need not provide any more information about this publicly available (and, in any case, not-disputed-by-Primerica) data.

F. Confirmation of average North American revenues for sales reps for 2021 (#15)

[78] I agree with Primerica that this information does not illuminate average earnings in 2023 i.e. the focus of Mr. Moukhaiber's investigations and, by extension, any criticisms of Primerica reps in the later year on the subject of anticipated or likely annual earnings.

G. "Any internal or external investigations by Primerica or regulatory bodies stemming from or occurring after Mr. Moukhaiber's investigations" (#s 2 and 24)

[79] Mr. Moukhaiber argued:

... This information is directly relevant and material to determine the veracity of [my] statements, including if they are true, constitute fair comment, or are responsible communications in the public interest. If [my] actions led to investigations this could prove whether [my] statements are true or false, and the consequences of that for the purpose of this defamation action.

[80] Primerica argued (in part):

Internal and external investigations performed after the Primerica Videos were posted do not assist with defending any defamatory statements in those [videos]. Such investigations are not at issue in this action. They are not referred to in the pleadings or the applications. Further, **"all investigations" is overbroad, does not assist the Defendant with establishing the factual basis of his comments when they were made, and do not help him with establishing that he [exercised] appropriate diligence prior to making his statements.** The burden to prove the truth or responsible communication of the Defendant's statements is his, and he has implicitly admitted in this application that (i) he cannot meet that burden and (ii) did not exercise diligence in attempting to verify the defamatory allegations. [emphasis added]

[81] Mr. Moukhaiber did not explain how any internal or external investigations into (possible) exaggerated claims of anticipated earnings by independent contractors (i.e. the focus of his investigations) would illuminate whether Primerica is (for instance) "an illegal pyramid scheme" (bearing in mind the statutory elements of the "pyramid" offences) or a "crime."

[82] Or why he should be given a window into any external investigations into Primerica's affairs i.e. what standing he has or would have if he (for instance) asked any external investigator (e.g. the Securities and Exchange Commission or law enforcement authorities) for copies of their investigation records or progress reports.

[83] Or, burden-of-proof-wise, why he should be able to compel Primerica to disclose any internal investigations i.e. enlist Primerica in making his case against them.

[84] Or, logically, why any (for example) internal investigation and (in theory) any revised guidelines or practices would necessarily constitute an acknowledgement by Primerica that any pre-existing (and now revised) practices are markers of Primerica being a “con”, “fraud”, etc.

IV. Conclusion

[85] As explained, all of the refusals were appropriate, meaning none of the undertakings in questions must be answered.

[86] Primerica is entitled to its Schedule C (Column 3) costs of the application..

[87] I thank both counsel for their helpful written and oral submissions.

Heard on the 2nd day of March, 2026.

Dated at Edmonton, Alberta this 6th day of May, 2026.

Michael J. Lema
J.C.K.B.A.

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