

**UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, LOCAL 1985,  
Applicant v BAYDO DEVELOPMENT CORP. and BAYDO SK20 CORP., Respondents**

LRB File No. 196-23; August 12, 2025

Vice-Chairperson, Carol L. Kraft; Board Members: Linda Dennis and Grant Douziech

Citation: *Carpenters, Local 1985 v Baydo*, 2025 SKLRB 37

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**Certification – Section 6-65 of *The Saskatchewan Employment Act*, Division 13 – Union seeks certification of carpenters and related trades at Baydo Development Corporation (BDC) or alternatively Baydo Development SK20 Corporation (SK20) – Board finds BDC and SK20 are separate and distinct employers – Certification applications treated as concurrent – While the Union proposed a broader unit including Carpenters, Scaffolders, Roofers, Framers, Cabinet Makers, and related foremen and apprentices, Board finds that an appropriate bargaining unit in this case is limited to *all carpenters, and all foremen and apprentices connected with the carpentry trade* – Certification to proceed for BDC and SK20 based on eligible employees.**

**Board declines to revisit support evidence, finding no overriding error or labour relations purpose in doing so.**

**REASONS FOR DECISION**

**Background:**

**[1] Carol L. Kraft, Vice-Chairperson:** The United Brotherhood of Carpenters & Joiners of America Local 1985, (the “Union”) applied to the Saskatchewan Labour Relations Board pursuant to Division 13 of Part VI of *The Saskatchewan Employment Act*, SS 2013, c S-15.1 (the “Act”) to certify a bargaining unit. The proposed unit includes all Carpenters, Scaffolders, Roofers, Framers, Cabinet Makers, and all Foremen and apprentices connected with these trades employed by Baydo Development Corporation (“**BDC**”) in the Province of Saskatchewan.

**[2]** BDC is responsible for the Evergreen project, which consists of five residential apartment buildings located in Saskatoon’s Evergreen neighbourhood (referred to as the “Baydo Plaza” project, or “Plaza” project or “Evergreen” project). Baydo Development SK20 Corporation

(“SK20”) is a separate legal entity responsible for the Downtown Towers project (also referred to as “Baydo Towers” or “Downtown Towers”), which includes two high-rise residential buildings located at 410 and 420 5th Avenue North in Saskatoon.

[3] The Certification Application was filed with the Board on December 15, 2023. BDC received it the same day.

[4] In response, on December 18, 2023, BDC submitted a list of three employees to the Board:

- Cole Frennette – Labour
- Nolan Jantz – Carpenter
- Sean Hardy – Skilled Concrete Carpenter

[5] On December 19, 2023, the Union disputed BDC’s response that only three employees were in the proposed unit. It asserted that BDC employed carpenters at two Saskatoon worksites, Baydo Towers and Baydo Plaza project, and submitted a list of 27 individuals it believed were eligible for the unit:

- 23 listed as “Carpenter”
- 2 as “Carpenter Foreman”
- 1 as “Rigger/Carpenter”

[6] On December 22, 2023, BDC responded with a list of 22 names, mostly matching the Union’s list. It clarified:

- Three (3) individuals were employed by BDC:
  - Cole Frennette – Labour
  - Nolan Jantz – Carpenter
  - Sean Hardy – Skilled Concrete Carpenter
- Nineteen (19) were employed by SK20:
  - 15 listed as “Labourer”
  - 1 as “Foreman/Safety”
  - 1 as “Labourer/Rigger”
  - 2 as “Labour-Lead Hand”

[7] On December 27, 2023, BDC noted it had accidentally omitted one former SK20 Employee (“KP”) from its list.

**[8]** On December 27, 2023, the Board issued a Direction for Vote and on the same date a Notice of Vote – Mail in Ballot was sent to 22 eligible voters.

**[9]** On January 3, 2024, BDC filed its Reply which stated that it is primarily a real estate developer employing mostly office staff and only a few tradespeople. It asserted that only three of the individuals listed by the Union were BDC employees, with the remainder employed by SK20, a separate company which was created solely to manage construction at the Downtown Towers project. BDC also argued that most of the individuals identified by the Union do not perform work consistent with the proposed bargaining unit, as such work is typically done by subcontractors.

**[10]** A Notice to Vote was issued by the Board. On January 31, 2024, the Board advised the parties that a total of seven (7) ballots were received as part of the Notice to Vote, however, only five (5) of the ballots were returned within the voting period. The ballots are pending tabulation following the Board's decision herein.

**[11]** On June 17, 2024, the Union filed an Application for Leave to Amend the Application for Bargaining Rights to include SK20 as an alternative employer if BDC is found not to be the proper employer. The amendment application was granted with SK20 being granted leave to file a Reply.

**[12]** On July 26, 2024, SK20 filed a Reply which stated that it is a separate legal entity from BDC incorporated specifically to manage construction at the Downtown Towers project in Saskatoon. It emphasized that most of the employees listed by the Union were SK20 employees, not BDC's, and that these individuals were primarily labourers or skilled labourers without trade certification. SK20 also noted that much of the relevant work was performed by subcontractors, and that nine of the listed employees were no longer employed by SK20 and should be ineligible to vote.

**Issues:**

**[13]** The following issues arise for determination in this matter. The Board's findings on each are summarized below:

- 1. Employer Identity / True Employer** - The Board finds that BDC and SK20 are separate and distinct legal entities. Each maintains independent control over its labour relations. The Board declines to exercise its discretion under section 6-1(1)(i)(iii) of the Act to designate one as the employer of the other's employees, finding no sound labour relations

purpose to pierce the corporate veil. The Union did not establish that BDC exercises fundamental control over SK20's labour relations or that SK20 is financially dependent on BDC. The administrative and structural overlaps cited by the Union, including shared services and common directors, do not rise to the level required to invoke the Board's extraordinary discretion.

2. **Scope of the Certification Application** - The Board finds that the Union's application, as amended, is appropriately treated as two concurrent certification applications - one for BDC and one for SK20. This approach reflects how the Union has framed the application, is consistent with the evidence presented, and supports both procedural fairness and sound labour relations. Notably, BDC also supported this interpretation.
3. **Appropriateness of the Proposed Bargaining Unit** - The Board finds a bargaining unit, comprising all carpenters, is appropriate for collective bargaining under section 6-65 of the Act as it relates to both BDC and SK20. The unit is sufficiently defined by reference to trade and occupation and reflects a community of interest among the employees who fall within its scope.
4. **Employee Inclusion and Trade Classification** - With respect to BDC, the Board finds that Cole Frennette, Nolan Jantz, and Sean Hardy are properly included in the proposed bargaining unit based on the nature and regularity of their duties

With respect to SK20, the Board finds that Jean-Baptiste Le Faou, Chris Wagner, Liam Schneider and Zachary Ketcheson performed sufficient carpentry-related work to fall within the proposed unit. In making this determination, the Board rejected the employer's reliance on a narrow two-week period in December 2023, which coincided with a seasonal slowdown and a transitional phase in the project. Instead, the Board assessed the broader pattern of work performed by each employee to determine whether they were regularly and substantially engaged in carpentry functions. This approach aligns with the Board's established jurisprudence and ensures that inclusion decisions reflect the true nature of the work performed.

5. **Voter Eligibility and the "Bright Line" Test** - The Board applies the "bright line" test and finds that employees who were employed at the time of the application and the vote are eligible to have their votes counted, even if they were no longer employed at the time of

the Board's decision. This includes Chris Wagner, Liam Schneider and Zachary Ketcheson.

- 6. Review of Support Evidence** - The Board declines to revisit the Union's support evidence. There is no overriding error or labour relations purpose that would justify a retrospective review of the 45% support threshold. The Union's initial uncertainty regarding employer identity was reasonable in the circumstances and does not undermine the integrity of the certification process.

### **The Evidence:**

**[14]** The Board heard evidence from eleven witnesses. On behalf of the Union, testimony was provided by Ian Dobra, Chris Wagner, Jean-Baptiste Le Faou, Nolan Jantz, Zachary Ketcheson, and Liam Schneider. SK20 called Justin Servetnyk and Ryan Asmundson, and BDC called Chris Luczka, Mark Dalziel, and Cole Frennette.

### ***Ian Dobra***

**[15]** Ian Dobra ("Dobra") is a Red Seal Carpenter certified since 2010, and currently serves as an organizer with the Carpenters Regional Council through Local 1985, which covers all of Saskatchewan. He brings over 20 years of experience in the trade, including a decade as a union carpenter before transitioning to a staff role. His work has primarily focused on concrete formwork, but also includes scaffolding, framing, general contracting and interior work. Dobra testified in support of the Union's application, drawing on his industry experience and his role as an organizer to speak to the nature of the work performed and the appropriateness of the proposed bargaining units.

**[16]** Dobra's current responsibilities include organizing construction workers, recruiting new members, and sourcing work for union members. He explained that the Carpenters Union organizes a wide range of trades, including scaffolders, pile drivers, cabinet makers, and others. He confirmed that the Union's constitution outlines its jurisdiction and objectives.

**[17]** Dobra became involved in organizing BDC and SK20 in December 2023, after being approached by a former member who raised concerns about working conditions. Based on conversation with workers, he understood that they were primarily engaged in concrete formwork, which he believed fell within the Union's jurisdiction.

**[18]** He investigated the identity of the employer and found some confusion as to whether the actual employer was BDC or SK20. He pulled corporate profiles to determine the owner of SK20 and then looked into whether SK20 was involved in other projects, on other sites, or for other contractors, which he concluded it was not. He searched various job advertisement websites to see if SK20 was actively recruiting employees but found only postings from BDC. He also attempted to locate a website for SK20 but stated that none existed. Based on this investigation, he concluded that BDC was the true employer. He said everything ties back to BDC, citing the same ownership. In his view, “if you start another company that exclusively works for you... to me, it’s the same employer.”

**[19]** Dobra testified that he was not surprised by BDC’s position that it was not the employer. He explained that, in his view, “confusion helps them,” and described the argument as “pretty standard.” Similarly, he was unsurprised by BDC’s assertion that most of the workers were not performing duties consistent with carpenters, but were instead labourers or skilled labourers. He disagreed with that characterization, stating that based on conversations with the individuals who supported the application, “in their eyes they were performing carpentry tasks, maybe not all the time, but enough to consider themselves carpenters.”

**[20]** When asked why SK20 was eventually added to the certification application, Dobra explained that it was done as a precautionary measure. He described it as a “failsafe,” intended to ensure that the Union could continue to support the affected individuals in the event the Board determined SK20 to be a separate employer.

**[21]** Dobra provided detailed testimony regarding the scope of carpentry work, referencing the Red Seal Occupational Standard for Carpenters. He explained that this document outlines the trade’s scope and the tasks a carpenter may encounter, and is primarily used to prepare for the interprovincial Red Seal examination.

**[22]** Dobra confirmed that the Red Seal Occupational Standard’s definition of carpentry, namely, “constructing, installing, renovating and repairing residential, civil, institutional, commercial and industrial structures made of wood, steel, concrete and other materials”, aligns with his understanding of the trade. He emphasized that carpentry encompasses a wide range of tasks beyond traditional woodwork, including concrete forming and finishing, scaffolding, temporary access structures, and the installation of pre-cast concrete components. He also noted that carpenters use a broad array of tools, from hand tools to pneumatic and powder-actuated

devices, and are responsible for constructing various concrete forms such as footings, columns, and stairs.

[23] He also referred to a job ad he found for BDC for 2 jobs: “Construction Labourer” and “Carpenter – Baydo Plaza”. The Ad set out the primary responsibilities as follows:

*As a Construction Labourer at Baydo you will but are not limited to:*

- *Read blueprints for work planning (an asset but not required)*
- *Complete rough carpentry tasks as needed*
- *Cut, shape and join materials as needed*
- *Assist in forming, bracing, placing rebar, concrete placement*
- *Assist in demolition work, dirt removal, material moving*
- *Assist in erecting scaffolding and ladders for assembling structures above ground*
- *Assist in any other related duties as assigned*
- *Assist in general site maintenance, housekeeping, dewatering as required*
- *Ensures that proper safety and incident reporting procedures are followed...problems to the attention of the Foreman, Safety Manager or Human Resources.*

*Carpenter – Skills & Responsibilities*

- *Carpentry skills in wood framing and interior finishing*
- *Measuring, cutting and joining materials made of wood or wood substitutes*
- *Fitting and installing trim, doors, stairs, moulding and hardware*
- *Proficient in using hand and power tools specific to carpentry, such as saws, drills, chisels and levels*
- *Attention to detail and ability to work with precision for accurate measurement and installations*
- *Adherer to safety guidelines and protocols to maintain a safe working environment and prevent accidents or injuries*
- *Ability to work independently and work with a team.*

[24] Dobra testified that the list of duties set out in the BDC job ad for “Construction Labourer” closely resembled the tasks typically performed by a carpenter, reinforcing the Union’s view that many employees classified as labourers were in fact engaged in carpentry-related work.

[25] Throughout his testimony, Dobra emphasized the versatility of the carpentry trade, explaining that carpenters frequently take on a wide range of tasks including those that overlap with other trades, as well as incidental duties such as cleanup and rigging.

[26] He maintained that the work described by employees at Baydo job sites, particularly concrete formwork, fell squarely within the jurisdiction of the Carpenters Union.

[27] During cross-examination, Dobra was questioned extensively about the boundaries between carpentry work and general construction labour, particularly in the context of union jurisdiction and the proposed bargaining unit. He acknowledged that in the construction industry,

certain tasks may fall into a “grey area” where responsibilities overlap between different trades or unions. However, he resisted drawing a firm line between what constitutes carpentry work versus general labour. He stated that while there are technical distinctions in some cases, such as complex formwork requiring more experience, he did not believe the separation between trades was always clear-cut.

**[28]** When asked whether carpentry requires a specific skill set or baseline knowledge (e.g., building codes, blueprints, or technical drawings), Dobra responded that it depends on the stage of a worker’s career. He emphasized that even apprentices early in their training are considered carpenters, despite not yet having full technical proficiency.

**[29]** When shown the Red Seal Occupational Standard for carpenters, Dobra agreed that it provides a comprehensive description of the trade. However, he noted that while tasks like garbage collection or snow shoveling are not explicitly listed, they are often part of the practical realities of carpentry work on construction sites. He maintained that such tasks, while not strictly carpentry, are often performed in support of carpentry functions and should not disqualify a worker from being considered a carpenter.

**[30]** Dobra was asked about the distinction between basic and skilled carpentry. He maintained that both fall within the scope of the trade, stating that whether one is cutting a 2x4 straight or at an angle, it remains a carpentry task. He resisted attempts to narrowly define carpentry based on task complexity and emphasized that the Union’s approach is to consider the broader context of the work being performed.

**[31]** Regarding tool requirements, Dobra acknowledged that while the Collective Agreement includes a list of tools carpenters are expected to bring, this list is outdated and not enforced. In practice, many tools are provided on-site, and workers are not denied access to jobs for lacking specific tools. He also confirmed that he did not know whether SK20 employees were required to supply their own tools.

**[32]** Dobra affirmed that the Carpenters Union’s constitution outlines a broad jurisdiction over various types of work. He agreed that the purpose of the hearing was not to resolve jurisdictional disputes between unions but to determine the appropriateness of the proposed bargaining unit.

**[33]** Dobra acknowledged several limitations in his knowledge and approach. He had no firsthand knowledge of the work performed by BDC or SK20 employees in December 2023 and was not present on the job sites. His understanding was based solely on conversations with



workers, some of which involved employees describing the work of others. He conceded he did not have a deep understanding of the Baydo Group's corporate structure or the rationale behind its setup. He also admitted he did not find job postings for SK20 and relied on BDC's postings. He could not confirm whether SK20 employees worked at Baydo Plaza or vice versa.

**[34]** When asked whether individuals primarily engaged in non-carpentry tasks (e.g., rigging, cleanup) should be included in the bargaining unit, Dobra stated it would depend on the individual and the nature of their work. He emphasized that if workers identified as carpenters and performed related tasks, they were considered eligible.

**[35]** He acknowledged that companies like A. Howden Construction ("Howden") and Johnstone Exteriors ("Johnstone") were affiliated with Baydo but were not included in the application because no workers from those companies expressed interest in unionization. He disagreed with the suggestion that these companies could be captured under a certification order without a vote.

**[36]** On redirect, Dobra reiterated that Howden and Johnstone appeared to seek work outside the Baydo group and had separate facilities. He maintained that the union's goal was to support the workers who came forward seeking representation.

### ***Chris Wagner***

**[37]** Chris Wagner ("Wagner") is currently employed through Local 1985 with Rec Construction as a scaffolder and carpenter. Prior to this, he said he worked for "Baydo", from February 2023 to February 2024. He was initially stationed at the Downtown Towers project and later spent a brief period at a Vancouver location. He was hired directly on-site after approaching the office and completing orientation. Although his job title was "experienced labourer," he testified that his duties were primarily carpentry-related.

**[38]** Wagner does not hold formal trade certifications or apprenticeship credentials but has extensive experience in the construction industry. His background includes operating a handyman business and working in roles such as foreman, roughneck, and renovation specialist. He described himself as highly experienced and capable in construction work.

**[39]** Wagner signed a written contract with SK20 for full time employment as a "Labourer". However, he testified that over time, his pay was issued by various Baydo entities, including Howden and BDC. A paystub dated 11/17/2023 was entered into evidence showing SK20 as the issuing entity. Wagner also received a performance review in June 2023 that refers to BDC.

**[40]** Wagner testified that approximately 90–95% of his work at Baydo was carpentry, primarily focused on constructing elevator shafts, stairwells, and landings using the Doka climbing formwork system. He began on the general cleanup crew, performing tasks such as jackhammering concrete and hauling materials, but was quickly moved to the Doka crew, which he referred to as the “core crew”, which handled specialized formwork construction.

**[41]** His responsibilities included building and dismantling concrete forms, pouring concrete, placing and tying rebar, and constructing barricade walls. He worked extensively with materials such as plywood, 2x4s, 2x6s, Aluma beams, and rebar. Wagner also participated in the assembly, disassembly, and relocation of the Doka system.<sup>1</sup>

**[42]** He performed layout work using laser levels and tape measures to ensure compliance with height and width specifications. Although he was not responsible for interpreting blueprints or building codes, he referred to construction drawings when necessary and was expected to build to precise specifications. He frequently used a variety of hand and power tools, including a hammer, level, square, impact driver, and his own carpentry equipment. He also documented his work with photographs.

**[43]** While Wagner occasionally performed incidental tasks such as shoveling snow or hauling water, he considered these duties supportive of his primary role in formwork and concrete construction.

**[44]** Wagner testified that he initially reported to Jordan, who provided daily instructions. After returning from Vancouver, his foreman changed to Jean-Baptiste Le Faou around November 2023. He also reported to site supervisors Ryan Asmundson and Justin Servetnyk, who were responsible for broader oversight, including discipline and time-off approvals. Wagner stated that while Jordan and Jean-Baptiste Le Faou directed his day-to-day work, Asmundson and Servetnyk held ultimate authority, although they rarely visited the upper levels of the site where he worked. Wagner emphasized that he often worked independently, particularly in the Doka unit, and was trusted to complete tasks without constant supervision.

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<sup>1</sup> *The Doka climbing formwork system is a self-climbing platform used in high-rise construction to build vertical concrete structures such as elevator shafts and stairwells. According to the testimony of site supervisor Justin Servetnyk, the system is assembled on site over approximately two weeks using metal and wood components. Once in place, it encloses rebar and concrete forms, which are poured and then hydraulically lifted to the next level. Servetnyk described the system as largely mechanical in nature after initial assembly, though other witnesses, including Wagner, described their work with the system as carpentry.*

**[45]** He disputed management's claims that he was primarily engaged in basic labour tasks such as sweeping in December 2023. Instead, he asserted that he was actively involved in dismantling and relocating the Doka system in preparation for continued construction.

**[46]** Wagner expressed concern that his June 2023 performance review inaccurately recorded a \$1 per hour raise recommendation, whereas he had requested a \$3 increase. He ultimately received the raise after a delay of approximately one and a half to two months. Wagner identified Yufeng Wang as the owner who made the final decision regarding wage increases.

**[47]** He testified that he was sent to work at a Baydo site in Vancouver for approximately one week during the summer of 2023. He was approached by his supervisor, Jordan, and another individual named Sharmeen about the opportunity. While in Vancouver, Wagner performed carpentry work, specifically building forms and preparing for the start of a new building. He reported to Sharmeen during this assignment and considered it a temporary extension of his regular employment.

**[48]** Wagner testified that Ryan Asmundson, whom he identified as the overall site overseer, was responsible for employee discipline and termination decisions. He recounted an incident in which he was warned by Ryan that any further write-ups would result in dismissal. Wagner stated that Justin Servetnyk, the second-in-command, also shared some disciplinary responsibilities. He emphasized that while his immediate supervisors directed his daily tasks, Ryan Asmundson ultimately controlled employment status and disciplinary outcomes.

**[49]** During cross-examination, Wagner acknowledged that he did not possess advanced mathematical training, such as trigonometry or geometry. He relied on general math skills and tools like calculators, tape measures, and laser levels. He occasionally estimated materials needed for construction tasks and used laser levels to determine elevations. Although not formally responsible for interpreting blueprints or ensuring code compliance, he had access to specifications and referred to them when necessary.

**[50]** He firmly denied claims that he was primarily engaged in basic labour in December 2023, asserting instead that he was actively involved in dismantling and relocating the Doka climbing system. He challenged the credibility of anticipated testimony from supervisors Ryan Asmundson and Justin Servetnyk, stating they rarely visited the upper levels where he worked and had limited knowledge of his day-to-day activities.

***Jean-Baptiste Le Faou***

**[51]** Jean-Baptiste Le Faou (“Le Faou”) testified that he began his employment with the Baydo Group of Companies at the Evergreen project site, where he was initially employed by Howden. His role at that time involved concrete forming. He reported to a foreman named Rex O’Connor and was paid by Howden, as confirmed by his paystub.

**[52]** In July 2022, Le Faou was transferred from Howden to SK20 to work on the Baydo Towers project. He testified that this transfer was not initiated by him but was part of a broader reassignment within the Baydo group. He was informed of the transfer and issued a new employment contract with SK20. At the time of the transfer, he was working on the Downtown Towers project site and continued in that role without interruption.

**[53]** His position in his employment contract with SK20 was described as “Foreman”. He testified that he assumed this role in November 2023, having previously worked as a lead hand and skilled labourer after transferring from Howden.

**[54]** Le Faou testified that as foreman at SK20 he oversaw the Doka crew responsible for forming elevator shafts and stairwells. He testified that approximately 80% of his time was spent performing hands-on carpentry work, including layout, formwork, and use of carpentry tools. He also confirmed that his crew used similar tools and performed similar tasks, although their skill levels varied.

**[55]** He testified that while most crew members used carpentry tools their skill levels varied. He noted that some workers, such as Liam Schneider, Jeremy, and Eric, required direct supervision and could not read blueprints.

**[56]** Le Faou confirmed that some workers were removed from the Doka crew due to insufficient carpentry skills. He also testified that in December of 2023, the Doka crew was primarily concerned with the assembly of the Doka system. He noted the assembly of this system did not involve much carpentry and was mainly just snapping together different mechanical components.

**[57]** During cross examination, Le Faou confirmed that Wagner was a member of the Doka crew. When asked whether Wagner could read blueprints or architectural drawings, Le Faou responded: “I don’t know. It wasn’t his job. He wasn’t supposed to. Maybe having a look once in a while but...”

**[58]** Le Faou also testified that Wagner had more experience than some other crew members, such as Liam Schneider, which made him somewhat more independent. However, he agreed that Wagner was not entirely independent and remained under supervision.

***Nolan Jantz***

**[59]** Nolan Jantz ("Jantz") testified under subpoena. At the time of the hearing, he was employed as a carpenter at the Jansen Discovery Lodge BHP Mine, having commenced that employment in April 2024. Prior to that, he was employed as a carpenter at Ken Construction for a few months. Before that, he worked for BDC from November 2023 until approximately January 2024. During his tenure with BDC, Jantz worked exclusively at the Evergreen job site.

**[60]** Jantz testified that he applied for employment with BDC after seeing a job advertisement posted on Indeed. He subsequently attended an interview at the Evergreen job site, where he was interviewed by an individual named Mark, whom he identified as the site supervisor, though he did not recall Mark's last name. (It is understood that this individual is Mark Dalziel.) Jantz did not recall whether the advertisement specified the Evergreen site as the work location, but stated that upon being contacted, he was directed to attend there.

**[61]** He applied for the position of apprentice carpenter, noting that the advertisement indicated applicants should hold a valid apprenticeship through the Saskatchewan Apprenticeship and Trade Certification Commission. At the time, Jantz did not possess such certification and raised this during the interview. He testified that he did not receive a clear response and formed the impression that the interviewer may not have been fully aware of the specific requirements outlined in the job posting.

**[62]** Upon being hired by BDC, Jantz signed a written employment contract dated November 6, 2023, confirming his acceptance of a full-time position as a "Carpenter." He acknowledged that the contract was issued by BDC and bore his signature.

**[63]** In this role, Jantz performed tasks such as back framing, boarding, a lot of furring out walls, building temporary doors, and correcting framing deficiencies. He explained that "back framing" refers to the installation of additional wood blocking between studs in already-framed walls to provide structural support for fixtures such as shower curtain rods. "Furring out walls" involved adjusting or adding material to existing wall framing to correct irregularities - such as when a wall is not plumb - so that drywall can be properly installed.

**[64]** He also described performing hoarding, which he defined as the construction of temporary framed structures that could be tarped to retain heat in specific areas of the worksite. His role was responsive and adaptive, often addressing whatever tasks were required to ensure the site was ready for subsequent trades, including fixing door openings and resolving framing issues. Jantz emphasized that his work was focused on ensuring that any deficiencies or irregularities in the framing or layout were corrected to meet construction standards.

**[65]** Jantz estimated that a significant majority of his time on site, approximately 80%, was spent performing tasks he considered to fall within the scope of carpentry. He explained that even when assisting labourers with general site support, such as cleanup or material handling, he viewed these duties as incidental to and encompassed within the broader role of a carpenter.

**[66]** When asked to elaborate, Jantz described examples of such support work, including assisting with unloading materials from equipment such as a zoom boom, or tarping newly delivered supplies to protect them from the elements. He characterized these tasks as part of the collaborative and flexible nature of construction work, where carpenters often assist with a range of duties to maintain workflow and site readiness.

**[67]** He further clarified that tasks strictly limited to traditional carpentry, such as framing, installing supports, or correcting structural elements, occurred less frequently, typically once every couple of weeks. Nonetheless, he maintained that the totality of his work, including both direct carpentry and ancillary support, formed an integrated part of his role as a carpenter.

**[68]** He confirmed that in his work as a carpenter, he worked as part of a small crew at the Evergreen site, which included himself and another carpenter, Cole Frennette. Jantz noted that while Frennette worked in a carpentry role, he was not a Red Seal-certified carpenter.

**[69]** Jantz confirmed that he was not a Red Seal carpenter and was not registered as an apprentice during his time with BDC, though he began the registration process after leaving. He testified that he wore a carpenter's tool belt and used tools such as a hammer, speed square, chalk line, and nail gun. He reported to the site supervisor, Mark Dalziel, and received day-to-day direction either from Mark Dalziel or from Cole Frennette, who acted as a lead hand.

**[70]** Jantz testified that he was unaware of the existence of multiple Baydo entities at the time of his employment and believed he was employed by "Baydo." His employment contract and pay stubs were issued by BDC.

**[71]** Jantz elaborated that Mark Dalziel, the site supervisor at the Evergreen location, was responsible for directing day-to-day work and made frequent adjustments to task assignments throughout the day. While Cole Frennette often relayed instruction after morning discussions with Mark Dalziel, Jantz also received direct communication from Mark Dalziel particularly when tasks changed. He described the workflow as dynamic and responsive to evolving needs.

**[72]** Jantz understood Mark Dalziel to be responsible for discipline and termination decisions, though he was unsure to whom Mark Dalziel reported. He also noted that he had minimal interaction with employees from other Baydo sites, stating that the only occasion he recalled seeing them was at a company Christmas party.

**[73]** Under cross-examination, Jantz confirmed that he did not perform layout work, read blueprints, or interpret technical drawings. He was not responsible for ensuring compliance with building codes, estimating materials, or scheduling work. He also did not construct formwork, install concrete, or perform finishing carpentry. However, he testified that he had completed I coursework in pre-calculus and trigonometry and could perform related calculations quickly and accurately.

**[74]** Jantz acknowledged that his tasks were assigned to him and that he did not exercise independent judgment in performing his duties. He did not keep a log of his daily activities and could not provide a breakdown of time spent on carpentry versus non-carpentry tasks in December 2023. He worked primarily in Buildings 2, 3, and occasionally 4 at the Evergreen site, performing tasks such as correcting door frames, grouting elevator bases, and furring out walls.

**[75]** He maintained that general labour tasks such as assisting with material handling, site clean-up and snow removal, were incidental to carpentry and should be considered part of a carpenter's role. He worked closely with Cole Frennette, though they were not always assigned the same tasks. Jantz acknowledged that he did not operate heavy equipment but occasionally assisted with snow removal and material handling.

**[76]** Jantz acknowledged that he did not perform certain core carpentry functions such as constructing floor, deck, or roof systems, nor did he install doors, windows, or perform renovations in the conventional sense. He did not interpret safety documentation or interact with inspectors or suppliers, aside from a brief interaction with OSHA. While he did not perform layout in the traditional sense, he described helping stake out elevator shafts and build associated walls. He

also assisted in installing a roof hatch and temporary doors and performed minor drywalling and grouting tasks but did not engage in finishing carpentry or flooring.

**[77]** Jantz testified that he brought and used a standard set of hand tools appropriate for general carpentry tasks. These included a toolbelt, hammer, speed square, pencils, knife, chalk line, snips, pliers, and a nail bar. He also used a nailer and fasteners. According to Jantz, these tools aligned with the tasks he described such as furring walls and correcting framing deficiencies.

### ***Zachary Ketcheson***

**[78]** Zachary Ketcheson (“Ketcheson”) testified under subpoena. At the time of the hearing, he was employed by Contour Developments in Saskatoon, performing carpentry and concrete work. He does not hold a Red Seal Certification but has approximately 10 to 15 years of experience in the construction industry. He is apprenticing with his current company. His prior experience includes work with EllisDon on projects such as the art gallery and bus barns, residential construction in Calgary, and various projects in Saskatoon, including barn construction and tin roofing.

**[79]** Ketcheson began working for SK20 in June 2022 and remained employed until approximately February 2024, primarily at the Baydo Towers project site. He briefly worked at the 11th Street location to unload materials, which he understood to be a storage and load-out site for the SK20 project. This assignment lasted only a couple of days.

**[80]** He was hired as a “skilled labourer” by Chris Marcotte through a Kijiji advertisement. Although his formal title remained unchanged, Ketcheson testified that during his interview with Chris Marcotte at the time of hiring, there was a discussion about him potentially serving as Chris Marcotte’s “right-hand man” or acting lead hand. He confirmed that a note in the record stating “Want to have him become a lead hand per Chris” accurately reflected that conversation. He also recalled being briefly asked about his ability to read blueprints, which he confirmed he could do based on his extensive construction experience.

**[81]** He testified that he functioned as an “acting lead hand,” a role verbally agreed upon with Chris Marcotte. In this capacity, he coordinated tasks, organized materials, and directed other crew members. He reported to Marcotte and, at times, to Ryan Asmundson (superintendent) and Justin Servetnyk (project manager), who he believed reported to the company owner, Yufeng Wang.



**[82]** Ketcheson signed a written employment contract dated June 10, 2022, branded under SK20, and accepted its terms on June 14, 2022. Documentary evidence (T4s) indicated that during 2022 he received pay from both BDC and SK20. His paystub for May 2024 was from SK20. He also testified that around October 2022 employees were asked to sign new contracts with SK20, but the reason for this change was not explained.

**[83]** He underwent performance reviews during his employment. One review dated December 1, 2022, was branded under BDC, and another dated October 24, 2023, under SK20. He signed both documents. He recalled that the earlier review included a note about working toward a carpentry apprenticeship, attributed to Ryan Asmundson. He had not previously seen one of the reviews presented at the hearing and confirmed the handwriting was not his.

**[84]** Ketcheson testified that he was employed as part of the General Contracting (GC) crew at Baydo, where he performed a wide range of duties. His daily responsibilities included morning site checks (ensuring lights were on and no break-ins had occurred), concrete preparation, general cleanup, carpentry tasks, and equipment operation. Specific tasks included cleaning slabs, setting up for concrete pours, building load-out doors and garbage boxes, installing safety guardrails, removing debris, dewatering, unloading materials, and operating a zoom boom, for which he was certified.

**[85]** He consistently wore a carpenter's tool belt, which included tools such as a hammer, square, chalk line, tape measure, and knife. He worked with materials including 2x4s, plywood, rebar, concrete, and tarps. He defined carpentry broadly to include any work involving tools or wood, including building guardrails and using power tools. He stated: "Labour is a part of carpentry."

**[86]** Ketcheson testified that one of his recurring responsibilities on the Baydo Towers project was the installation of guardrails. He explained that this task was required each time a new level of the building was completed. Specifically, he stated that when a floor was poured and became accessible, he and his crew were responsible for going up to that level, tying off for safety, and installing guardrails to ensure that other workers could safely access and perform tasks on that floor without needing to tie off individually.

**[87]** He described this as a routine safety measure that was implemented throughout the building, including around elevator shafts and stairwells. The guardrails were constructed using materials such as 2x4s and plywood, which he identified as part of his regular material set. He

also testified that he wore a carpenter's tool belt while performing this work, which included tools such as a hammer, square, chalk line, tape measure, and knife.

**[88]** Ketcheson's evidence suggests that the installation of guardrails was a repetitive and integral part of his duties, particularly as the building progressed vertically. He did not indicate that this work required blueprint reading or layout, but he did state that he was responsible for estimating materials and time required for his own tasks, including the guardrail installations.

**[89]** He estimated that slightly more than half of his work was carpentry-related, though he acknowledged that duties varied from day to day. He also performed general labour tasks, such as setting up levelling plates, cutting concrete and rebar, and daily cleanup of stairwells and exterior areas. He noted that general cleanup was a routine part of the job.

**[90]** Ketcheson worked as part of a crew of approximately 5 to 10 workers, some of whom were dedicated to cleaning tasks. While he was not officially designated as a lead hand, he occasionally took on responsibilities such as organizing materials and coordinating tasks for the crew.

**[91]** When asked to define carpentry, Ketcheson stated that it involved "putting screws into wood, building guard rails, having a saw, a sawzall, impacts, using power tools." He distinguished carpentry from general labour by the use of tools and the nature of the construction tasks, noting that inexperienced workers were not assigned carpentry duties.

**[92]** During cross-examination, Ketcheson testified that December was a slower month so they did a lot of clean up in December. He estimated that concrete preparation and related tasks could have made up 50% or more of a typical day during that period. He acknowledged not keeping a daily log and confirmed it was difficult to estimate specific hours or percentages of time spent on various activities in December.

**[93]** He further acknowledged that not all members of his crew were engaged in carpentry work and that less experienced workers were not assigned to use tools. He confirmed that he did not perform layout work, read blueprints, or interpret technical drawings, and was not responsible for ensuring compliance with building codes, estimating materials, or scheduling work. He did not construct formwork, install concrete, or perform finishing carpentry.

***Liam Schneider***

**[94]** Liam Schneider (“Schneider”) testified via Webex on October 24, 2024. He was employed by SK20 from July 24, 2023, to July 24, 2024, working on the Baydo Towers project in Saskatoon. He signed an employment contract with SK20 on July 26, 2023, for the position of “Labourer.” His paystubs were issued by SK20.

**[95]** Schneider was assigned to the concrete forming crew, commonly referred to as the “crete crew.” He testified that his direct supervisor was Rick Poke, and that he subsequently reported to Justin Servetnyk (site superintendent) and Ryan Asmundson (project manager), all of whom he understood had authority to discipline employees. If he encountered a problem on site, he would approach whichever supervisor was available at the time.

**[96]** Schneider described his day-to-day duties as including concrete forming, gravel grading, and scaffolding. He stated that his work involved preparing ground for concrete slab pours, including grading to specific elevations (e.g., a 5% slope). He testified that some form of carpentry-related work occurred daily, such as patching, edge buffing, forming to support concrete, and working with materials like lumber, steel, nails, screws, and wire. However, he did not describe performing traditional carpentry tasks such as framing, layout, or finishing work. He also confirmed that he held no trade certification and was not apprenticing toward a Red Seal in carpentry.

**[97]** He emphasized that “every single day there would be some form of carpentry work done,” even if not all crew members participated in it equally. He explained that more experienced workers would handle tasks like cutting, while others would assist with material handling or cleanup. He testified that the crew size varied seasonally, ranging from 4 to 12 workers, with more personnel in the summer. By late November and December 2023, he estimated that only 7 or 8 workers remained, as “a lot of people started leaving.”

**[98]** Schneider provided detailed descriptions of several tasks he considered carpentry:

- **Forming:** Constructing wooden forms to contain poured concrete, such as for driveways or basement slabs. He explained that boards were used to create defined spaces for the concrete to set.
- **Grading and Sloping:** In the basement, he and others laid and sloped gravel to a 5% grade to ensure proper drainage before forming and pouring concrete slabs.
- **Patchwork:** Cutting and installing wood to cover holes or gaps in floors or ceilings to prevent concrete from leaking during pours. This involved measuring, cutting, and securing wood using wedges or scaffolding for support.

- **Materials Used:** He regularly worked with lumber, steel, nails, screws, and wire which materials he associated with carpentry.

**[99]** Although he acknowledged that tasks like cleanup and gravel grading were not carpentry per se, he maintained that they were part of the broader scope of work that supported carpentry functions. He likened cleanup to a chef cleaning after cooking: an integral but ancillary part of the job.

**[100]** During cross-examination, Schneider confirmed that Le Faou provided him with guidance and had taught him a significant amount. He stated that Le Faou would show him blueprints and explain what needed to be built, after which Schneider would gather materials, take measurements, and complete the installation. Schneider was asked about the tools he used. He listed standard hand tools such as a hammer, pliers, nail puller, square, speed square, chalk line, and tape measure. He did not bring power tools due to theft concerns at the Downtown Towers project site.

**[101]** When asked whether he distinguished between general construction tools and “specialty carpentry tools,” Schneider stated that he did not. He expressed confusion with the term “specialty,” explaining that, in his view, “a carpentry tool is a carpentry tool.” He maintained that all the tools he used, such as a hammer, square, and speed square, were standard carpentry tools, and he rejected the idea that there was any meaningful distinction between general and specialty tools in his experience.

**[102]** Schneider confirmed that the tools he used in December were the same tools he had used throughout his entire year of employment at Baydo. These included basic hand tools such as a hammer, pliers, nail puller, square, speed square, chalk line, and tape measure.

**[103]** He testified that he was not responsible for estimating or ordering materials. However, he was expected to identify what was needed for a given task and communicate that to the project manager, who would then place the order. As an example, he explained that if he required “20 2x4s and 100 feet of steel,” he would relay that information to the project manager. This determination was based on the specific requirements of the work he was performing, such as measurements for formwork or patching. Schneider also acknowledged that he did not keep a daily log of his activities and was therefore unable to provide precise estimates of the time spent on specific tasks.

[104] Schneider testified that he did not supervise other workers and that his duties were assigned and directed by his foreman. He stated that while he was responsible for carrying out tasks such as measuring, cutting, and installing materials, he was not required to read or interpret blueprints, nor was he responsible for ensuring compliance with building codes or regulations. He described receiving instructions from his lead hand, who would explain what needed to be built, and then completing the work based on that guidance.

**SK20 Witnesses:**

***Justin Servetnyk***

[105] Justin Servetnyk (“Servetnyk”) testified on behalf of SK20. He is a Red Seal certified carpenter, having obtained his certification in 2012 after completing a four-year apprenticeship through Sask Polytech and accumulating hours with Dunmac General Contractors, Graham Construction, and Conform Contracting. His carpentry experience includes framing, formwork, concrete pouring, layout, and surveying.

[106] Servetnyk began working for BDC in August 2021 as a site supervisor for the Baydo Towers project. In December 2022, he signed a new employment agreement with SK20 and continued in the same role. He testified that his duties include overseeing the entire construction site, coordinating subtrades, ordering materials, assigning tasks, and inspecting work.

[107] He confirmed familiarity with the Red Seal Occupational Standard and agreed that it accurately describes the scope of carpentry work which includes tasks like reading blueprints, layout, geometry, and constructing structural systems. He emphasized that carpenters differ from general labourers due to their formal training, certification, and the complexity of their work. This includes reading blueprints, performing layout, using geometry and trigonometry, and constructing structural systems. He distinguished carpenters from general labourers based on formal training, certification, and the complexity of tasks performed.

[108] Servetnyk also acknowledged that carpenters typically work in areas such as concrete forming, framing, finishing, and surveying, and that there is often overlap between carpentry and other trades. He acknowledged that carpenters are expected to read and interpret technical documents, drawings, specifications, building codes, and regulations, and that they must have a thorough understanding of arithmetic, geometry, and trigonometry. He also agreed that carpenters engage in critical thinking, such as determining task order, selecting tools and methods, and complying with project specifications and codes.

**[109]** When asked how he distinguishes between a carpenter and a general labourer, Servetnyk stated that carpenters have completed formal schooling and testing, whereas general labourers perform cleanup and basic site tasks such as water management. He acknowledged that labourers may sometimes engage in carpentry-related tasks, but typically only under the supervision of a foreman or lead hand.

**[110]** Servetnyk reports directly to Ryan Asmundson, SK20's project manager, and does not take direction from BDC. While he occasionally coordinates with BDC's architects and engineers regarding design issues, he emphasized that SK20 is solely responsible for site operations, personnel management, and construction execution.

**[111]** Servetnyk confirmed that SK20 has no involvement in the Baydo Plaza project and that its employees do not work on that site. He described the organizational structure at SK20, which includes Ryan Asmundson as project manager, himself as site supervisor, and three foremen: Chris Marcotte (general labour), Jean-Baptiste Le Faou (core/Doka crew), and Rick Poke (concrete flatwork).

**[112]** He explained that the Doka system, used for forming elevator shafts and stairwells, required some carpentry during its initial two-week assembly in early 2023, but minimal carpentry thereafter. He reviewed photographs of formwork extensions atop the Doka system and confirmed that such carpentry work was atypical and limited to the final pours on the 25th floor in December 2023 (North Tower) and January 2024 (South Tower).

**[113]** Servetnyk testified that SK20 employees are classified into general labourers, skilled labourers, and foremen. General labourers perform tasks such as cleanup, dewatering, and material handling. Skilled labourers may assist with carpentry tasks under supervision but do not perform core carpentry functions independently. He and Ryan Asmundson determine employee classifications.

**[114]** He confirmed that SK20 engages subcontractors, including Rowen Concrete and Jack Construction, to perform specialized carpentry work.

**[115]** Servetnyk said he spends at least 50% of his time on-site observing work and is responsible, along with Ryan Asmundson, for discipline. Ryan Asmundson handles hiring, scheduling, time-off approvals, and dismissals.

**[116]** Servetnyk stated unequivocally that SK20 employees are not BDC employees and that any employment issues are addressed within SK20's management structure. He also confirmed that SK20 employees are paid by SK20 and that payroll is processed based on timecards submitted to Ryan Asmundson.

**[117]** Regarding specific employees, Servetnyk testified that none of the SK20 employees held the title of "carpenter" or possessed a Red Seal in carpentry, other than himself. He provided individualized assessments of several employees' duties in December 2023, consistently stating that their work primarily involved general labour tasks.

**[118]** He testified that employees such as Chris Wagner, Craig Morasty, Leslie Bear, Tom McConnell, Jeremy Lasendre, Ben Jin, Holden Keewatin, and Matthew Lavallee were not engaged in carpentry work during that period. He also confirmed that employees such as Zachary Ketcheson and Dillon Fehr, while classified as skilled labourers, performed limited carpentry-related tasks and were primarily engaged in general labour.

**[119]** When questioned about the classification of work tasks, Servetnyk distinguished between carpentry and general labour. He testified that tasks such as clean-up, hoarding, snow shoveling, and material handling are not carpentry. He disagreed with any characterization that included such tasks within carpentry for the purpose of estimating time spent on trade-specific work.

**[120]** He estimated that 80–90% of the work performed by SK20 employees in December 2023 was not carpentry, based on his daily observations of their activities. He emphasized that while some employees may have assisted with carpentry-related tasks, this did not constitute regular or substantial engagement in the trade.

**[121]** Servetnyk testified that the Baydo Towers project was designed and executed in a manner that significantly reduced the need for on-site carpentry. A central feature of this approach was the use of the Doka self-climbing formwork system, which was employed for constructing the elevator shafts and stairwells. He explained that while the initial assembly of the Doka system involved some carpentry, requiring approximately two weeks to complete, there was very little carpentry required thereafter. Once assembled, the system was moved vertically using a hydraulic mechanism, eliminating the need for repeated formwork construction.

**[122]** He further clarified that the wooden extensions seen in photographs of the top floor were atypical and only used for the final pour on the 25th floor. He emphasized that such additions were not part of the standard Doka setup and were only necessary because the final floor height

exceeded the typical wall height. This reinforced his point that carpentry was not a recurring or substantial component of the Doka system's operation.

**[123]** In addition to minimizing carpentry through engineered systems, Servetnyk testified that specialized carpentry work such as framing and finishing was subcontracted to external firms, including Rowen Concrete and Jack Construction. This further reduced the scope of carpentry performed by SK20's direct employees.

**[124]** He acknowledged that SK20 does not have a dedicated HR department and that most personnel issues are handled directly by Asmundson. He was unaware of the specifics of payroll processing but confirmed that SK20 employees are paid by SK20.

**[125]** During cross-examination, Servetnyk confirmed that SK20 employees held various safety certifications (e.g., WHMIS, SCOT, First Aid), but these were not indicative of trade qualifications. He acknowledged that carpentry is not a compulsory trade in Saskatchewan and that individuals may perform carpentry tasks without certification.

**[126]** However, he maintained that there is a clear distinction between labourers, apprentices, and certified carpenters in terms of skill, responsibility, and the nature of their work.

**[127]** Servetnyk acknowledged that, because the Baydo Towers were constructed from the ground up, some carpentry work was necessarily involved. He identified formwork as the primary example of carpentry on the project, explaining that it involved building the forms into which concrete is poured. He confirmed that both the Doka crew and the concrete crew were involved in this work.

**[128]** He also agreed that constructing railings and scaffolding would constitute carpentry work. When asked about hoarding, he explained that it involved hanging tarps using materials such as tie wire and lumber. He confirmed that he had performed similar hoarding tasks in his previous carpentry roles with Dunmac Contracting.

**[129]** Union's counsel then referred Servetnyk to the Construction Labourer job description (referred to in paragraph 23 herein). He agreed that carpenters would typically perform tasks such as reading blueprints, cutting, shaping, and joining materials, forming and placing rebar, and erecting scaffolding. He also acknowledged that carpenters use hand and power tools, and may sometimes assist in demolition and material handling, depending on the context.



**[130]** However, Servetnyk emphasized that while there may be overlap between the tasks of carpenters and labourers, carpentry involves a higher level of training, skill, and responsibility. He maintained that not all tasks listed in the labourer description would qualify as carpentry, and that carpenters are distinguished by their ability to perform trade-specific functions independently and with technical precision.

**[131]** During cross-examination by counsel for BDC, Servetnyk was asked to clarify the distinction between assisting with construction tasks and performing carpentry work. He agreed that many of the tasks listed in a Construction Labourer job description, such as assisting in forming, bracing, placing rebar, concrete placement, demolition, dirt removal, and erecting scaffolding, could be performed without actually engaging in carpentry. He also confirmed that general site maintenance tasks, including housekeeping and dewatering, were not carpentry work. While acknowledging that carpenters are expected to have knowledge of hand and power tools and to work independently or as part of a crew, he emphasized that carpentry requires a higher level of knowledge and skill than what is described in the general labourer role.

**[132]** Servetnyk was also questioned about the Doka system and confirmed that the only floor requiring additional wood construction was the 25th floor, due to its atypical wall height. He reiterated that this was the only instance during the above-grade construction where such an extension was necessary.

**[133]** Further, he was asked to confirm whether various common site tasks constituted carpentry work. He stated unequivocally that tasks such as cleanup, hoarding, sweeping, snow shoveling, and hauling materials (including flooring and cabinets) did not qualify as carpentry. He agreed that if someone included such tasks in calculating time spent on carpentry, they would be overstating their involvement in the trade.

**[134]** Finally, Servetnyk confirmed that some aspects of precast concrete production involve carpentry, and that he had familiarity with the process. He also described his own experience as a carpenter's apprentice, which included forming, framing, concrete work, layout, blueprint reading, and scaffold building. He agreed that there is a meaningful distinction between the work and skill level of a labourer and that of a carpenter's apprentice.

***Ryan Asmundson***

**[135]** Ryan Asmundson ("Asmundson") testified as a witness for SK20. He is the project manager for the Baydo Towers project and has held that position since July 2022, following a

transfer from A. Howden Construction. Prior to that, he worked for Dunmac Contractors for approximately 12 years, where he began as a labourer and progressed through roles in safety coordination, construction management, and project management. He has a Grade 12 education, completed one year of trade school in carpentry, and holds a second-year carpentry card. He is not a Red Seal carpenter.

**[136]** Asmundson testified that he was initially hired by Howden to help establish its general contracting division. He was later transferred to SK20 to manage the Baydo Towers project. He confirmed that he agreed to the transfer and that his benefits and employment conditions remained continuous.

**[137]** He reports directly to Yufeng Wang. He testified that his employment agreement with SK20 included a clause maintaining continuity of benefits and employment conditions, and that he continues to participate in the same group benefits and RRSP plan as he did while employed by Howden.

**[138]** He acknowledged that SK20 does not have its own HR or payroll departments and relies on BDC for administrative support, including payroll processing, which is handled by BDC's accounting department. However, he emphasized that SK20 employees are paid from SK20's bank account using funds drawn from its construction financing, and that SK20 operates independently of BDC, except for limited administrative services provided under a management agreement.

**[139]** As project manager, Asmundson is responsible for overseeing budgeting, scheduling, and contracts; supervising the site supervisor, foremen, and all SK20 employees; approving time off, wage increases, and employee discipline; hiring and terminating employees; coordinating with design professionals (e.g., architects and engineers) from BDC; and submitting payroll to BDC's accounting department for processing.

**[140]** He testified that he spends approximately 50% of his time on-site and 50% in his trailer, and that he is present on-site daily. He estimated at least half of his day he would be walking around the site. He stated that he personally observes the work being performed and also receives regular updates from foremen and the site supervisor. He acknowledged that he does not maintain daily logs of individual employee tasks but testified that his estimates of work performed are based on his direct observations and communications with supervisory staff.

**[141]** Asmundson described the organizational structure at the site, which includes himself as project manager, Justin Servetnyk as Site Supervisor, and foremen for each crew: Chris Marcotte (General Labour), Jean Batiste Le Faou (Doka/Core), and Rick Poke (Concrete Flatwork). He testified that employees are classified based on skill level. Labourers perform general cleanup, dewatering, and material handling. Skilled labourers may assist with carpentry-related tasks but do not perform core carpentry functions unless qualified.

**[142]** He stated that only he holds a carpentry certification and that no other SK20 employees are Red Seal carpenters or apprentices.

**[143]** He testified that SK20 is the general contractor for the Baydo Towers project and that it does not perform work for other developers. He confirmed that SK20 engaged subcontractors to perform carpentry, framing, and finishing work, including Rowan Concrete, Jack Construction, and Classic Carpentry Design.

**[144]** He explained that carpentry work such as framing, cabinetry, and finishing was not performed by SK20 employees but was subcontracted to these trades. He also testified that the Doka system used for forming elevator shafts and stairwells is a pre-engineered, self-climbing system that requires minimal carpentry once assembled. While the initial setup involved some carpentry, the ongoing operation was largely mechanical.

**[145]** He confirmed that some crew members lacked sufficient carpentry skills and were reassigned to general labour duties.

**[146]** Asmundson provided detailed testimony about the nature of work performed by SK20 employees, particularly in December 2023. He categorized employees into general labourers, skilled labourers, and foremen, and distinguished between carpentry and non-carpentry tasks.

**[147]** He estimated that most employees spent less than 20% of their time on carpentry-related tasks, with many performing general labour such as cleanup, dewatering, and material handling.

**[148]** He maintained that tasks such as sweeping, dewatering, moving materials, and installing temporary safety features (e.g., guardrails) were not carpentry, even if performed by employees who also used tools or worked with wood. He acknowledged that some employees performed incidental carpentry tasks but maintained that these were not their primary duties.

**[149]** Asmundson provided individualized assessments of several SK20 employees regarding the extent of carpentry work they performed. He testified that in December 2023, the work performed by Wagner was general clean up for the Doka crew, and maybe some hoarding. He said Wagner did some minor rebar bending as needed and was basically a runner for guys needing materials. Asmundson estimated that in December 2023, maybe 5% of his Wagner's day might have been carpentry work.

**[150]** He further testified that Ben Jin, Craig Merasty, Tom McConnell, and Holden Keewatin performed no carpentry work. Liam Schneider, Max Keyes, and Dillon Fehr were estimated to have performed between 5% and 10% carpentry work. Jason Backman, was assessed as having performed 35% to 40% carpentry work, primarily related to safety rails and temporary structures.

**[151]** With respect to Jason Backman, Asmundson was asked and answered the following questions:

Q. *In December 2023 did you have the opportunity to observe the work he was doing at the project?*

A. *I did.*

Q. *In that period, what work was he doing on the project.*

A. *Jason had some capacity behind him - the ability to do some carpentry work, whether it was safety rails, which was most of his day given that we're you know, 5 to 24 floors and not all the walls were on, with that constructing some you know, trash out doors, and clean up as well as some tarping, pollying that sort of thing.*

Q. *Based on your observations how much carpentry work would Jason have been doing on the project last December?*

A. *I would say about 35 to 40% of his day.*

**[152]** Asmundson testified that his estimates were based on direct observations and communications with site supervisors and foremen.

**[153]** During cross-examination by Union's counsel, Asmundson confirmed that he was first employed by Howden as a project manager and later transferred to SK20. Counsel reviewed documents related to his employment, including an unsigned contract with Howden and a transfer agreement to SK20. Asmundson acknowledged that although the contract allowed for changes in job roles and locations, he understood his role to be fixed at the Baydo Towers site. He also confirmed that his benefits, vacation, and RRSP contributions continued seamlessly through the transfer.

**[154]** Counsel for the Union then explored the relationship between SK20 and BDC. Asmundson testified that he reported to YuFeng Wang, the president of BDC, and that SK20 used BDC's accounting department for payroll processing. He dropped off timecards at the Baydo office but was unaware of any internal separation between SK20 and BDC within that office. He also confirmed that SK20 employees were paid biweekly and that he had no further interaction with the Baydo office beyond payroll.

**[155]** Regarding hiring practices, Asmundson explained that he handled hiring for SK20 by posting ads on SaskJobs, reviewing resumes, and conducting interviews. He noted that while signage at the Baydo Towers site still referenced "Baydo," he had no access to the email listed on that signage and did not use it for hiring. He emphasized that all hiring was done independently through his own process.

**[156]** Regarding performance reviews and disciplinary actions, Asmundson confirmed that he conducted performance reviews with input from foremen and the site supervisor, Justin. Although the forms used were labeled "Baydo Development Corporation," Asmundson maintained that the employees were SK20 staff. He also confirmed that he created his own disciplinary templates and maintained employee records on his computer, without HR support.

**[157]** The cross-examination addressed the overlap between SK20 and BDC, particularly in documentation and administrative processes. Counsel for the Union pointed out that performance reviews and pay stubs bore BDC branding, and Asmundson acknowledged that BDC forms were used as templates. He also confirmed that wage increases required approval from Yu Feng Wang, who typically accepted his recommendations without changes.

**[158]** He was then questioned about his ability to supervise 30 to 35 employees across multiple floors of the Baydo Towers site. He admitted that while he spent about half his day on-site, he could not observe every employee daily. Instead, he relied on communication with foremen and supervisors. He did not document individual tasks but tracked overall work progress.

**[159]** Finally, Asmundson confirmed that he did not hold a Red Seal certification and based his assessments of carpentry work on his industry experience.

**[160]** He acknowledged that signage at the Baydo Towers project site refers to "Baydo" and that job postings may have used the Baydo name rather than SK20.

**[161]** He also confirmed that SK20 does not track hours by task or maintain detailed logs of employee activities.

**[162]** He testified that wage increases are recommended by him and approved by Yufeng Wang, who has never rejected one of his recommendations.

**[163]** He reiterated that SK20 employees are not part of BDC and that any administrative overlap is due to shared services, not shared employment.

**[164]** When asked about the nature of work performed by the core crew, he stated that installing pre-cast panels involved more steel work than carpentry. He explained the transition to the Doka system for efficiency and clarified timelines for its implementation on both towers. Asmundson explained that the north tower initially used pre-cast concrete panels for the first eight floors. These panels were installed using welded and bolted connections, with concrete poured between inner and outer panels. He clarified that this work involved more steel-related tasks than carpentry.

**[165]** He said the Doka system was introduced in the summer of 2022 to accelerate construction. By December 19, 2023, the north tower had reached its full height of 25 floors (plus four underground), and the south tower had already begun construction. Asmundson confirmed that during this time, he was frequently climbing stairs to monitor progress, as the freight elevator had not yet been installed. While he couldn't observe every employee daily, he relied on a combination of personal site visits and communication with foremen to stay informed about the work being performed.

**[166]** For the south tower, a few floors were constructed using pre-fabricated panels before switching to the Doka system around late January or February 2024.

**[167]** When asked specifically whether the Doka system involved carpentry work, Asmundson did not describe it as carpentry. He explained that the Doka system was a more efficient formwork system used to construct the internal core of the towers. While he didn't go into technical detail about the Doka system itself, he clearly distinguished it from traditional carpentry, emphasizing that the earlier pre-cast method and the Doka system both involved minimal carpentry, focusing instead on structural and concrete-related tasks.

**[168]** Asmundson's position was that neither the pre-cast panel installation nor the Doka system involved carpentry work, based on his experience in the construction industry. He

emphasized that the tasks were more aligned with steel and concrete work rather than traditional carpentry.

**BDC Witnesses:**

***Chris Luczka***

**[169]** Chris Luczka (“Luczka”) testified as a witness for BDC. He described himself as an independent financial consultant who has worked with BDC since 2014, initially as Finance Manager, later as Vice President of Finance, and currently as acting CFO in a consulting capacity. His responsibilities have included sourcing land for development, preparing project economics, securing financing, and overseeing construction progress through to completion.

**[170]** Luczka worked in construction and later in banking, including a three-year tenure at TDB. At BDC, he was initially hired as Finance Manager by Yufeng Wang, a part-owner of the company. His responsibilities included identifying land for development, preparing project economics, securing financing, and liaising with banks and investors. Within three months, he was promoted to Vice President of Finance and later assumed the title of CFO in a consulting capacity after becoming an independent contractor. His role expanded to include project oversight through to completion, ensuring construction progress aligned with bank expectations and that trades were paid in a timely manner. Luczka continues to perform similar functions for multiple entities, including SK20, SK21, Colliers, Royal LePage, and Harvest Asset Management.

**[171]** Luczka described BDC’s transformation from a general contractor in 2010-2011 to a design and engineering firm by 2015. Initially, BDC was directly involved in construction, with owners Yufeng Wang and Steven Gray physically working on sites. Over time, each project was structured under a separate corporation (e.g., SK20, SK21, SK22), each with distinct ownership and financing arrangements.

**[172]** He said BDC now provides design, engineering, accounting, and administrative services to these project companies, billing them accordingly. Luczka emphasized that this structure facilitates financing, limits liability, and allows owners to independently fund and manage their developments. For example, SK20 was formed in 2019 to acquire land in downtown Saskatoon and is majority-owned by Mr. Niu and his holding companies. SK21 and SK22 were created to develop different buildings within the Evergreen Plaza project, each with separate shareholders and financing.

**[173]** Luczka testified that BDC employees, including site workers at the Evergreen Plaza project, are employed solely by BDC and do not work on other developers' projects. These employees support subtrades by performing tasks such as site cleanup, material handling, and minor concrete work. BDC does not track hours by building but instead bills SK21 and SK22 separately based on estimated work per building.

**[174]** In contrast, SK20 employs its own construction workers for the Baydo Towers project, with Asmundson managing site operations and payroll. Luczka testified that SK20 is financially independent, receiving monthly construction draws from its bank based on quantity surveyor assessments. BDC provides administrative support, including payroll processing and bookkeeping, for a fee, but does not fund SK20 or control its operations. He rejected the assertion that BDC is the true employer of SK20's workers, emphasizing that SK20 handles its own financial and employment matters.

**[175]** Luczka also addressed the management agreement between BDC and SK20, dated September 29, 2021. He explained that the agreement was poorly drafted and mistakenly referred to a joint venture due to reused templates. The agreement was intended to cover pre-financing support services such as tendering trades and providing site equipment. Once SK20 secured financing and hired its own staff, BDC continued to provide equipment and administrative services, billing SK20 monthly for general conditions, payroll, and design work. Luczka confirmed that no updated written agreement was executed post-financing, though the arrangement continued in practice.

**[176]** Regarding corporate governance, Luczka testified that Yufeng Wang holds decision-making authority at BDC and SK20, particularly in financial matters. Luczka, as an officer of both entities, is authorized to bind contracts but does not control operations. Other key personnel include Sharmeen Punjwani (VP of Operations), Skylar Jones (Design Team Manager), and Mark Dalziel (Site Superintendent at Evergreen Plaza). Luczka noted that hiring practices for site workers are informal due to labour shortages, often requiring only basic qualifications. He acknowledged that employees are not typically informed about the complex corporate structure upon hiring.

**[177]** Luczka also discussed related entities, including Luna Metals (structural steel), Howden Construction (concrete work), Johnstone Exteriors (siding and finishes), and Rite Choice Construction (excavation). These companies are independently owned, often with overlapping



shareholders such as Yufeng Wang and Stephen Gray. As of December 2023, they employed varying numbers of workers, with limited involvement in carpentry.

**[178]** He testified that BDC aimed to minimize on-site carpentry by using prefabricated and steel components in its designs, particularly at the Baydo Towers and Evergreen Plaza projects. While some carpentry work occurred, it was typically subcontracted, and any deficiencies were addressed by the original trades.

**[179]** Luczka further testified that all employees across the Baydo group of companies are enrolled in a group benefits plan under BDC for cost efficiency. Manulife permits this arrangement by listing each company as a division under the overarching plan. He acknowledged that some administrative documents, such as performance reviews, may bear BDC letterhead due to convenience or lack of SK20-specific templates, but this does not reflect control or employment by BDC.

**[180]** In cross-examination, Luczka reiterated that SK20 is a financially and operationally independent entity. He acknowledged that SK20 could theoretically hire its own accounting staff but currently relies on BDC for administrative support. He confirmed that BDC does not track labour hours by building at Evergreen Plaza and that billing is based on estimated work per building. He also clarified that BDC does not explain corporate structures to site employees and that orientation focuses primarily on safety. Luczka confirmed that Howden, Johnstone, and Luna performed work for external clients, while Rite Choice worked exclusively for Baydo-related entities. He also confirmed that Chris Wagner, an SK20 employee, temporarily worked on a Vancouver project as a favour to a business partner, not as part of a BDC initiative.

**[181]** Luczka concluded by affirming that BDC exercises direction and control over its own employees at Evergreen Plaza, while SK20 independently manages its workforce at the Baydo Towers project. He maintained that BDC does not control SK20's industrial relations or financial affairs and that the two entities operate as distinct legal and functional entities.

***Robert Mark Dalziel***

**[182]** Robert Mark Dalziel ("Dalziel") testified as a witness for BDC. He has been employed as a site supervisor with BDC for approximately 11 years and was responsible for overseeing the Plaza project in Evergreen. He has a Grade 10 education and over 20 years of experience in the construction industry.

**[183]** Dalziel described his role as encompassing full responsibility for day-to-day operations at the Plaza site. This included coordinating with trades and suppliers, managing site logistics, ensuring construction was proceeding according to schedule and specifications, and directly supervising both BDC employees and subcontractors. He testified that he is on site daily, typically for 10-hour shifts, and spends the majority of his time outside his office, actively managing the work.

**[184]** He explained that BDC employed two types of crews at the Evergreen Plaza site: a general labour crew and a skilled labour crew. The general labour crew was responsible for tasks such as site cleanup, unloading and loading materials, and general housekeeping. The skilled labour crew performed more technical tasks, including minor framing repairs, backframing, and correcting deficiencies caused by other trades. Dalziel emphasized that most framing and finishing work was subcontracted out, and BDC's own employees were not responsible for installing doors, trim, or other finishing components.

**[185]** He testified that he was responsible for hiring, disciplining, and terminating BDC employees at the Evergreen Plaza site, and that he coordinated with BDC's HR department to post job ads and schedule interviews. He also confirmed that BDC provided all power tools and that employees were not required to bring their own.

**[186]** Dalziel was asked about specific employees, including Cole Frennette and Nolan Jantz. He testified that Frennette was hired as a labourer but was later given additional responsibilities as a crew boss. Jantz was hired as a carpenter, but Dalziel estimated that only about 50% of his time was spent on carpentry-related tasks, with the remainder involving general labour duties. He stated that no BDC employees at the Plaza site were Red Seal carpenters or registered apprentices.

**[187]** Dalziel's identified the following employees as having performed carpentry work (at least in part) while working at the Baydo Plaza project:

- 1) Cole Frennette – Initially hired as a labourer, later promoted to crew boss for the skilled labour team. He performed tasks such as backframing, wall furring, and minor framing repairs. Dalziel estimated that 50% of his time involved carpentry.
- 2) Nolan Jantz – Hired as a carpenter. His duties included backframing, wall furring, and minor woodwork repairs. Approximately 50% of his time was spent on carpentry, with the remainder on general labour.

- 3) Sean Hardy – Employed as a skilled concrete carpenter on the concrete crew. He performed formwork and other concrete-related carpentry tasks. Dalziel estimated 70–80% of his time was carpentry-related.

**[188]** Dalziel was clear that while these individuals performed carpentry-related tasks, they were not Red Seal carpenters, and none were registered apprentices. He also emphasized that more complex or specialized carpentry work, such as framing entire structures or finishing, was subcontracted out.

**[189]** He also testified that BDC's skilled labourers were not required to read blueprints, interpret technical documents, or perform layout work. Those responsibilities fell to supervisors or subcontractors. He confirmed that BDC's safety officer handled all safety documentation and that crew members were not expected to complete hazard assessments or other formal documentation.

**[190]** Under cross-examination, Dalziel confirmed that he had worked on multiple Baydo projects over the past decade and had always been employed directly by BDC. He reiterated that he had never worked for SK20 or any other Baydo-related entity.

**[191]** He acknowledged that BDC's HR department handled job postings and that he did not personally draft the content of job ads. He was shown job postings for carpenter and labourer positions that included a broad range of carpentry-related duties. Dalziel testified that while some of the listed skills were relevant, many were not required for the roles he was hiring for. He explained that he used the term "carpentry" in a general sense to refer to basic framing and repair tasks, not to indicate formal trade qualifications.

**[192]** He was also asked about the use of BDC-branded forms and confirmed that performance reviews and employment documents were issued under BDC's name. He testified that he had full authority over employee management at the Plaza site, including hiring, scheduling, and discipline.

**[193]** When questioned about the nature of the work performed by Jantz and Frennette, Dalziel maintained that while both performed some carpentry-related tasks, they also spent significant time on general labour duties. He disagreed with Jantz's characterization of his work as being predominantly carpentry, stating that tasks such as unloading materials, assisting with crane operations, and general cleanup were not carpentry work.

**[194]** Dalziel was firm in his view that tasks like furring out walls or backframing were carpentry-related, but he distinguished these from more complex or skilled carpentry functions. He also confirmed that no BDC employees at the Plaza site were engaged in apprenticeship programs or had their hours signed off toward certification.

***Cole Frennette***

**[195]** Cole Frennette (“Frennette”) was called as a witness by BDC. He has been employed by BDC since November 14, 2022, in the position of labourer at the Evergreen Plaza Project. He reports directly to a supervisor named Mark and describes himself as “Mark’s assistant”, referring to site supervisor Robert Mark Dalziel.

**[196]** Frennette is not a certified journeyman carpenter and is not registered as an apprentice, although he was previously registered in plumbing. His testimony emphasized that his duties were general in nature and did not involve skilled trade work. He described his daily tasks as including trash removal, sweeping, vacuuming, snow shoveling, moving materials, operating skid steers, and assisting with crane operations. He also acknowledged performing tasks such as back framing, furring walls, and constructing temporary doors and railings, but consistently characterized these as minor, non-carpentry tasks.

**[197]** Frennette’s evidence was detailed in describing the work he performed in December 2023, particularly in Buildings 2 and 3 of the Plaza Project. In Building 2, which was in the finishing stages, he was involved in loading cabinets and countertops and performing trash removal. In Building 3, he engaged in moving materials, cleaning, and limited back framing. He explained back framing as replacing studs removed by subtrades, such as plumbers, and emphasized that this work was not based on blueprints or structural plans. He also described furring walls to accommodate plumbing as a simple task involving screwing 2x4s onto existing walls, which he insisted did not constitute carpentry. Despite acknowledging that these tasks involved measuring, cutting, and fastening wood using saws, drills, and screws, he repeatedly minimized their complexity, stating that they were not “hard” and could be performed by any labourer with basic direction.

**[198]** One of the more significant examples of his work was the construction of a wooden box to support a metal roof hatch on Building 3. Frennette explained that the structure was approximately 14 inches high, framed with 2x4s, and sheathed with OSB. It was installed permanently to support a 100-pound metal hatch. He testified that, despite its permanence and

functional role, he did not consider this work to be carpentry, as it was not built from blueprints or to code specifications.

**[199]** He also described participating in the construction of temporary doors used to facilitate heating during drywalling. This involved framing and sheathing with plywood. Frennette stated that he did not regard this as carpentry due to its temporary nature. Similarly, he acknowledged building temporary railings and safety barriers, but testified that these were not carpentry because they were not permanent and did not require technical drawings.

**[200]** During cross-examination, Frennette reaffirmed his position that these tasks were not carpentry, even when presented with evidence that they involved wood framing, tool use, and structural assembly.

**[201]** He maintained that the distinction between carpentry and labourer work rested on whether the work was permanent, based on blueprints, or performed by subcontracted framers.

**[202]** When asked whether furring walls involved layout work, he denied it, despite admitting that he measured and marked placement using a tape measure.

**[203]** He also agreed that the tasks he performed required minimal skill and could be done by most labourers with proper direction.

**[204]** Frennette also gave evidence regarding his co-worker Nolan Jantz. Frennette consistently referred to Jantz as a fellow labourer, even when presented with documentation showing that Jantz's employment contract identified him as a carpenter.

**[205]** Frennette disagreed with Mr. Jantz's characterization of their work as carpentry. He did not consider tasks such as furring walls, fixing door openings, or constructing temporary structures to be skilled trade work

.

**[206]** He also disputed Mr. Jantz's claim to have performed finishing work or renovations. Mr. Frennette emphasized that the project involved new construction, and stated that any corrective work was minor and non-structural.

**[207]** When asked about the roof hatch box, a permanent structure supporting a heavy metal component, Frennette maintained that it was not carpentry, as it was not built to code or based on technical drawings.

**Argument on behalf of the Union:**

**[208]** The Union submits that BDC is the true employer of *all* of the employees listed on the Notice of Vote. It argues that the projects the employees work on are essentially BDC projects and not SK20 projects. It says that while SK20 may be the employer for the purposes of paying employees, for labour relations purposes, BDC is the one holding the purse strings and ultimately dictates the management of the projects. It says the evidence supports this conclusion.

**[209]** Secondly, the Union argues that the proposed bargaining unit is appropriate and that the proposed members perform carpentry work and fall within the jurisdiction of the Union.

**Argument on behalf of BDC:**

**[210]** BDC argues that the proposed bargaining unit is not appropriate. First, it argues that the proposed bargaining unit is overinclusive in that the Union is attempting to include employees of two separate employers in a single bargaining unit.

**[211]** BDC submits that only three (3) of the prospective members of the bargaining unit are employees of BDC and the remainder are employees of a separate employer, SK20. It says SK20 operates fundamental control over the labour relations of its own employees. On this basis, BDC submits that the Board ought to treat the hearing as two separate, concurrent Certification Hearings.

**[212]** BDC says that the Union has failed to prove that BDC is the true employer and that one bargaining unit exists in this workplace.

**[213]** Secondly, BDC submits that some of the employees who received ballots do not perform job functions consistent with the bargaining unit and therefore are not eligible to be members of a bargaining unit as described in the Certification Application.

**[214]** Finally, BDC argues that the Board should order that the support cards be reviewed to ensure that there was sufficient initial support for the Union by both BDC and SK20 employees under section 6-9 of the Act.

**Argument on behalf of SK20:**

**[215]** SK20 argues that SK20 is the true employer of its employees at the Baydo Towers Project.

[216] Secondly, SK20 submits that SK20 employees proposed for the bargaining unit are ineligible to vote based on the work being performed.

**Relevant Statutory Provisions:**

[217] Section 6-1(1)(i)(iii) of the Act defines “employer” as follows:

***Interpretation of Part***

***6-1(1) In this Part:***

- ...  
(i) “employer” means:  
...
- (iii) *with respect to any employees of a contractor who supplies the services of the employees for or on behalf of a principal pursuant to the terms of any contract entered into by the contractor or principal, the contractor or principal as the board may determine for the purposes of this Part;*

[218] Regarding the representational vote, Section 6-9 of the Act provides as follows:

***Acquisition of bargaining rights***

***6-9(1)*** *A union may, at any time, apply to the board to be certified as bargaining agent for a unit of employees appropriate for collective bargaining if a certification order has not been issued for all or a portion of that unit.*

(2) *When applying pursuant to subsection (1), a union shall:*

- (a) *establish that 45% or more of the employees in the unit have within the 90 days preceding the date of the application indicated that the applicant union is their choice of bargaining agent; and*
- (b) *file with the board evidence of each employee’s support that meets the prescribed requirements.*

[219] The Board’s Direction to Vote was pursuant to s. 6-12 of the Act:

***Representation vote***

***6-12(1)*** *Before issuing a certification order on an application made in accordance with section 6-9 or amending an existing certification order on an application made in accordance with section 6-10, the board shall direct a vote of all employees eligible to vote to determine whether the union should be certified as the bargaining agent for the proposed bargaining unit.*

(2) *Notwithstanding that a union has not established the level of support required by subsection 6-9(2) or 6-10(2), the board shall make an order directing a vote to be taken to determine whether a certification order should be issued or amended if:*

- (a) *the board finds that the employer or a person acting on behalf of the employer has committed an unfair labour practice or has otherwise contravened this Part;*
- (b) *there is insufficient evidence before the board to establish that 45% or more of the employees in the proposed bargaining unit support the application; and*

*(c) the board finds that sufficient evidence of support mentioned in clause (b) would have been obtained but for the unfair labour practice or contravention of this Part.*

*(3) Notwithstanding subsection (1), the board may refuse to direct the vote if the board has, within the 12 months preceding the date of the application, directed a vote of employees in the same unit or a substantially similar unit on the application of the same union.*

## **True Employer Analysis**

### **Union's Position:**

**[220]** The Union bears the burden of proving that the proposed bargaining unit is appropriate, including correctly identifying the employer. In this case, the Union submits that BDC is the “true employer” of the employees listed on the Notice of Vote. It argues that the projects on which these employees work, namely, the Baydo Towers and Baydo Evergreen Plaza, are effectively BDC projects, and that while SK20 may be the nominal employer for payroll purposes, BDC exercises fundamental control over labour relations. The Union contends that BDC holds the purse strings and ultimately dictates the management of the projects. In support of this position, the Union points to a range of administrative and structural connections between BDC and SK20.

**[221]** The Union's evidence includes the fact that both the Baydo Towers and Baydo Plaza projects are listed on BDC's website as BDC projects. It notes that employees of both BDC and SK20 are enrolled in the same Manulife benefits plan administered under BDC's name, and that employment contracts for both entities reference the “Baydo Group of Companies” in relation to RRSP contributions.

**[222]** The Union also highlights that SK20 employment contracts for individuals such as Chris Wagner and Liam Schneider refer to their “first day of employment with BDC,” and that these contracts, along with performance reviews, are identical in form regardless of whether the employee is classified as BDC or SK20.

**[223]** The Union further submits that employees have been transferred between BDC and its sister companies, including Howden, and that at least one employee, Chris Wagner, was sent to a Vancouver site by Yufeng Wang, who is the president of both BDC and SK20.

**[224]** Additional evidence cited by the Union includes the fact that BDC was able to provide the Board with a list of SK20 employees at the outset of the certification process, that BDC and SK20



share the same mailing address, and that they have overlapping directors, including Yufeng Wang and Luczka.

**[225]** The Union also notes that signage at the Baydo Towers site directs job applicants to a BDC email address, and that employees understood Yufeng Wang to be the ultimate authority, including with respect to wage approvals. Based on this evidence, the Union submits that BDC exercises fundamental control over the employees in question and should be certified as their true employer.

**Employer's Response:**

**[226]** In response, the employers argue that BDC and SK20 are distinct legal entities, each with separate corporate registrations, ownership, and financial responsibilities. Testimony from Asmundson (SK20 project manager) and Luczka (BDC CFO Consultant) confirmed that SK20 independently manages its payroll, hiring, discipline, and project operations.

**[227]** BDC does not fund SK20, nor does it hold any shareholder interest or financial control over it. SK20 maintains its own bank accounts and receives construction draws directly from its lender to cover operational costs, including wages.

**[228]** While BDC provides administrative services such as payroll and benefits processing, these are delivered under a fee-for-service management agreement and do not involve decision-making authority over SK20's workforce. Shared templates for contracts and performance reviews were attributed to administrative efficiency, not integrated control.

**[229]** SK20's management team, including Asmundson and site supervisor Servetnyk, is responsible for all site-level employment decisions. Although they report to Yufeng Wang, his role in wage approvals was limited to formal authorization based on SK20's recommendations, reflecting his ownership position rather than operational control.

**[230]** Luczka emphasized that BDC's administrative support is comparable to that of a third-party provider and does not indicate control over SK20's labour relations. The employers also argued that shared addresses, overlapping directors, and employee perceptions are insufficient to establish a "true employer" relationship under the law. They stressed that the Board's discretion to pierce the corporate veil requires a sound labour relations purpose, which was not demonstrated here.

[231] Transfers from sister companies like Howden were acknowledged but characterized as distinct employment relationships. Similarly, the shared Manulife benefits plan was explained as a cost-saving measure, with each company maintaining separate employee records and responsibilities.

### ***Legal Framework – True Employer***

[232] In assessing this application, the Board has applied the legal framework articulated in *United Food and Commercial Workers, Local 1400 v Canadian Salt Company Limited*, 2010 CanLII 65961 (SK LRB) (“*Canadian Salt*”), and section 6-1(1)(i) of the *Act*. This provision empowers the Board to designate a principal as the employer of a contractor’s employees for collective bargaining purposes.

[233] The exercise of this authority is exceptional and must be grounded in a sound labour relations purpose. The central inquiry is which party exercises fundamental control over labour relations, including direction and control over employees, responsibility for remuneration, authority to hire and dismiss, imposition of discipline, and the perception of the employer by employees.

[234] In *Canadian Salt*, the Board emphasized that the determination of the “true” employer requires a contextual analysis of the employment relationship. The Board has adopted a non-exhaustive list of factors to guide this inquiry, including: who directs and controls the employees; who bears the burden of remuneration; who hires, disciplines, and dismisses employees; who is perceived by employees to be the employer; and whether there is an intention to create an employment relationship. Once these factors are assessed, the Board must then determine whether it is appropriate to exercise its discretion in the specific circumstances of the case.

[235] In *Canadian Salt*, the Board stated:

*[84] Section 2(g)(iii) of the Act permits the Board to designate the principal (i.e.: the business or person to whom a contractor provides its services) to be the designated employer of a contractor’s employees for purposes of collective bargaining. While the contractor continues to be the “actual” employer of those employees for most purposes (source deductions, Labour Standards, Workers Compensation, insurance, etc.), the principal is deemed by the Board to be the “employer” of the employees for purpose of application of The Trade Union Act. In such case, the principal is described (somewhat inaccurately) as the “true” employer.*

*[85] This Board has previously been called upon to make determinations as to whether the principal or the contractor is the “true” employer of a unit of employees pursuant to s. 2(g)(iii) of the Act. In doing so, the Board has first focused its examination on which party exercises “fundamental control” over labour relations at the work place. In other words,*

*who has effective control over the essential aspects of the employment relationship? The Board has previously adopted several (non-exclusive) criteria to assist in this determination, which criteria include an examination of the following aspects of the relationship between the parties:*

- 1. The party exercising direction and control over the employees performing the work;*
- 2. The party bearing the burden of remuneration;*
- 3. The party imposing discipline;*
- 4. The party hiring the employees;*
- 5. The party with the authority to dismiss the employees;*
- 6. The party who is perceived to be the employer by the employees; and*
- 7. The existence of an intention to create the relationship of employer and employee.*

**[86]** *The next stage of the Board's inquiry is for the Board to determine whether or not it ought to exercise its discretion in the circumstances of the particular case before it. As previously stated by this Board, a determination made pursuant to s. 2(g)(iii) involves the exercise of an extraordinary authority on the part of the Board and thus the Board's discretion must be based on a sound labour relations footing. See: Wayne Bus Ltd., supra, and Canadian Union of Public Employees, Local 4836 v. Lutheran Home of Saskatoon, Regina Lutheran Care Society Inc. and Broadway Terrace Inc., 2009 CanLII 54774, LRB No. 043-09.*

**[236]** Having considered the totality of the evidence, the Board finds that the Union has not established either element of the two-part test set out in *Canadian Salt*. The evidence does not support a finding that BDC is the true employer of SK20 employees, nor that SK20 is the true employer of BDC employees. The administrative and structural overlaps identified by the Union, whether considered individually or cumulatively, do not demonstrate that either entity exercises fundamental control over the other's labour relations.

**[237]** The determinative factors in this case relate to fundamental control over labour relations. The evidence establishes that SK20 independently exercises authority over hiring, directing, disciplining, and dismissing its employees, and bears responsibility for remuneration. While BDC provided administrative support, including payroll processing and benefits administration, these services were delivered on a fee-for-service basis and do not amount to operational control.

**[238]** Chris Luczka testified that BDC operates as a design and engineering firm that provides services to independently owned, project-specific corporations such as SK20, SK21, and SK22. These entities are created for individual developments and have separate ownership and financing structures.

**[239]** BDC is engaged by these corporations to deliver services including design, engineering, accounting, and administrative support. For instance, BDC billed SK20 monthly for design work, site equipment and tools (general conditions), and payroll processing.

**[240]** SK20 was incorporated in 2019 to develop the Baydo Towers project. Although BDC and SK20 entered into a management agreement (mistakenly labeled a joint venture), the agreement was limited to supporting SK20's early-stage financing. Once SK20 secured its own funding, it took full control of the project. BDC's role was then confined to providing design and administrative services on a fee-for-service basis. SK20 directly employed and paid its own workers under new employment contracts.

**[241]** Luczka testified that the administrative relationship between BDC and SK20 was structured for efficiency and cost-effectiveness. He explained that BDC provided services such as payroll processing and equipment use under a management agreement, but that SK20 maintained operational and financial independence. He also described the rationale for BDC employing labourers at the Evergreen Plaza project, noting that the site was divided between two ownership entities (SK21 and SK22), and that centralized staffing through BDC allowed for shared labour while maintaining clear billing and accountability. The Board accepts this explanation as consistent with legitimate business practices and not indicative of integrated control.

**[242]** The Board also heard evidence regarding the document titled "Joint Venture Agreement" entered into between BDC and SK20. While the title of the document suggests a joint venture relationship, Luczka testified that the document was in fact a mislabelled management agreement. He explained that the reference to a "joint venture" was a carryover from a previous project and did not reflect the actual relationship between the parties. The Board accepts this explanation and finds that the document does not establish a joint venture or any form of shared control over labour relations or day-to-day operations.

**[243]** The evidence further establishes that the agreement was executed to facilitate early-stage administrative and logistical support for the SK20 project, prior to the commencement of construction and the hiring of SK20's own workforce. BDC provided services such as payroll processing, accounting, and the temporary use of equipment and site trailers on a fee-for-service basis. Once SK20 secured project financing and became operational, it assumed full responsibility for hiring, supervising, and directing its employees. The evidence demonstrates that SK20 independently managed its workforce, including setting schedules, approving time off, conducting performance reviews, and exercising discipline and termination authority.

**[244]** BDC and SK20 each administer their respective projects independently. At the Plaza project, BDC's site supervisor, Mark Dalziel, oversees all employment matters. At Baydo Towers,

SK20's project manager, Ryan Asmundson, performs the same functions. SK20 maintains its own bank accounts, hires and manages its own employees, and is financially independent of BDC. The use of BDC-branded forms, shared benefit plans, and overlapping administrative services was explained as a matter of convenience and cost efficiency. These factors do not, in the Board's view, support a finding of shared employment or operational control. The relationship between BDC and SK20 is best characterized as one of service provision between distinct legal entities.

**[245]** The Board also considered the testimony of Chris Wagner, who stated that he received pay from multiple Baydo entities. However, the only pay cheque entered into evidence was issued by SK20. This is a relevant consideration in assessing the Union's claim. The absence of corroborating pay records from BDC or other entities undermines the suggestion that Wagner was jointly employed or that BDC exercised control over SK20's payroll. Rather, the documentary evidence supports the conclusion that SK20 bore the burden of remuneration and was Wagner's actual employer.

**[246]** Similarly, the testimony of Zachary Ketcheson indicated that although he signed a written employment contract with SK20 in June 2022, he continued to receive pay from BDC for a period thereafter. Paystubs and T4s confirmed that he was paid by BDC as of September 2022 and by SK20 by May 2024. Ketcheson further testified that around October 2022, employees were asked to sign new contracts under SK20, though no explanation was provided at the time.

**[247]** While the precise timing of the payroll transition is unclear, this evidence supports the employer's position that SK20 assumed full operational and financial responsibility for the Baydo Towers project following the issuance of new contracts and the securing of construction financing. The transition in both contractual and payroll arrangements reinforces the Board's conclusion that SK20 and BDC are distinct legal and operational entities.

**[248]** Finally, employee perceptions, while relevant, are not determinative in the absence of corroborating evidence of actual control. The Board notes that some employees testified they believed they worked for "Baydo" or that Yufeng Wang was the ultimate authority. However, these perceptions were not supported by the contractual, financial, or supervisory evidence. The Board emphasizes that the legal test under section 6-1(1)(i)(iii) of the Act requires a demonstration of fundamental control over labour relations, not merely administrative overlap or shared ownership.

**[249]** BDC submits, and the Board accepts, that the case law clearly states that the Board's authority to deem a "true" employer under clause 6-1(1)(i)(iii) of the Act involves the exercise of

extraordinary discretion. As articulated in *Canadian Salt*, this discretion is to be exercised only where there is a sound labour relations purpose. Typically, this occurs where one entity exercises fundamental control over another's labour relations. This is often the case where the entity "controls the purse strings" and is therefore the appropriate party to engage in collective bargaining. The Board finds that this threshold has not been met in the present case.

**[250]** There is insufficient evidence to support the assertion that BDC controls SK20's labour relations or finances. There was no evidence indicating that SK20 would be unable to meet its payroll obligations or that BDC controls SK20's financial operations. Luczka's evidence confirmed that BDC has no control over SK20's finances and that SK20 has financed its project independently. BDC's involvement was limited to design and administrative support under a management agreement. On this basis, the Board agrees with BDC that there is no sound labour relations purpose to designate it as the true employer.

**[251]** Having applied the legal framework set out in *Canadian Salt* and considered the totality of the evidence, the Board concludes that SK20, not BDC, exercises fundamental control over the labour relations of the employees at the Baydo Towers project. SK20 is responsible for hiring, supervision, discipline, remuneration, and termination, and operates with financial and operational independence. BDC's involvement was limited to administrative support provided under a fee-for-service arrangement and does not amount to control over employment matters. Shared branding, overlapping directors, and employee perceptions do not, in the absence of corroborating evidence of actual control, justify piercing the corporate veil.

**[252]** The Board further notes that the discretion to designate a "true employer" under the Act is extraordinary and must be exercised only where there is a sound labour relations purpose. In contrast to cases such as *Canadian Salt*, where the principal exercised direct control over the contractor's workforce, the evidence here demonstrates that SK20 independently manages its workforce, finances, and project execution. The administrative support provided by BDC is more akin to that of a third-party service provider and does not justify piercing the corporate veil.

**[253]** The Board finds that the evidence of shared leadership, branding, and administrative services does not establish that BDC exercises fundamental control over SK20's labour relations. These factors, considered individually or cumulatively, do not support a finding of integrated management or joint employment. The Board is satisfied that SK20 is a distinct and independent employer for the purposes of this application.

### ***Scope of the Certification Application***

[254] The Union's original application named BDC as the employer. Following BDC's reply, which asserted that the true employer of the majority of the affected employees was in fact SK20, the Union sought and was granted leave to amend its application to include SK20 as an alternative respondent.

[255] The Union's framing of the application in the alternative reflects an acknowledgment of uncertainty as to the identity of the true employer and a desire to preserve the ability to represent the affected employees regardless of which entity is ultimately found to be the employer.

[256] Importantly, BDC itself submitted that the Board and the parties are "essentially dealing with two separate concurrent certification order applications."

[257] The Board has determined that it is appropriate to treat the matter as involving two concurrent certification applications: one for BDC and one for SK20. This approach respects the distinct legal and operational identities of the two entities, aligns with the Union's own framing of the application, and promotes procedural fairness and sound labour relations.

[258] Both BDC and SK20 have had a full and fair opportunity to present evidence and argument on all relevant issues, including the identity of the employer(s) and the nature of the work performed. The Union's amendment to include SK20 as an alternative employer, and BDC's own submission that the matter involves "two separate concurrent certification order applications," further support this approach. In these circumstances, declining a determination on scope would serve no practical purpose, risk unnecessary delay, and undermine the efficiency and finality of the certification process. The Board therefore finds it appropriate and necessary to treat the matter as involving two concurrent certification applications.

### ***Appropriateness of Bargaining Unit***

[259] Before assessing whether the proposed unit is appropriate, the Board must first determine whether the employees in question are, in fact, performing work that falls within the scope of the proposed trade-based unit. This threshold question is essential: if the employees are not engaged in carpentry or related trades, then the proposed unit cannot be considered appropriate.

[260] Both BDC and SK20 object to the proposed bargaining unit on the basis that several of the employees (if not all) who received ballots do not fall into the craft unit described in the

Certification Application (e.g., carpenters, scaffolders, roofers). Therefore, they contend these employees are ineligible to vote and their ballots should be excluded.

**[261]** In *ICT Industrial Inc. v United Association of Journeymen & Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada*, 2022 CanLII 122753 (SK LRB), the Board addressed a similar dispute over whether certain employees (pipefitters) belonged in the bargaining unit. The Board focused on two key issues:

1. The relevant timeframe for assessing eligibility, which should reflect a representative period before the certification application was filed.
2. The nature of the work performed during that period.

**[262]** At paragraph 69, the Board outlined the specific questions:

- *What is the relevant employment period for voter eligibility?*
- *Is the Board authorized to determine if the work qualifies as pipefitting?*
  - *If so, what criteria apply to decide if the disputed employees belong in the unit?*
  - *Specifically, does Jama belong in the unit?*

**[263]** On the question of the nature of the work being performed and whether the employees belong in the bargaining unit and are eligible to vote, the Board stated:

**[87]** *The next issue is whether Middleton and Amey belong in the bargaining unit and are eligible to vote. To make this determination it is necessary for the Board to, first, identify the relevant timeframe and, second, identify the nature of the work that these employees were or are performing during that timeframe. The Board is guided by the decision in K.A.C.R.:*

*44 Where employees are engaged in the work of different crafts the Board will characterize the craft in which they were employed for a majority of their time as the one governing their status on an application for certification. In determining which type of work employees were employed at "for a majority of their time" the Board will look not to the date of the making of the application but, rather to a period of time leading up to the date of the application. Just how far back in time the Board will go depends on the particular circumstances of the individual case. See Teamsters Local Union No. 230 et al v. Johnson-Keiwiit Subway Corporation, 66 C.L.L.C. 16,091 at page 912 and Chauffeurs, Teamsters & Helpers, Local 395 v. Western Caissons (Sask) Limited, 67 C.L.L.C. 16,015 at page 983.*

*45 The Board will attempt to review actual job duties over a reasonably representative period of time and will not permit either the union or the employer to confine the review to an arbitrarily established time frame which is not indicative of normal responsibilities. In this case, it was inappropriate to take a two week "window" immediately prior to the date of*



*the filing of the application which was, of course, during the winter shut down, in order to determine what work the employees involved were performing the majority of their time.*

**[264]** The Board noted at para 94 that the purpose of both the “majority of time” and the prime or primary focus tests is to assist the Board in characterizing the nature of the work being performed by the employees in dispute. At para 97, the Board further stated:

*[97] The Board is to be discouraged from choosing an arbitrary time period that is not representative of normal responsibilities. The Board is required to use some discretion and common sense in choosing the appropriate time period. In K.A.C.R., for instance, the Board chose not to consider the two-week period immediately prior to the application because it corresponded with the winter shut down.*

**[265]** The Union argues that all of the employees on the Notice to Vote performed or are performing carpentry work for the majority of their employment for a reasonably representative period of time prior to the application date of December 15, 2023. The Union states that the Board ought to consider the evidence of the Union’s witnesses over a lengthier period of time prior to the filing date, “perhaps several months over which they did their work”.

**[266]** Next, it is necessary for the Board to assess the evidence about the work that the employees were performing during the representative time period. To do so, the Board has drawn conclusions about the reliability of the evidence before it. The majority of the evidence is comprised of the testimony of witnesses.

**[267]** To determine whether an employee falls within a trade-based bargaining unit, the Board must assess whether the individual is regularly and substantially engaged in work that is characteristic of the trade. This assessment is guided by an objective standard and does not turn solely on job titles, self-identification, or incidental tool use.

**[268]** The Board relies on the Red Seal Occupational Standard for carpentry as a persuasive, though not exclusive, reference in identifying the types of tasks that fall within the scope of the trade. While the Red Seal Occupational Standard outlines a broad range of core competencies, including blueprint reading, layout, formwork, framing, installation of structural and finishing components, and application of building codes, employees need not perform the full range of these tasks to be considered carpenters for the purposes of bargaining unit inclusion.

**[269]** The Board recognizes that carpentry encompasses a spectrum of skill levels and task complexity. While some employees may perform advanced or technical functions, others may be

engaged in more basic or routine carpentry tasks. The performance of such tasks, when done with sufficient regularity and in a manner characteristic of the trade, may be sufficient to support inclusion in a trade-based bargaining unit. The Red Seal Occupational Standard serves as a helpful guide in this analysis, but it is not a checklist or threshold. The Board's focus remains on the substance and frequency of the work performed, not on whether an employee meets the full scope of the Red Seal Occupational Standard or holds formal certification.

**[270]** In summary, in determining whether an employee is engaged in carpentry for the purposes of inclusion in a trade-based bargaining unit, the Board considers a range of contextual factors, including:

- i. Whether the employee regularly performs tasks that fall within the core functions of the trade, as identified in sources such as the Red Seal Occupational Standard;
- ii. Whether the work involves trade-specific tools, materials, or methods, and requires a degree of skill or independence characteristic of the trade;
- iii. How the employer classifies the employee and whether the work aligns with industry norms or expectations for carpentry;
- iv. Whether the work is distinguishable from general labour, which typically includes tasks such as cleaning, dewatering, or material handling.

**[271]** These factors are not applied rigidly or in isolation. Rather, the Board evaluates the totality of the evidence to determine whether the employee is regularly and substantially engaged in work that is characteristic of the trade.

**[272]** Further, the Board emphasizes that it does not consider tasks such as cleanup, snow shoveling, rigging or general site maintenance to be carpentry in and of themselves. However, the performance of such tasks, when incidental to and performed in support of carpentry functions, does not disqualify an employee from being found to be a carpenter. The Board's focus is on whether the employee is regularly and substantially engaged in work that is characteristic of the trade. Incidental or ancillary duties, which are common in dynamic construction environments, do not negate an employee's primary engagement in carpentry-related tasks. This approach is consistent with the Board's jurisprudence and reflects the practical realities of construction work.

### ***BDC Employees***

**[273]** Applying this framework, the Board finds that the evidence supports the inclusion of all three BDC employees, Hardy, Jantz, and Frennette, in the bargaining unit. Each of these

individuals performed carpentry-related tasks with sufficient regularity and independence to meet the threshold for inclusion in a trade-based unit.

**[274]** Hardy was hired as a “Skilled Concrete Carpenter” and performed formwork and other concrete-related carpentry tasks. His supervisor, Dalziel, estimated that 70–80% of his time was spent on carpentry. This included shaping and assembling forms for concrete slabs, which is work that clearly falls within the scope of the trade. BDC conceded that Hardy is properly considered a carpenter.

**[275]** Jantz was formally hired as a carpenter and testified that approximately 80% of his time was spent on carpentry tasks, including back framing, furring out walls, and building temporary doors. He regularly used carpentry tools such as a nail gun, speed square, and chalk line. While his supervisor provided a more conservative estimate of 50%, he did not dispute that Jantz was hired as a carpenter and performed carpentry-related work.

**[276]** The Board finds that Jantz’s duties substantively aligned with work that is characteristic of the carpentry trade. While he may not have performed the full range of tasks outlined in the Red Seal Occupational Standard, his regular engagement in core carpentry functions, such as back framing, furring out walls, and building temporary doors, supports his inclusion in the proposed bargaining unit.

**[277]** Frennette, although officially classified as a labourer, testified that he performed a mix of general labour and carpentry-related tasks. When asked to describe a typical day, he emphasized labour duties such as trash removal, sweeping, and operating equipment, and initially downplayed the extent of his carpentry work. However, under further questioning, he acknowledged performing tasks such as back framing, furring out walls, constructing temporary doors and railings, and building a roof hatch box. These tasks involved the use of carpentry tools and materials and were integral to the construction process.

**[278]** The Board finds that Frennette’s testimony reflected a tendency to minimize the complexity and significance of his carpentry-related duties. This was evident in his repeated efforts to characterize such work as incidental or temporary, and in his reliance on narrow distinctions, such as whether the work was permanent or based on blueprints, to exclude it from the definition of carpentry. Nevertheless, the Board does not find that Frennette was dishonest, but rather that his perspective may have been shaped by his position within the company and a limited appreciation of how certain tasks are viewed through a trade lens.

**[279]** Importantly, Dalziel testified that Frennette was his “right-hand man,” was being trained for a leadership role, and regularly performed carpentry-related tasks. He estimated that approximately 50% of Frennette’s time in December 2023 was spent on carpentry work. This testimony was consistent, detailed, and grounded in Dalziel’s direct supervisory role. The Board finds it credible and persuasive. While Frennette may not have performed the full range of tasks associated with the trade, the evidence establishes that he was regularly and substantially engaged in work characteristic of carpentry, sufficient to support his inclusion in the proposed bargaining unit.

**[280]** Accordingly, the Board finds that Cole Frennette, Nolan Jantz, and Sean Hardy are all eligible for inclusion in the proposed bargaining unit.

**[281]** The Board acknowledges that its finding that certain BDC employees were regularly and substantially engaged in carpentry work is at odds with the testimony of Luczka. Luczka asserted that BDC employed only a small number of workers at the Baydo Plaza project site and that their duties were limited to general site support, such as clean-up, material handling, and minor concrete work. However, this characterization is not supported by the weight of the evidence. The Board finds that Luczka’s testimony on operational matters, including the nature of employee duties, is less reliable than the direct and detailed accounts provided by Dalziel and the employees themselves.

**[282]** That said, the Board does not reject Luczka’s evidence in its entirety. His testimony regarding BDC’s corporate structure, financing, and administrative arrangements was generally consistent with documentary records and corroborated by other witnesses, including Ryan Asmundson and Mark Dalziel. Luczka’s evidence in these areas falls squarely within his area of expertise and was not contradicted by other evidence. Accordingly, the Board accepts Luczka’s evidence on matters of corporate and financial structure, but approaches his testimony on operational matters with caution and gives it less weight where it diverges from the firsthand accounts of those directly involved in site-level supervision.

### ***Appropriate Unit***

**[283]** The Union proposed a bargaining unit that includes “all Carpenters, Scaffolders, Roofers, Framers, Cabinet Makers, and all Foremen and apprentices connected with these trades.” However, the evidence and argument presented focused almost exclusively on carpentry work. There was no evidence or argument establishing that the work involved specific tasks performed

by Scaffolders, Roofers, Framers, or Cabinet Makers. Accordingly, the Board has limited its consideration of the proposed unit to Carpenters and the Foremen and apprentices associated with the carpentry trade.

**[284]** Having determined that the BDC employees in question are properly characterized as carpenters, the Board turns to the broader question of whether the proposed bargaining unit is appropriate under section 6-11(1)(b) of the Act.

**[285]** Pursuant to section 6-11(1)(b) of the Act, the Board must determine whether the proposed bargaining unit is appropriate for collective bargaining. In doing so, the Board considers whether:

- i. The employees in the proposed unit share a community of interest;
- ii. The unit is consistent with the structure of the workplace;
- iii. The unit is sufficiently defined by reference to trade or occupation; and
- iv. The employees perform work that falls within the scope of the proposed unit.

**[286]** Having considered the totality of the evidence, the Board is satisfied that the BDC employees regularly and substantially performed carpentry work or work incidental to the carpentry trade and are therefore eligible for inclusion in a bargaining unit of carpenters.

**[287]** The employees identified for inclusion share a coherent community of interest, perform work that is characteristic of the carpentry trade, and are sufficiently distinguishable from general labourers. The unit is consistent with the operational structure of the workplace and is properly defined by reference to trade and occupation. Accordingly, the Board finds that a unit described as all carpenters, foremen and apprentices, meets the statutory criteria and is suitable for the purposes of collective bargaining.

***Re: SK20 Employees***

**[288]** As indicated above, before assessing whether the proposed unit is appropriate, the Board must first determine whether the employees in question are, in fact, performing work that falls within the scope of the trade-based unit. This threshold question is essential: if the employees are not engaged in carpentry, then the proposed unit cannot be considered appropriate.

**[289]** The Board has carefully considered the evidence concerning the SK20 employees named in the proposed bargaining unit. The central question is whether these individuals were regularly and substantially engaged in carpentry work within the meaning of section 6-65 of *the Act*. As noted, the Board's analysis is guided by those factors summarized at paragraph 259.

**[290]** Also as noted earlier, in completing its analysis, the Board looks to a period of time preceding the application which is “reasonably representative of normal responsibilities”: *“ICT Industrial”* at para.95.

**[291]** BDC and SK20 submit a two week period prior to the date of the certification application, namely December 1, 2023 to December 15, 2023, is a reasonable timeframe for assessing the nature of the work undertaken by employees in the proposed bargaining unit.

**[292]** The Union submits that the employers have adopted a tactic of narrowing the representative period of time and that their approach has clearly been rejected by the case law. The Union submits that the Board ought to consider the evidence of the Union’s witnesses over a lengthier period of time prior to the filing date, perhaps several months over which they did their work. The Union argues that the fact that the Union’s witnesses did not keep log books of exactly what tasks they did on any given date is not a reason to wholly discount their evidence.

**[293]** Further, the Union submits that the Respondents’ position, namely that the projects were designed to virtually eliminate the need for carpentry work on two 25-storey towers and five six-storey buildings, is implausible and appears to serve their litigation interests. The Union submits to the extent that there are conflicts in the evidence between the Union’s witnesses and the Respondents’ witnesses with respect to the nature of the work performed, the Union’s evidence ought to be preferred as their evidence was fairly consistent.

**[294]** For the following reasons, the Board accepts the Union’s position that the December 2023 period was not representative of the employees’ typical duties, and that the Union’s witnesses provided more consistent and credible evidence on this point.

**[295]** The Board considered the evidence regarding the nature of work performed by employees during the two-week period in December 2023. The evidence indicates that this was a time when construction activity typically slowed.

**[296]** The clearest example of this is the uncontradicted testimony of Zachary Ketcheson, who stated: “December is a slow month anyway, so we did a lot of clean up in December I believe.” This statement was not directly challenged during cross-examination.

**[297]** While Mr. Ketcheson was questioned about his ability to estimate the precise percentage of time spent on various tasks, his assertion that December was generally slower remained

unrefuted. His qualifications and the scope of his carpentry work were explored during cross-examination, but there was no suggestion that he was dishonest or exaggerating.

**[298]** The lack of challenge to this point supports the inference that the employer did not dispute the seasonal slowdown. This lends further weight to the conclusion that December 2023 was not a representative period for evaluating the typical duties of employees.

**[299]** The Board also considered the impact of the Doka climbing formwork system on the nature of work performed in December 2023. The Doka system is a self-climbing formwork used to construct the core of high-rise buildings, such as elevator shafts and stairwells. While its initial assembly involves skilled carpentry, once operational, it is largely mechanical and requires minimal ongoing carpentry work.

**[300]** Testimony from both management and employees confirmed that by mid-December 2023, the top portion of the core had been poured, signaling the end of the Doka system's use on the north tower. As a result, work shifted to disassembling the system and preparing it for relocation, which are tasks that are more mechanical or general labour in nature. For example, Chris Wagner testified that he spent most of December and January disassembling the Doka and preparing it for relocation.

**[301]** Similarly, foreman Le Faou noted that the crew was focused on the Doka system, which he described as more mechanical than carpentry. This transition in project phase, resulting in a temporary shift toward general labour, combined with seasonal slowdowns, supports the conclusion that December 2023 was not a representative period for evaluating the typical carpentry duties of employees.

**[302]** While Le Faou testified that the Doka system assembly in December 2023 involved limited carpentry and was primarily mechanical in nature, his acknowledgment that certain workers were removed from the Doka crew due to insufficient carpentry skills supports the inference that a baseline level of carpentry competence was required to perform work on the Doka system. This further undermines the employer's reliance on the December 2023 period as indicative of the typical skill requirements associated with the Doka crew.

**[303]** The The Board has carefully considered the evidence presented regarding the nature of work performed by employees assigned to the Doka crew, particularly in the context of the December 2023 period. The employer relied on the testimony of Ryan Asmundson, project manager for SK20, who stated that the Doka system did not involve carpentry work. He described

the system as a modular, self-climbing formwork used to construct the internal core of the towers, and emphasized that the tasks associated with its use, particularly during the disassembly phase in December 2023, involved steel, concrete, and mechanical processes rather than traditional carpentry.

**[304]** The Board accepts that Asmundson's testimony accurately reflects the nature of the work being performed during the specific period in question. By mid-December 2023, the top portion of the north tower's core had been poured, and the Doka system was being dismantled and prepared for relocation. The Board finds that Mr. Asmundson's observations are credible in describing this transitional phase, during which the work had shifted toward general labour and mechanical tasks.

**[305]** However, the Board also finds that Asmundson's evidence is temporally limited and does not address the full scope of work performed by the Doka crew over the course of the project. In contrast, the testimony of other witnesses including foreman Jean Baptiste Le Faou and employee Zachary Ketcheson, provided a more comprehensive account of the Doka system's use. These witnesses credibly testified that the initial assembly and operation of the Doka system required skilled carpentry. Notably, Le Faou acknowledged that certain workers were removed from the Doka crew due to insufficient carpentry skills, which supports the inference that a baseline level of carpentry competence was required during earlier phases.

**[306]** The Board finds that this distinction is critical. While the Doka system may be largely mechanical once operational, its initial setup and integration into the construction process involved tasks that fall within the scope of carpentry. The employer did not meaningfully challenge this evidence, nor did it provide documentation or testimony addressing the nature of work performed during earlier stages of the project. Given that the employer was in the best position to provide such evidence, the Board draws an adverse inference from this omission.

**[307]** Accordingly, the Board concludes that Asmundson's testimony is not inconsistent with the broader evidentiary record, but rather reflects a narrow snapshot of the project during a period of seasonal slowdown and transition. The Board finds that December 2023 was not a representative period for evaluating the typical duties or skill requirements of employees assigned to the Doka crew. In assessing the credibility and weight of the evidence, the Board has considered the full scope of each employee's testimony, including their accounts of work performed over the broader course of their employment.



**[308]** The Board finds that the limited two week window is not a reasonable or representative period for evaluating the nature of the employees' work. The employer, who was in a position to provide evidence about the employees' duties over a longer period, chose not to do so. The Board draws an adverse inference from this omission and finds that the absence of broader temporal evidence suggests that the employees' descriptions of their work outside of December 2023 may not have been favourable to the employer's position.

**[309]** The Board notes that employers are typically well-positioned to provide evidence regarding the nature of work performed over time, given their access to site records, supervisory staff, and operational oversight. In this case, the decision to rely primarily on a narrow two-week period in December 2023, which coincided with a seasonal slowdown and a transitional phase, limited the Board's ability to assess the regular duties of employees in a representative manner.

**[310]** The Board's inference is not intended to be punitive, but reflects the evidentiary principle that a party's choice to present a constrained snapshot, when broader evidence was reasonably available, may affect the weight assigned to that evidence. This approach is consistent with the Board's jurisprudence, which discourages reliance on atypical or arbitrarily narrow timeframes when evaluating the nature of work for bargaining unit inclusion.

***Chris Wagner***

**[311]** Chris Wagner ("Wagner") testified that he spent 90 - 95% of his time performing carpentry work as a member of the Doka crew at the Baydo Towers site. He described tasks such as building elevator shafts and stairwells, using materials like rebar, plywood, and scaffolding, and tools such as trowels and floats. He asserted that even incidental duties like clean-up and snow shoveling were part of his carpentry role.

**[312]** The Board acknowledges the substantial discrepancy between Wagner's own characterization of his work and the testimony of his supervisors. Wagner asserted that 90–95% of his duties involved carpentry-related tasks, including formwork and structural construction. His testimony reflected an assessment of his duties over the course of nearly a year of employment, during which he stated he spent the majority of his time on the core crew (Doka crew) performing formwork and related tasks.

**[313]** Wagner's assessment was directly contradicted by the testimony of his supervisors, including Servetnyk, Asmundson, and Le Faou, all of whom described his duties in December

2023 as primarily consisting of clean-up, hoarding, material handling, and minor rebar bending. Notably, no other employee witness corroborated Wagner's account.

**[314]** However, as noted above, the employer's evidence was limited to a narrow time frame. In light of the adverse inference drawn, and based on Wagner's uncontradicted evidence regarding the broader scope of his work, the Board finds that while Wagner's job title was "Labourer," his uncontradicted evidence regarding the nature of his work over the broader period supports the conclusion that he was regularly engaged in carpentry-related tasks.

**[315]** Employee witnesses, Wagner and Le Faou, described performing hands-on tasks with the Doka system that they considered to be carpentry. Notably, even Le Faou, who testified that the system was primarily mechanical, acknowledged that certain workers were removed from the Doka crew due to insufficient carpentry skills. This supports the inference that a baseline level of carpentry competence was required.

**[316]** Further when Servetnyk was asked about the nature of carpentry work in cross examination, he identified form work as a primary carpentry task performed by the Doka and concrete crews. He also confirmed that building railings and scaffolding were tasks he considered to be carpentry.

**[317]** Servetnyk also acknowledged in cross examination that hoarding, which involves hanging tarps using materials such as tarps, tie wire and sometimes lumber, was also part of his carpentry duties in previous employment. He affirmed having performed such work as a carpenter for Dunmac Contracting.

**[318]** In cross examination, Servetnyk was presented with a job description for a "Construction Labourer" which he had not seen before. He was asked to comment on several listed tasks based on his experience as a carpenter. He confirmed that the following tasks, although listed under a labourer's role, are also commonly performed by carpenters:

- Reading blueprints for work planning;
- Cutting, shaping, and joining materials as needed;
- Assisting in forming, bracing, placing rebar, and concrete placement;
- Assisting in demolition, dirt removal, and material moving, which he noted carpenters may do occasionally;
- Assisting in erecting scaffolding and ladders for above-ground work;

- Using hand tools, power tools, and construction materials;
- Working independently or as part of a crew, depending on the situation.

**[319]** The Board finds that this testimony supports the conclusion that the tasks performed by Wagner and those described in the Construction Labourer job description, fall within the typical scope of work performed by a carpenter.

**[320]** Having considered the totality of the evidence, the Board finds that Wagner’s work on the Doka crew involved regular and substantial engagement in carpentry-related tasks. His testimony, which the Board accepts as credible and consistent, described the use of carpentry tools and materials to perform formwork, layout, and structural assembly on the Doka system. This work, viewed in its broader context and not limited to the narrow December 2023 timeframe relied on by the employer, falls within the scope of carpentry as defined in the proposed bargaining unit.

### ***Zachary Ketcheson***

**[321]** Zachary Ketcheson (“Ketcheson”) testified that he performed a mix of general labour and carpentry-related tasks during his two years of employment with SK20. He described duties such as concrete preparation, building guardrails, constructing load-out doors, and assisting with layout, and estimated that slightly more than half of his work involved carpentry.

**[322]** However, the employer’s witnesses, Servetnyk and Asmundson, focused their testimony on Ketcheson’s duties during December 2023, describing them as primarily general labour, including cleanup, dewatering, and material handling. As noted above, the employer’s evidence was limited to a narrow time frame. In light of the adverse inference drawn, and based on Ketcheson’s uncontradicted evidence regarding the broader scope of his work, the Board finds that his duties over the broader period support the conclusion that he was regularly engaged in carpentry-related tasks.

**[323]** The Board notes that Servetnyk, in cross-examination, reviewed the job description for a “Construction Labourer” and confirmed that several listed tasks are commonly performed by carpenters. These included reading blueprints, cutting and joining materials, assisting with concrete placement and demolition, erecting scaffolding, and using hand and power tools. The Board finds that this testimony supports the conclusion that many of the duties described in the labourer job description fall within the typical scope of carpentry work.

**[324]** The Board further finds that this evidence is equally applicable to the work performed by Ketcheson. The tasks described align with the evidence regarding Ketcheson's duties on the Baydo Towers project.

**[325]** While the evidence regarding Ketcheson's work was more limited than for other employees, and his inclusion is closer to the margin, the Board is satisfied that he meets the threshold for inclusion in the proposed bargaining unit.

***Liam Schneider***

**[326]** Liam Schneider ("Schneider") testified that he worked on the concrete forming crew at the Baydo Towers site, performing a range of tasks that included forming, patching, and working with lumber, steel, nails, and wire. He described daily involvement in carpentry-related duties such as building and stripping formwork, installing wood patches to support concrete pours, and assisting with layout under the guidance of his foreman. While he acknowledged performing general labour tasks like cleanup and gravel grading, he maintained that carpentry-based work was a regular part of his responsibilities throughout his year-long employment.

**[327]** The employer's witnesses estimated that only a small portion of his time involved carpentry-related work, but again, their testimony was limited to the two-week period in December 2023. The Board finds that this narrow window is not a reasonable or representative basis for assessing Schneider's duties. The employer, who was in a position to provide evidence about Schneider's work over a longer period, chose not to do so. The Board draws an adverse inference from this omission and finds that the absence of broader temporal evidence suggests that Schneider's description of his work outside of December 2023 may not have been favourable to the employer's position.

**[328]** The Board notes that both Servetnyk and Asmundson estimated that Schneider performed only 5–10% carpentry-related work. These assessments were based on their observations and supervisory roles. However, this characterization was not put to Schneider during cross-examination, and he was not given an opportunity to confirm, deny, or elaborate on it.

**[329]** In contrast, Schneider provided a detailed and unchallenged account of his day-to-day duties, including forming, patching, and working with lumber and steel, all of which he considered to be carpentry-related tasks. In light of this, and without questioning the credibility of the employer's witnesses, the Board assigns limited weight to their estimates and relies primarily on

Schneider's direct evidence in assessing the nature and regularity of his work. Accordingly, the Board is satisfied that Schneider meets the threshold for inclusion in the proposed bargaining unit.

### ***Jean-Baptiste Le Faou***

**[330]** Jean-Baptiste Le Faou ("Le Faou") was promoted to foreman in November 2023 and supervised the Doka crew at the Baydo Towers site. He testified that approximately 80% of his time was spent performing hands-on carpentry work, including layout, measuring, cutting, and assembling formwork using tools such as a measuring tape, square, hammer, and chalk line. He emphasized that forming concrete structures with wood and engineered systems fell squarely within the carpentry trade.

**[331]** His testimony was corroborated by Asmundson, who acknowledged Le Faou's experience in concrete forming and layout and did not dispute that he performed carpentry-related tasks. Although Le Faou does not hold formal certification, the Board finds that he was engaged in skilled, trade-specific work consistent with the scope of carpentry. There was no evidence disputing his inclusion. Accordingly, the Board finds that Le Faou is properly included in the proposed bargaining unit.

### ***Other SK20 Employees***

**[332]** Ryan Asmundson ("Asmundson") provided individualized assessments of SK20 employees' carpentry-related duties, based on his regular site presence, direct observations, and discussions with supervisors. The assessments were as follows:

***Ben Jin*** (General Labour): 0% carpentry — traffic control and housekeeping duties.

***Craig Merasty*** (General Labour): 0% carpentry — clean-up and dewatering.

***Liam Schneider*** (Concrete Flatwork): 5–10% carpentry — ground preparation.

***Jason Backman*** (General Labour): 35–40% carpentry — safety rails and tarping.

***Leslie Bear*** (General Labour, formerly Doka): 0–5% carpentry — clean-up and material handling.

***Tom McConnell*** (General Labour): 0% carpentry — dewatering and temporary lighting.

***Dillon Fehr*** (Doka/Core): 10% carpentry — formwork and bracing.

***Jeremy Lacendre*** (Doka/Core): 5% carpentry — primarily welding.

***Max Keyes*** (Concrete Flatwork): 5–10% carpentry — ground prep.

***Eric Berube*** (Doka/Core): 10–15% carpentry — minor formwork and bracing.

***Holden Keewatin*** (Crane/Rigging): 0% carpentry — rigging duties.

**Matthew Lavallee** (*General Labour*): 5% carpentry — *clean-up and tarping*.

**[333]** Asmundson acknowledged that his estimates were not based on daily logs but on key construction phases and his oversight.

**[334]** Given that Asmundson's assessments were limited to a two-week period in December, the Board questions whether these estimates reasonably reflect the full scope and consistency of the employees' duties over the relevant timeframe. This narrow observation window of roughly two weeks in December, 2023, raises concerns about the representativeness and reliability of the data provided.

**[335]** While the Board has reservations about the limited two-week observation period in December and whether it accurately reflects the full scope of work performed, there was no evidence presented to contradict the employer's assessments. In the absence of contrary evidence, and given that the only testimony indicates minimal or no carpentry work performed by the employees in question, the Board concludes that these individuals do not fall within the scope of the bargaining unit.

**[336]** The one exception is Jason Backman. Asmundson testified that Mr. Backman spent approximately 35-40% of his time on carpentry-related tasks, primarily involving safety rails and temporary structures. Asmundson also acknowledged that such tasks constitute carpentry work. However, the Board has some reservations about whether this level of involvement is sufficient to support a finding that Mr. Backman should be classified as a carpenter.

**[337]** Even if Mr. Backman spent up to 40% of his time on carpentry tasks during the observed period, it remains unclear whether this proportion is representative of his overall duties across a broader timeframe. Moreover, no additional testimony or documentary evidence was presented to corroborate or expand upon the nature and consistency of his carpentry work. In the absence of further supporting evidence, the Board is not satisfied that a substantial portion of Mr. Backman's duties can be reliably characterized as carpentry for the purposes of inclusion in the proposed bargaining unit.

**[338]** Accordingly, with respect to SK20, the evidence establishes that a majority of the employees identified in the application were not primarily engaged in carpentry or related trades. However, the Board finds that four SK20 employees, namely Jean-Baptiste Le Faou, Liam Schneider, Zachary Ketcheson, and Chris Wagner, performed work consistent with the duties of

a carpenter or foreman. These individuals engaged in formwork, framing, and related carpentry tasks and shared a community of interest in terms of their work functions and site conditions.

***Is the Proposed Unit Appropriate***

**[339]** Pursuant to section 6-65 of *The Saskatchewan Employment Act*, the Board must determine whether the proposed bargaining unit is appropriate for collective bargaining. In doing so, the Board considers those factors outlined in paragraph 273 above.

**[340]** The Board's analysis is further guided by the Red Seal Occupational Standard for carpentry, which outlines the core competencies of the trade, including layout, formwork, framing, blueprint reading, and the use of trade-specific tools and materials. While employees need not perform the full range of tasks referred to in the Red Seal Occupational Standard or hold formal certification, they must be regularly and substantially engaged in work characteristic of the trade.

***Findings on Included Employees***

**[341]** The Board finds that four SK20 employees: Jean-Baptiste Le Faou, Chris Wagner, Zachary Ketcheson, and Liam Schneider, performed work consistent with the duties described in the proposed bargaining unit. These individuals were regularly and substantially engaged in carpentry-related tasks over a representative period of time. Their work involved the use of trade-specific tools and materials and was performed with sufficient regularity and independence to distinguish their roles from those of general labourers.

1. **Le Faou** was a foreman who performed hands-on carpentry, including layout and formwork.
2. **Wagner** worked on the Doka crew, constructing elevator shafts and stairwells using carpentry tools and materials.
3. **Ketcheson** performed a mix of carpentry and general labour, including building guardrails and load-out doors.
4. **Schneider**, while classified as a labourer, testified to daily involvement in forming, patching, and related tasks using lumber, steel, and standard carpentry tools.

**[342]** The Board found the testimony of these employees credible and consistent with the broader context of the project. The employer's contrary evidence was limited to a narrow two-week period in December 2023, which coincided with a seasonal slowdown and a transitional phase in the project. The Board drew an adverse inference from the employer's failure to provide

broadier temporal evidence and gave greater weight to the employees' accounts of their work over the full course of their employment.

### ***Findings on Excluded Employees***

[343] With respect to the remaining SK20 employees, the Board received little direct evidence about the actual duties performed. The employer provided only estimates of the percentage of time spent on carpentry-related tasks, based on observations during the same narrow two-week period in December 2023. These estimates were not supported by daily logs or corroborating testimony from the employees themselves.

[344] In the absence of broader or more detailed evidence, the Board was unable to conclude that these employees were regularly and substantially engaged in carpentry work.

### ***Appropriateness of the Unit as a Whole***

[345] The presence of labourers who occasionally assist with carpentry tasks raises a legitimate question as to whether the proposed unit remains appropriate. In particular, where work functions overlap, there is a risk that the unit may become under-inclusive or that future disputes may arise regarding the assignment of work or the classification of employees. However, the Board is satisfied that the proposed unit remains appropriate for collective bargaining. The unit is sufficiently defined by reference to trade and occupation, and the employees who fall within it are regularly and substantially engaged in carpentry work. The incidental or supportive involvement of labourers in carpentry-related tasks does not, in the Board's view, undermine the integrity of the unit or its capacity to function effectively for the purposes of collective bargaining.

[346] The Board further notes that in dynamic construction environments, some degree of task overlap is inevitable. The appropriateness of a bargaining unit does not require absolute exclusivity of function, but rather a demonstrable community of interest among those included. The Board is satisfied that this standard is met in the present case.

[347] Having considered the totality of the evidence, the Board concludes that a bargaining unit including carpenters, foremen and apprentices is appropriate for collective bargaining as it relates to SK20. The unit is properly defined by reference to trade and occupation and aligns with the operational structure of the SK20 site.

[348] The employees identified for inclusion, namely, Le Faou, Wagner, Ketcheson, and Schneider, were regularly and substantially engaged in carpentry work and share a coherent



community of interest in terms of their duties, tools, and working conditions. They are also sufficiently distinguishable from general labourers. Accordingly, the Board finds that the proposed unit meets the statutory criteria under section 6-65 of the Act.

**[349]** The Board acknowledges that several employees included in the proposed bargaining unit do not hold Red Seal certification or formal apprenticeship status. However, carpentry is not a compulsory trade in Saskatchewan, and the Board's role is not to enforce credentialing standards but to assess whether employees are regularly and substantially engaged in work characteristic of the trade.

**[350]** Throughout the hearing, both BDC and SK20 appeared to advance a narrow interpretation of the trade, suggesting, through their questioning and submissions, that employees who lacked the ability to perform, or did not in fact perform, the more complex tasks outlined in the Red Seal Occupational Standard were not properly considered carpenters. The Board rejects this approach.

**[351]** The evidence demonstrates that many employees performed carpentry-related tasks with sufficient regularity, skill, and independence to warrant inclusion in the proposed unit, even if they did not perform the full range of Red Seal tasks. The Board further notes that the performance of lower-skill or basic carpentry tasks, such as constructing or stripping formwork, installing bracing, building temporary access structures, furring out walls, back framing, patching, or installing blocking, does not disqualify an employee from being considered a carpenter. While BDC and SK20 emphasized the absence of blueprint reading or advanced layout skills, such functions are not determinative. The Board's focus remains on the regularity and substance of the work performed, not on the breadth or complexity of tasks an employee performs relative to the Red Seal Occupational Standard.

**[352]** In this regard, the Board notes Dalziel's testimony that more complex or specialized carpentry work, such as framing and finishing, was subcontracted out. This implicitly acknowledges that carpentry encompasses a range of skill levels. While some carpenters may perform advanced or technical tasks, others may be engaged in more basic or routine functions. The performance of less complex work does not, in itself, disqualify an employee from being considered a carpenter for the purposes of inclusion in a trade-based bargaining unit.

**[353]** The Board also notes Servetnyk's testimony that he distinguishes carpenters from labourers based on formal schooling and testing. While this may reflect SK20's internal

classification practices, it is not a requirement under Saskatchewan's regulatory framework, nor is it determinative for the purposes of bargaining unit inclusion.

[354] While the presence of uncertified workers may give rise to future jurisdictional or classification disputes, the Board is satisfied that the proposed unit is sufficiently defined by reference to trade and occupation and reflects a coherent community of interest for the purposes of collective bargaining.

### ***Review of the Support Evidence***

[355] The Board has considered BDC's argument that the Union's Certification Application should be dismissed due to insufficient support from employees of each employer, and that the support cards should be reviewed to determine whether the 45% threshold under section 6-9 of the Act was met separately for BDC and SK20. BDC submits that the Union's approach intermingles support from employees of two distinct employer. It says this creates a risk of labour relations mischief and could result in certification without the requisite support from either group.

[356] BDC argues that the Board retains jurisdiction to review support evidence in cases involving an "obvious and overriding error" as discussed in *United Food and Commercial Workers, Local 1400 v Affinity Credit Union*, 2015 SKCA 14. BDC also points to the Board's obiter comment in the Board's decision suggesting that such an error might arise where the bargaining unit is ultimately found to be so much larger than initially understood that it would have been statistically impossible for the union to have met the 45% threshold.

[357] However, the Board finds that the circumstances of this case do not constitute an obvious or overriding error. The Board has consistently relied on the reasoning in *Affinity Credit Union*, which affirms that the 45% support threshold is a preliminary and administrative step. Its purpose is to ensure that there is sufficient employee interest to justify proceeding to a representational vote, thereby avoiding unnecessary disruption to the workplace. It is not intended to be revisited at a full hearing, nor is it a final determination of employee support.

[358] This interpretation was recently reaffirmed in *Canadian Union of Public Employees v The Town of Preeceville*, 2024 CanLII 73795 (SK LRB), where the Board stated:

*[T]he wording of ss. 6-9 and 6-12 of the SEA do not contemplate a hearing in relation to the 45 percent issue. The 45 percent threshold is a 'preliminary step' to be determined at the time of application that is not meant to be considered at a full hearing.*

**[359]** The Court of Appeal in *Affinity Credit Union* similarly held that once a representational vote has been conducted, there is little utility in retrospectively applying the 45% threshold, even if it is later discovered that the requisite support was not filed. The Court emphasized that the Board's role is to ensure the integrity of the certification process and to avoid unnecessary procedural complications that do not serve a meaningful labour relations purpose.

**[360]** Unions, particularly during the early stages of organizing, often do not have access to the internal corporate information necessary to make fully informed decisions about employer identity or bargaining unit composition. Complex corporate structures, overlapping operations, and limited transparency can make it difficult to determine the appropriate employer or unit without the benefit of a hearing. The certification process is designed to accommodate this reality by allowing these issues to be clarified through adjudication, rather than requiring perfect information at the outset.

**[361]** In this case, the Union's initial misidentification of the employer was understandable given the complex corporate structure and lack of transparency. Determining the true employer required a hearing. Once that process was completed and the appropriate employer identified, there is no labour relations benefit to be gained by retrospectively invalidating or re-litigating the representational vote. The Board's focus must remain on the substantive fairness and integrity of the process, not on technical missteps that have since been remedied.

**[362]** Accordingly, the Board finds that there is no labour relations purpose served by a retrospective review of the representational vote. The 45% threshold is not a barrier to certification where the bargaining unit is later clarified through the hearing process. Once the vote has been conducted and the true employer identified, the focus must remain on the integrity of the vote itself and the broader labour relations context.

#### **Final Disposition and Order:**

**[363]** The evidence does not support a finding that the majority of SK20 employees proposed for inclusion in the unit were engaged in carpentry work during a reasonably representative period prior to the filing of the application. However, the Board is satisfied that a subset of employees employed by SK20 regularly and substantially performed carpentry work and are therefore eligible for inclusion in a bargaining unit of carpenters.

**[364]** As a result, with these Reasons, an Order will issue as follows:

1. That the following unit of employees is appropriate for the purpose of bargaining collectively:

*All carpenters, foremen and apprentices connected with the trade engaged in the construction industry as defined by section 6-65 of The Saskatchewan Employment Act and employed by **Baydo Development Corporation** within the boundaries of the Province of Saskatchewan.*

2. That the following unit of employees is appropriate for the purpose of bargaining collectively:

*All carpenters, foremen and apprentices connected with the trade engaged in the construction industry as defined by section 6-65 of The Saskatchewan Employment Act and employed by **Baydo Development SK20 Corporation** within the boundaries of the Province of Saskatchewan.*

3. That the ballots held in the possession of the Board Registrar pursuant to the Direction for Vote issued December 27, 2023 in the within proceedings be unsealed, and the ballots contained therein tabulated separately in relation to each Baydo Development Corporation and Baydo Development SK20 Corporation, in accordance with *The Saskatchewan Employment (Labour Relations Board) Regulations, 2021*;
4. That the ballots of the following employees, if they voted, be removed sealed and not counted in the tabulation: Ben Jin, Craig Merasty, Jason Backman, Leslie Bear, Tom McConnell, Dillon Fehr, Jeremy Lacendre, Max Keyes, Eric Berube, Holden Keewatin, Matthew Lavallee; and
5. That the results of the votes be placed into Form 24 for each Baydo Development Corporation and Baydo Development SK20 Corporation, and those forms be advanced to a panel of the Board for its review and consideration.

**[365]** The Board thanks all parties for their submissions, each of which was carefully reviewed and considered in reaching this decision.

**[366]** This is a unanimous decision.

**DATED** at Regina, Saskatchewan, this **12<sup>th</sup>** day of **August, 2025**.

#### **LABOUR RELATIONS BOARD**

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Carol L. Kraft  
Vice-Chairperson