

COURT FILE NUMBER Q.B.G. No. 2611 of 2016

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE REGINA

APPLICANTS CHARMAINE STICK and CANADIAN TAXPAYERS
FEDERATION

RESPONDENT ONION LAKE CREE NATION

ORIGINATING APPLICATION

NOTICE TO THE RESPONDENT

This application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

Where: Court House, 2425 Victoria Avenue, Regina, Saskatchewan

Date: Tuesday, December 6, 2016

Time: 10:00 a.m.

1. The Applicant, Charmaine Stick ("Stick"), seeks the following remedies:
 - (a) An Order pursuant to section 10 of the *First Nations Financial Transparency Act* (the "*Act*") requiring the Onion Lake Cree Nation ("Onion Lake") to provide the Applicant, Stick, within 21 days, copies of:
 - (i) its audited consolidated financial statements for the fiscal years 2014 and 2015;
 - (ii) the Schedule of Remuneration and Expenses Onion Lake was required to prepare for the fiscal years 2014 and 2015;
 - (iii) all written reports provided by an auditor respecting the consolidated financial statements for the fiscal years 2014 and 2015; and

- (iv) all auditor's reports or review engagement reports that were prepared respecting the Schedule of Remuneration and Expenses for the fiscal years 2014 and 2015.

all as contemplated by sections 6 and 7 of the *Act*.

- (b) In the alternative, the Applicant Stick seeks an Order requiring Onion Lake to provide her, within 21 days,
 - (i) copies of any audited financial statements for the fiscal years 2014 and 2015; and
 - (ii) an accounting of all monies received, irrespective of source, and all monies distributed, paid out, loaned, gifted or otherwise expended by or on behalf of Onion Lake for the fiscal years 2014 and 2015. For greater clarity this includes any accounts receivable or other payment obligations in favour of Onion Lake (whether past due, presently due, or due in the future), including bad debts or other accounts that may or may not be collected.

2. The Applicant, Canadian Taxpayers Federation ("CTF"), seeks the following remedies:

- (a) An Order pursuant to section 11 of the *Act* requiring Onion Lake to publish on its Internet site or another publicly available Internet site, within 21 days, copies of:
 - (i) its audited consolidated financial statements for the fiscal years 2014 and 2015;
 - (ii) the Schedule of Remuneration and Expenses Onion Lake prepared or had prepared for the fiscal years 2014 and 2015;
 - (iii) all written reports provided by an auditor respecting the consolidated financial statements for the fiscal years 2014 and 2015; and

- (iv) all auditor's reports or review engagement reports that were prepared respecting the Schedule of Remuneration and Expenses for the fiscal years 2014 and 2015.

3. The Applicant Stick's grounds for making this application are:

- (a) Section 5(1) of the *Act* requires a First Nation to maintain its accounts and annually prepare consolidated financial statements in accordance with generally accepted accounting principles. Section 5(2) of the *Act* requires a First Nation's consolidated financial statements to be audited by an independent auditor in accordance with generally accepted auditing standards;
- (b) In addition to the above, section 6 of the *Act* requires a First Nation to annually prepare a document entitled Schedule of Remuneration and Expenses which sets out, separately, "the remuneration paid and the expenses reimbursed to its Chief and each of its councillors - acting in their capacity as such and in any other capacity, including their personal capacity - by the First Nation and by any entity that... is required to be consolidated with the First Nation";
- (c) Stick has made multiple requests, both informally and formally, for the financial reporting documents Onion Lake is required to prepare pursuant to sections 5 and 6 of the *Act*. Despite these requests, Onion Lake has neglected and/or refused to provide the requested documents;
- (d) Stick applies to the court pursuant to section 10 of the *Act* for an Order requiring Onion Lake to comply with its disclosure obligations in section 7 of the *Act*;
- (e) In the alternative, as a member of Onion Lake, the Applicant Stick has a common law and statutory right to review the audited financial statements and other related financial disclosure documents prepared or on behalf of Onion Lake:

- (i) As a member of Onion Lake, Stick is entitled at common law to copies of the audited financial statements and other financial disclosure of documents prepared by Onion Lake, including the years 2014 and 2015;
- (ii) Pursuant to section 8(1) of the *Indian Bands Revenue Moneys Regulations* (the "*Regulations*"), Onion Lake is required to have its account established pursuant to the *Regulations* audited and an annual report rendered in respect thereof;
- (iii) Pursuant to section 8(2)(b) of the *Regulations*, Onion Lake is required to post a copy of the auditor's annual report and related financial statements in a conspicuous place on the Band Reserve for examination by Members of the Band. The Applicant Stick submits that this disclosure requirement implies that members are entitled to view the audited financial statements and obtain copies of the same.

4. The Applicant CTF's grounds for making this application are:

- (a) Section 8 of the *Act* requires every First Nation to publish certain financial disclosure documents on its Internet site or another Internet site within 120 days of the end of each fiscal year;
- (b) To date, the 2014 and 2015 audited consolidated financial statements and other related documents referred to in paragraph 2(a) above have not been published on an Internet site or otherwise been made available by Onion Lake;
- (c) CTF applies to this Honourable Court pursuant to section 11 of the *Act* for an Order requiring Onion Lake to publish its audited consolidated financial statements and other related documents on an Internet Site as required by section 8 of the *Act*.

5. The Applicants' summary of the material facts are as follows:

- (a) Charmaine Stick is and at all relevant times has been a member of the Onion Lake Cree Nation and has resided on the reserve or reserves set aside for Onion Lake for the majority of her life;
- (b) In the past, Charmaine Stick was provided with copies of the 2012 and 2013 audited financial statements of Onion Lake;
- (c) Onion Lake's fiscal year end is December 31; Stick has requested the audited financial statements for the fiscal years 2014 and 2015. To date, she has been unable to obtain copies of the 2014 and 2015 audited financial statements of Onion Lake from the Chief and Council or the Band Office;
- (d) At a meeting of members of Onion Lake in or about February, 2016, it was announced that audited financial statements of Onion Lake for the year 2015 were available for review;
- (e) Within days of that meeting, Stick attended upon the Band Office to obtain a copy of the 2015 audited financial statements;
- (f) Stick was presented with a large binder of paper by the Financial Comptroller. Stick was advised that she would not be able to take a copy of the audited financial statements for the year 2015 and that she would need to view them in the Band Office;
- (g) A few weeks later, Stick attended at the Onion Lake Band Office again to inquire about obtaining a copy of the audited financial statements. Ultimately, Stick was not provided with a copy of the audited financial statements;
- (h) On or about September 1, 2016, Stick delivered a formal request for copies of the documents listed in paragraph 1(a) above. This formal request was personally delivered to Councillor Dolores Pahtayken;
- (i) On or about September 14, 2016, Councillor Pahtayken advised Stick that the formal request delivered on or about September 1, 2016 had not properly been presented to the Chief of Council of Onion Lake, and that the requested documents would not be forthcoming;
- (j) To date, Stick has not received copies of the 2014 or 2015 audited financial statements of Onion Lake;

- (k) Employees of the Applicant CTF have viewed the Internet site maintained by Onion Lake (www.onionlake.ca). They have been unable to locate the audited financial statements for 2014 and 2015 on Onion Lake's website; and
- (l) Employees of CTF have also conducted Internet searches and have been unable to locate the consolidated audited financial statements and other related documents for fiscal years 2014 and 2015 prepared by Onion Lake on any public Internet site.

6. Affidavit or other evidence used to support the application:

- (a) This Originating Application;
- (b) Affidavit of Charmaine Stick sworn October 18, 2016;
- (c) Affidavit of Todd MacKay sworn October 20, 2016; and
- (d) Such other materials as counsel may advise and this Honourable Court shall allow.

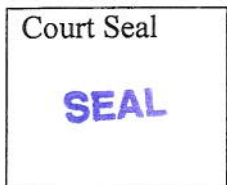
DATED at Regina, Saskatchewan, this 20th day of October, 2016.

KANUKA THURINGER LLP

Per: _____

Solicitors for the Applicants,
Charmaine Stick and Canadian
Taxpayers Federation

This notice is issued at the above-noted judicial centre on the 20th day of October, 2016.



A. GAGNON
DY. LOCAL REGISTRAR

Local Registrar

NOTICE

You are named as a respondent because you have made or are expected to make an adverse claim with respect to this originating application. If you do not come to court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any other order the Court makes. If you want to take part in the application, you or your lawyer must attend in Court on the date and the time shown at the beginning of this form.

The rules require that a party moving or opposing an originating application must serve any brief of written argument on each of the other parties and file it at least 3 days before the date scheduled for hearing the originating application.

If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must serve a copy of the affidavit and other evidence on the originating applicant at least 10 days before the originating application is to be heard or considered.

CONTACT INFORMATION AND ADDRESS FOR SERVICE

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