



1 COURT FILE NO: 1103 14112
2 COURT: QUEEN'S BENCH OF ALBERTA
3 JUDICIAL CENTRE: EDMONTON
4

5 IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000,
6 c.T-8 as amended
7

8 IN THE MATTER OF THE SAWRIDGE BAND INTER VIVOS
9 SETTLEMENT CREATED BY CHIEF WALTER PATRICK TWINN,
10 OF THE SAWRIDGE INDIAN BAND, NO. 19, now known as
11 SAWRIDGE FIRST NATION, ON APRIL 15, 1985
12 (The "1985 SAWRIDGE TRUST")
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APPLICANTS: ROLAND TWINN, CATHERINE TWINN, WALTER
FELIX TWIN, BERTHA L'HIRONDELLE and
CLARA MIDBO, as TRUSTEES FOR THE 1985
SAWRIDGE TRUST

QUESTIONING ON AFFIDAVIT
OF
PATRICK TWINN

Ms. D.C.E. Bonora For the Applicants
Ms. S.J. Shannon For Shelby Twinn, Patrick
Twinn and Deborah Serafinchon
Ms. C.C. Osualdini For Catherine Twinn
Susan Stelter Court Reporter

Edmonton, Alberta

22 September, 2016

1 PATRICK TWINN, SWORN AT 11:05 A.M., QUESTIONED BY

2 MS. BONORA:

3 Q MS. BONORA: Do you mind if I call you Patrick?

4 A Please.

5 Q Okay. So Patrick, you are applying to be a party in
6 Action Number 1103 14112?

7 A Yes.

8 Q And you swore an Affidavit in that action?

9 A Yes.

10 Q And you swore that Affidavit on July 26th, 2016, in St.
11 Albert?

12 A Correct.

13 Q You say in your Affidavit that you are of Edmonton and
14 of the Sawridge Indian Reserve. Do you live in both
15 places?

16 A Yes. So I currently live in Edmonton, my place of work
17 is here in Edmonton and my family lives here in
18 Edmonton.

19 Q And can you tell me what your occupation is?

20 A Yeah, I am a -- well, my title is project manager for
21 Ballad Consulting Group.

22 Q Okay, very good. What kind of work does that entail?

23 A Well, we were management consultants and work with a
24 variety of different indigenous groups and assist them
25 with their economic developments goals.

26 Q Very interesting. And what is your level of education?

27 A Bachelor's degree.

1 Q Okay. In?

2 A Hotel management.

3 Q Okay. And was that education paid for from the 1986
4 Trust?

5 A Yes, I received support from the Trust.

6 Q Okay. And you are a member of Sawridge First Nation?

7 A Yes.

8 Q And how did you become a member?

9 A Well, I am my father's son. My father was Chief of the
10 Sawridge First Nation.

11 Q And is it true that, in fact, you would become a member
12 because both of your parents were members of the
13 Sawridge First Nation?

14 A I am not sure what you mean.

15 Q You are saying that your membership comes from your
16 father being a chief and a member?

17 A M-hm.

18 Q And I am asking you if you have understood that perhaps
19 your membership comes from the fact that both of your
20 parents were members of the Sawridge First Nation?

21 A Yes, they are both members of the Sawridge First
22 Nation.

23 Q But you believe your membership comes from your father?

24 A No, I didn't say that.

25 Q Okay.

26 A I said that it came from my father's side, but I am a
27 member of the Sawridge First Nation because my mom is a

1 member and my father is a member.

2 Q Okay. And you believe that you are a beneficiary of
3 the 1985 Trust?

4 A Yes.

5 Q Okay. And you understand that the 1103 action that we
6 are talking about, the one that you have sworn an
7 Affidavit in, involves the 1985 Trust, correct?

8 A Correct.

9 Q And do you understand that the beneficiaries currently
10 of the 1985 Trust and the 1986 Trust are different?

11 A Yes.

12 Q Now you have sought an accounting of the 1986 Trust in
13 the 1103 action; is that correct?

14 A I requested an accounting of financial statements for
15 the trusts.

16 Q Right.

17 A I requested the financial statements. What I was
18 hoping to get was a budget and look at money in, money
19 out.

20 Q So I just want to concentrate on the action. I
21 understand that you made a request outside of this
22 action, correct?

23 A Yes.

24 Q Okay. And so in respect of this action you are seeking
25 an accounting not just of the '85 Trust but an
26 accounting of the '86 Trust as well?

27 A Correct.

1 Q And have you done anything to notify anyone, any of the
2 beneficiaries of the 1986 Trust, about your application
3 with respect to the 1986 Trust accounting?

4 A I am not sure what you mean.

5 Q Have you notified anyone else that you are seeking an
6 application in respect of the 1986 Trust?

7 A In regards to my Affidavit?

8 Q In regards to your -- you are making an application to
9 be a party?

10 A M-hm.

11 Q You are making an application for an accounting of the
12 '85 Trust?

13 A Yes.

14 Q You are making an application for an accounting in the
15 '86 Trust, correct?

16 A Yeah.

17 Q Okay. And I am saying have you served any of the
18 beneficiaries or notified any of the beneficiaries of
19 the 1986 Trust with respect to your application for an
20 accounting?

21 A Sorry, I am not sure what you are getting at here.

22 Q It is pretty simple. Have you notified any of the
23 beneficiaries? Do you understand what that means?

24 A Yes, yes, I understand what that means.

25 Q Have you notified any of the beneficiaries of the 1986
26 Trust of your application for an accounting of the 1986
27 Trust?

1 A Okay, so I understand that there is two trusts. Now I
2 am not a lawyer and I don't understand the legal, you
3 know, variations between the trusts. I understand that
4 the 1985 Trust was set up to benefit the beneficiaries
5 in accordance with the Indian Act, and then there was a
6 Trust which was later set up because there was going to
7 be amendments to take place.

8 Now with respect to the beneficiaries of the '85
9 Trust and the '86 Trust, I'm not sure who falls into
10 what category. So when you say beneficiaries of the
11 '86 Trust or beneficiaries of the '85 Trust, I'm not
12 sure what you are getting at, and what beneficiaries
13 would classify as those beneficiaries?

14 Q So my question was far simpler.

15 A Okay.

16 Q Have you taken any steps to notify any beneficiaries
17 that you are aware of of the 1986 Trust of your
18 application for an accounting?

19 A For an accounting, yes.

20 Q So what steps did you take to notify the beneficiaries
21 of the 1986 Trust?

22 A I have made some verbal communications to some of the
23 beneficiaries that I have requested financial
24 statements.

25 Q Okay. And that is all that you have done?

26 A Yes.

27 Q And who are those people that you made those verbal

1 communications to?

2 A Well, I have discussed that with some of my brothers
3 and I have discussed that with my mother.

4 Q Now you recently had a daughter named Aspen. Can you
5 tell me her date of birth?

6 A Yeah, she was born on July 10th.

7 Q And initially you said in your application that you
8 were representing her. Is it your understanding now
9 that the Office of the Public Guardian and Trustee is
10 representing her?

11 A From my understanding, yes.

12 Q And so will you be withdrawing your application to make
13 her a party?

14 A I am not sure what that means.

15 Q Part of your application was to represent her and make
16 her a party to this application. And now that you know
17 that she is being represented by the Office of the
18 Public Guardian and Trustee are you still pursuing that
19 part of your application?

20 A Well, honestly I am not really sure what that
21 specifically means and how that is going to affect her
22 application. So I am not sure.

23 Q So are you saying that you are still pursuing your
24 application?

25 A I'm saying I am not sure.

26 Q Okay. And is there some way to make yourself sure
27 about that answer?

1 A Yes, I would have to consult with my counsel and, you
2 know, I would have to have them inform me because I
3 don't fully understand what that means.

4 Q Okay. So will you undertake to do that for me?

5 A Sure.

6 MS. SHANNON: We will make that.

7 UNDERTAKING NO. 1:

8 RE ADVISE IF APPLICATION ON BEHALF OF
9 PATRICK TWINN'S DAUGHTER IS STILL BEING
10 PURSUED NOW THAT THE OFFICE OF PUBLIC
11 TRUSTEE AND GUARDIANSHIP IS INVOLVED.

12 Q MS. BONORA: Now it is my understanding that you
13 were married subsequent to Aspen being born; is that
14 correct?

15 A That is correct.

16 Q And you have also made an application to represent your
17 wife in this action, and I understand now that your
18 wife will be making her own application to be a party
19 to this action; is that correct?

20 A She will be swearing an Affidavit, yes.

21 Q That is not my question. My question is, you asked in
22 this application to represent her. And now I am asking
23 you, is she going to be making her own independent
24 application to become a party?

25 A That kind of translates with, you know, the same with
26 Aspen. I'm going to have to consult with my counsel
27 about that and I will have to get back to you on that.

1 Q Will you undertake to do that?

2 A I will.

3 MS. SHANNON: We will make the undertaking.

4 UNDERTAKING NO. 2:

5 RE ADVISE IF PATRICK TWINN'S WIFE WILL

6 BE MAKING HER OWN INDEPENDENT

7 APPLICATION TO BECOME A PARTY IN THE

8 ACTION.

9 Q MS. BONORA: Is your wife a member of the
10 Sawridge First Nation?

11 A Currently she is not a member of the Sawridge First
12 Nation.

13 Q Is she a status Indian?

14 A Currently she is not a status Indian.

15 Q Has she applied to become a member of the Sawridge
16 First Nation?

17 A She has not applied to be a member of the Sawridge
18 First Nation, no.

19 Q Will she have an entitlement to apply for Indian
20 status?

21 A I don't think so, but I am not sure.

22 Q Your understanding is that your daughter, Aspen, is
23 being represented by the Office of the Public Guardian
24 and Trustee, correct?

25 A My understanding is that is correct.

26 Q When did you learn of the application for advice and
27 direction to amend the beneficiary definition in the

1 1985 Trust?

2 A Well, there was a proposed variation which was filed, I
3 believe, by your office in January of this past year.

4 Q So you understood -- so the only time you became aware
5 of the application was in 2015?

6 A What I am saying is, there was a proposed variation to
7 the Trust which would alter the -- the trustees and the
8 Trust were proposing to vary the definition of
9 beneficiary status to basically band membership.

10 Q Are you aware that the action for advice and direction
11 commenced in 2011?

12 A Yes, I am.

13 Q So you were aware of the action when it commenced in
14 2011?

15 A It might not have been 2011, but I was aware prior.
16 But once I saw the proposed variation and what that
17 would actually mean, that is when I decided to take
18 action.

19 Q So is it true to say that you were aware of the action
20 around 2011?

21 A Perhaps.

22 Q By 2012 you would have been aware of the action?

23 A I don't recall.

24 Q You have been aware of the action for some time?

25 A Sure.

26 Q Have you been aware of the action long before 2015?

27 A I wouldn't say long before 2015. I would say at some

1 point maybe. I don't recall though.

2 Q And you are aware of the web site that has the
3 documents posted to it?

4 A Yes, I am.

5 Q And have you accessed that web site?

6 A I have accessed it recently in the past year, yes.

7 Q And is it true that you are a beneficiary of the 1985
8 Trust?

9 A From my understanding, yes.

10 Q And a beneficiary of the 1986 Trust?

11 A From my understanding, yes.

12 Q And is it true that if the definition in the 1985 Trust
13 is changed to members you would still be a beneficiary
14 of that Trust?

15 A Yes, that is correct. But my wife and my daughter
16 would most likely not be beneficiaries of the Trust.

17 Q Your wife and your daughter could apply to become
18 members of the Sawridge First Nation?

19 A Sure, they could in theory apply. However, the current
20 membership rules at this point are not only extremely
21 inconsistent, but to me they lack the basic principals
22 of fairness and due process. But I am not here to talk
23 about band membership. I'm here to talk about the
24 variation being proposed by the trustees.

25 Q So your --

26 A I'm here for my daughter and I'm here for my wife, and
27 I'm here for potential beneficiaries that are going to

1 be affected by this proposed variation.

2 Q So you understand when you give me answers I have the
3 opportunity to pursue those answers and certainly your
4 Affidavit speaks about band membership, correct?

5 A I think it does reference it.

6 Q Okay. So if your Affidavit speaks about band
7 membership, then you understand that I am allowed to
8 ask you questions about that. Do you understand that?

9 A Sure.

10 Q Okay. And so my question was, your daughter has the
11 right to apply to be a member, correct?

12 A Sure, she has the right to apply. Anyone has the right
13 to apply.

14 Q And your wife has the right to apply to be a member of
15 the Sawridge First Nation?

16 A They have the right to apply, yes. That doesn't mean
17 that they are going to be admitted into band membership
18 though.

19 Q And it also means they may be admitted into band
20 membership?

21 A Sure, but given what has happened I don't think that it
22 is likely that they will be admitted, which is why I
23 swore this Affidavit and I am here today.

24 Q So that you're prejudging the process?

25 A I wouldn't say that I am prejudging the process. I
26 would say that I am looking out for the best interests
27 of my family and the people that I love.

1 Q You are aware of the membership process?

2 A I have a very, very basic understanding of it. I have
3 never sat on council, I don't go to band meetings very
4 often, but I have an understanding of it, yes.

5 Q And what is your understanding of the process?

6 A Well, there is a process to apply for band membership,
7 which is quite cumbersome. And previous I believe
8 there was a membership committee which, you know, so
9 happens the current Chief was the chair of. But to my
10 knowledge the committee has been disbanded and it is
11 now, I believe, being controlled by Chief and council.

12 Q And are you aware that there is an appeal to the
13 electors after a decision by Chief and council?

14 A Sorry, what does that mean? I'm not sure.

15 Q Are you aware that if an application for membership is
16 rejected by Chief and council that the applicant may
17 apply to have an appeal in front of all of the electors
18 of the Sawridge First Nation?

19 A Yes, I am, yeah.

20 Q And are you aware that after that process if the person
21 has not been accepted as a member that they still have
22 a further appeal to the Federal Court?

23 A I did not know about the further appeal, no. But I
24 don't know how a single person could, you know, make an
25 appeal to the Federal Court. Litigation is extremely
26 expensive, as you should know.

27 Q So you are not aware of the appeal process to the

1 Federal Court?

2 A I wasn't until now.

3 Q Okay. And in respect of your interest in this Trust,
4 and the change in the beneficiary designation, you
5 don't have any difficulties with making the definition
6 more expansive?

7 A What do you mean by that?

8 Q You don't have any concern about making the definition
9 more expansive than just members of the Sawridge First
10 Nation?

11 A Well, I have an objection to the proposed variation.
12 That is why I am here.

13 Q Right. So I will just ask you the question again. My
14 question is very specific. Do you have any opposition
15 to having a beneficiary definition that is more
16 expansive than members of the Sawridge First Nation?

17 A More inclusive I would say.

18 Q So what does more inclusive mean to you?

19 A Well, as I mentioned prior, you know, the current
20 membership process is extremely inconsistent. So I
21 would like to see something that is -- that is more
22 fair, has greater due process.

23 Q So now you have moved your answer to the membership
24 process, but that wasn't my question. So I will try
25 again. Perhaps it is my question that is causing you
26 trouble?

27 A Perhaps.

1 Q My question is specifically with respect to the
2 beneficiary definition of the Trust?

3 A M-hm.

4 Q Do you understand the topic now?

5 A Yeah, I understand the topic, yeah.

6 Q So with respect to the beneficiary definition of the
7 Trust I am asking you is it acceptable to you to have a
8 definition that has a number of people beyond the
9 members of the Sawridge First Nation?

10 A Beyond the members today, yes.

11 Q In your application you are applying to become a party,
12 correct?

13 A Yup.

14 Q And you hired Borden Ladner Gervais?

15 A M-hm.

16 Q You have to say yes or no.

17 A Yes.

18 Q And can you tell me if you paid them a retainer?

19 A I did.

20 Q And what was the retainer that you paid them?

21 A \$5,000.

22 Q And you paid that personally?

23 A Yes, I did receive some support from my mom for that,
24 but.

25 Q In paragraph 3 of your Affidavit you talk about the
26 application being in relation to the definition of
27 beneficiaries and the transfer of assets. Do you see

1 that?

2 A Sorry, paragraph 3? Which one are we looking at, what
3 sentence?

4 Q I am referring to the whole of your first paragraph in
5 paragraph 3, and then 3(b)?

6 A Okay, and your question was?

7 Q You say that you are making this application in respect
8 of the application to involve the transfer of assets,
9 correct? And do you see -- perhaps if you read 4(i) as
10 well.

11 A Okay, yeah, I get it.

12 Q So I am asking you are you aware that the transfer of
13 assets is settled by court order in an application that
14 was done recently in court?

15 A I was -- well, actually I am not sure about that, no.

16 Q And so is it your intention to continue to pursue the
17 issue of the transfer of assets if you are made a party
18 to this litigation?

19 A I'm not really sure what that means.

20 Q You say in paragraph 4(i) of your Affidavit that you
21 wish to be added as a party in the advice and direction
22 application and to have my counsel participate in the
23 court proceedings relating to the definition of
24 beneficiaries contained in the 1985 Trust, and the
25 transfer of assets into the 1985 Trust brought forward
26 by the Sawridge trustees in the advice and direction
27 application.

1 Do you see that?

2 A Yes.

3 Q So this is your Affidavit, and you have said that you
4 are asking your counsel to participate in the issue
5 involving transfer of assets into the 1985 Trust?

6 A Yeah.

7 Q So do you understand that part, that you are asking
8 your counsel to participate in that issue?

9 A Yeah.

10 Q Okay. And so now I am asking you, are you continuing
11 to ask your counsel to participate in that issue if you
12 are made a party?

13 A Yes.

14 Q Okay. Is it true that your application for full
15 indemnity cost is adjourned until you are made a party?

16 MS. SHANNON: Counsel, there is a lot of legalese
17 in that question. Maybe we can break it down.

18 Q MS. BONORA: You don't understand that question?

19 A No.

20 Q Okay. Have you made an application for full indemnity
21 costs?

22 A I believe it is on my Affidavit, yes.

23 Q And do you understand what full indemnity costs are?

24 A Yeah.

25 Q What does that mean to you?

26 A That my legal costs will be covered in this matter.

27 Q And they will be covered by who?

1 A The Trust.

2 Q Okay. And are you proceeding with that application
3 before or at the same time as you are being made a
4 party?

5 A Well, I mean I need to be -- we need to be indemnified,
6 because I don't have the funds to carry this legal
7 battle on my own.

8 Q Have you been told how much the legal battle will cost?

9 A Well, I have an idea of how much lawyers bill per hour.

10 Q Have you been told how much the legal battle will cost?

11 A I have not.

12 Q Have you asked that question?

13 A No.

14 Q How do you know that you cannot afford it if you have
15 not asked that question?

16 A Because I understand how much work is involved in this.
17 I'm not a lawyer, but I understand business, and I
18 understand how much work is involved in this at a
19 certain rate. And I understand how much that will
20 equate to over the course of time. So I have an idea
21 of how much this could cost.

22 Q But you haven't asked that question of your counsel?

23 A No.

24 Q Would it be correct to say that if you proceeded with
25 this action you also could not afford to pay the costs
26 that might be awarded against you?

27 A What do you mean by that?

1 Q Do you understand that if you are unsuccessful in
2 litigation that costs may be awarded against you by the
3 court?

4 A Against me? Be more specific.

5 Q Do you know that you might be asked to pay costs in a
6 court action if you are unsuccessful?

7 A I am not, no.

8 Q You have never been told or understood that if, as a
9 party to an action that you may be obligated to pay
10 costs in an action?

11 A So are you saying that I am going to be obligated to
12 pay costs?

13 Q No, I'm saying have you ever been told that you might
14 have to pay costs in an action if you are a party?

15 A No.

16 Q And if I tell you now that you may be obligated to pay
17 costs and costs may be awarded against you, and those
18 costs can range from several thousand to several tens
19 of thousands of dollars, would you be able to pay those
20 costs?

21 A Well, most likely not, no.

22 Q Now how old were you when your father established the
23 Trust?

24 A Well, the '85 Trust or the '86 Trust?

25 Q Well, you can tell me both.

26 A Well, I was born in October of 1985, so I would have
27 been 0 in the first one, and a few months in the second

1 one.

2 Q Okay, thank you. In paragraph 9 of your Affidavit you
3 say that you are recognized as a member of the Sawridge
4 First Nation, and have been absolutely entitled as a
5 beneficiary without exception since my birth.

6 A M-hm.

7 Q Can you tell me what you mean by "absolutely entitled
8 as a beneficiary"?

9 A Well, from my understanding I would be a beneficiary of
10 both trusts given my family lineage.

11 Q And so there is no special language that you are
12 saying, or any special meaning to absolutely entitled.
13 You are just saying you are a beneficiary of the 1985
14 Trust and the 1986 Trust?

15 A No, I think you are putting words in my mouth and that
16 is not what I am saying.

17 Q So that is the purpose of the question, and you are
18 able to answer it. So what do you mean by the words
19 "absolutely entitled"?

20 A Well, I would say that I am an absolute beneficiary,
21 and that I am a beneficiary of both of these trusts.

22 Q Okay. And what does it mean "without exception"?

23 A I would say that it would mean, you know, that I am a
24 beneficiary without exception because just given my
25 family lineage. Like there can be no changes in my
26 beneficiary status.

27 Q There can be no changes to your beneficiary status in

1 either Trust; is that correct?

2 A Perhaps.

3 Q So when you say "perhaps", what do you mean by that?

4 A Well, I am not really sure of what you are asking right
5 now.

6 Q I am just asking about the words that you put in your
7 Affidavit. I didn't choose these words. You chose
8 these words.

9 A Sure.

10 Q So I am asking you about the words that you chose.

11 A Then I am not sure what you mean.

12 Q So let's go back. What do you mean by "without
13 exception"?

14 A Well, then I am not sure. I would have to consult with
15 my counsel about that.

16 Q So you will undertake to do that?

17 A I will.

18 MS. SHANNON: We will accept that undertaking.

19 UNDERTAKING NO. 3:

20 RE ADVISE WHAT IS MEANT BY THE PHRASE
21 "WITHOUT EXCEPTION" IN PARAGRAPH 9 OF
22 PATRICK TWINN'S AFFIDAVIT.

23 Q MS. BONORA: Have you reviewed the policies for
24 payments under the 1986 Trust?

25 A No.

26 Q Are you aware that your wife is entitled as your
27 dependent to receive benefits from the 1986 Trust?

1 A I am aware, but what happens if I die?

2 Q You don't get to ask me the questions.

3 A Okay.

4 Q I am just asking you the questions.

5 A Sure.

6 Q So are you aware that she is entitled to receive
7 benefits under the policies as a dependent under the
8 1986 Trust?

9 A I am aware that she is entitled to receive benefits as
10 a dependent permitting that I am alive.

11 Q So you are suggesting that if you die then she is not
12 entitled any longer?

13 A She could be, yes. And the same thing with my
14 daughter.

15 Q So she could be entitled still after you die?

16 A Perhaps. I doubt that she would, though.

17 Q So perhaps, but you doubt that she would is your
18 answer?

19 A That is what I said.

20 Q And what do you base your doubt on?

21 A Well, the trustees are proposing a variation of the
22 definition to band membership. Who controls band
23 membership right now?

24 Q So let's just go back. I was asking you very
25 specifically about the 1986 Trust.

26 A Okay.

27 Q So it is not about the Trust involving the change in

1 definition, okay?

2 A Okay. But it would be if the definition is changed to
3 band membership.

4 Q So let's talk about the 1986 Trust.

5 A Okay.

6 Q Is it your understanding that the 1986 Trust, the
7 definition of beneficiaries, is members of Sawridge
8 First Nation?

9 A The 1986 Trust?

10 Q Yes.

11 A I am not sure on that one, no.

12 Q Okay. And so you haven't investigated that?

13 A Well, I mean I am not a lawyer. I have looked at the
14 trusts, and I know that there is two trusts set up, one
15 in '85 which is to benefit beneficiaries in accordance
16 with the Indian Act, and then there was the one later
17 because there was amendments that took place. Now in
18 terms of specifics, I'm not a lawyer. I don't think
19 that I should be expected to know that kind of stuff.

20 Q Are you a beneficiary of the 1986 Trust?

21 A To my understanding, yes.

22 Q And do you know why you are a beneficiary of the 1986
23 Trust?

24 A I have an idea, yes.

25 Q And why are you a beneficiary of the 1986 Trust?

26 A Well, I'm going to have to get back to you on that one.

27 Q So you will undertake to provide me that answer?

1 A I sure will.

2 UNDERTAKING NO. 4:

3 RE ADVISE WHY PATRICK TWINN IS A
4 BENEFICIARY OF THE 1986 TRUST.

5 Q MS. BONORA: So just focusing on the 1986 Trust
6 now, okay, so not the 1985 Trust, not the Trust where
7 there is an application for advice and direction in
8 respect to the definition of beneficiary. So I'm just
9 asking you to focus on the 1986 Trust.

10 A Well, I don't get how you are trying to get me to focus
11 on the 1986 Trust when I just told you that I am not an
12 expert on the 1985 Trust or the 1986 Trust. So how can
13 you expect me to give you a full answer? You know, if
14 you are going to ask me these questions I think that I
15 would need to consult with my counsel and have a
16 thorough understanding of the 1985 and 1986 Trusts.

17 Q You are welcome to do that. And I am just going to ask
18 you the questions. If you don't know the answers and
19 want to provide them by way of undertaking, I'm happy
20 to have those answers by way of undertaking.

21 A Sure.

22 Q So in respect of the 1986 Trust you understand that
23 your wife and daughter are entitled to benefits as your
24 dependents?

25 A Okay, sure.

26 Q Is that a yes?

27 A Yes.

1 Q And you told me before that you reviewed the proposed
2 distribution scheme for the 1985 Trust?

3 A I reviewed the proposed distribution arrangement which
4 was filed in January of this past year.

5 Q Okay. And in that proposed distribution arrangement
6 your wife and daughter would still be entitled to
7 benefits as your dependents, correct?

8 A As my dependents, correct. But as I mentioned, if I
9 die then what happens?

10 Q Do you know the answer to that?

11 A No, I don't.

12 Q Have you asked the Trust administrator that question?

13 A I have not.

14 Q Have you applied for life insurance as one of the
15 benefits that is provided under the Trust?

16 A I believe I do have life insurance, but I am not sure.
17 I would have to get back to you on that.

18 Q Is it your plan to apply for membership on behalf of
19 your daughter?

20 A I would say at some point, yes, I will apply. I will
21 have her apply for band membership, yeah.

22 Q In paragraph 11 of your Affidavit you say that your
23 daughter is not a member, nor do you believe that she
24 will ever be one under the current Sawridge Band
25 leadership?

26 A M-hm.

27 Q Are you suggesting that under the current leadership

1 you believe that she would not become a member?

2 A I am saying under the current membership process and
3 rules, which are extremely inconsistent, lack the basic
4 principals of fairness and due process, it is highly
5 unlikely, that she will never be a band member.

6 Q Do you understand that, and are you suggesting that
7 that process and lacking due process is also applicable
8 to the appeal to the electors?

9 A I am not sure what you mean by that. Can you be more
10 specific?

11 Q Well, you understand that there is an appeal to the
12 electors after the Chief and council make a decision
13 about membership?

14 A Yes.

15 Q Are you suggesting that the appeal is also flawed?

16 A I am not really here to talk about band membership, and
17 I would have to look into that.

18 Q Okay. So will you undertake to answer my question
19 then?

20 A Yes.

21 Q About the electorate?

22 A Sure.

23 UNDERTAKING NO. 5:
24 RE ADVISE IF PATRICK TWINN BELIEVES THE
25 APPEAL TO THE ELECTORS AFTER THE CHIEF
26 AND COUNCIL MAKE A DECISION ABOUT
27 MEMBERSHIP IS FLAWED.

1 Q MS. BONORA: But I would suggest, Mr. Twinn,
2 that everything in your Affidavit is available for
3 questioning today, and you have put band membership
4 into your Affidavit several times. So I disagree with
5 you that you are not here to talk about membership,
6 because you have put membership in issue in your
7 Affidavit.

8 Are you aware that after the appeal to the
9 electorate that there is an appeal to the Federal
10 Court?

11 A Didn't you already ask me this question?

12 Q Yes, I just want to pursue another part of the question
13 with respect to something that you have just said.

14 A Well, as you informed me earlier, yes, I am aware.

15 Q Okay. And are you aware that issues of bias and
16 unfairness can be raised in such an appeal to the
17 Federal Court?

18 A Well, yes, I believe Canadians have rights and
19 freedoms, yes.

20 Q So I am just going to ask you the question again
21 because I don't think that your answer was an answer to
22 my question. Are you aware that the issues that you
23 have raised of bias and unfairness can be raised in an
24 appeal to the Federal Court?

25 A I am now, yes. But that can be extremely costly.

26 Q When you say you are now, are you saying you only know
27 it because of my questions?

1 A Well, you mentioned this earlier, yes.

2 Q So you didn't know that before today?

3 A That you could appeal to the Federal Court?

4 Q Yes.

5 A I did not, no.

6 Q And you are aware that your daughter, Aspen, is
7 entitled to benefits under the Trust while she is under
8 18, and for schooling until she is 25?

9 A Currently, yes, as long as I am alive.

10 Q And you told me before that you didn't know what
11 happened after you died, correct? That you haven't
12 made those inquiries?

13 A That would be correct, yes.

14 Q And so right now if we just talk about the benefits
15 that you are aware of, you are aware that your daughter
16 is entitled to benefits, correct?

17 A Currently, yes. But with this proposed variation to
18 band membership she very well might not be.

19 Q So are you suggesting that the benefits under the 1986
20 Trust -- so let's talk about the 1986 Trust.

21 A Okay, but I just told you I am not an expert in the
22 1985 or 1986 Trust, so.

23 Q So let's talk about -- you can't give me an answer and
24 then suggest that you aren't an expert. So I am
25 pursuing your answer, right?

26 A Sure.

27 Q So are you aware that your daughter is entitled to

1 benefits through you as a member of the Sawridge First
2 Nation under the 1986 Trust?

3 A As a dependent, yes.

4 Q Okay. And you have investigated those benefits that
5 she is entitled to?

6 A I have an idea, yes.

7 Q So have you done some investigation?

8 A I have done some investigation, but again, I'm not an
9 expert on the current benefits that are in place.

10 Q Okay. So in the proposed distribution scheme there was
11 an outline of all of the benefits that are provided
12 under the 1986 Trust because the proposed distribution
13 scheme was that the 1985 Trust would provide the same
14 benefits. So when you read that proposal you know that
15 you read all of the benefits that were available,
16 correct?

17 MS. SHANNON: Counsel, you are asking him to
18 interpret that court order. I'm confused with this
19 question.

20 MS. BONORA: Okay. I'm asking him what he read
21 in the proposed distribution scheme, that is all.
22 There wasn't an order about the proposed distribution
23 scheme, it was adjourned.

24 MS. SHANNON: Okay.

25 MS. BONORA: I am simply asking him about what
26 he read.

27 MS. SHANNON: Okay.

1 A Okay, well I am not sure what you mean then.

2 Q MS. BONORA: So you told me that you read the
3 proposed distribution scheme?

4 A The proposed distribution arrangement.

5 Q Okay. So you read the proposed distribution
6 arrangement?

7 A Yes.

8 Q Okay. And so when you read that proposed distribution
9 arrangement you are aware of the benefits that are
10 provided under the 1986 Trust, correct?

11 A I am aware of some of the benefits, yes.

12 Q So I am asking you what you read. So did you only read
13 part of the proposed distribution arrangement?

14 A No, I read it all, but I don't have it memorized word
15 for word.

16 Q Okay. So do you recall in the proposed distribution
17 arrangement that the benefits provided to minors was
18 discussed with respect to the 1986 Trust?

19 A I am not sure what you mean.

20 Q Do you recall in reading the proposed distribution
21 arrangement that the benefits for minors were
22 discussed?

23 A I don't recall. I don't remember what it said word for
24 word. As I mentioned I read it, I didn't study it.

25 Q Do you recall benefits being discussed at all in the
26 proposed distribution arrangement?

27 A The thing that stood out for me in the proposed

1 distribution arrangement was the variation of the
2 trusts of beneficiary status to band membership. That
3 is what stood out to me.

4 Q Okay. So I am going to ask you the question again.
5 The question is, do you recall reading anything about
6 benefits in the proposed distribution arrangement?

7 A I perhaps recall some benefits in there.

8 Q Okay. And so you are not -- you are telling me today
9 that you are not aware of the benefits that are
10 available, all of the benefits that are available to
11 your daughter or your wife from the 1986 Trust?

12 A I am aware of some of the benefits available through
13 the trusts. I don't know whether they would stem from
14 the 1985 or 1986 Trust, but I am aware of some of the
15 benefits that could potentially be available to them as
16 dependents, permitting that I am alive.

17 Q Okay. And we have already established that you don't
18 actually know what happens after you die?

19 A Sure.

20 Q Is that correct?

21 A Sure.

22 Q Is that a yes?

23 A Yes.

24 Q But what my question is, you are aware of some
25 benefits, you haven't made a full investigation of the
26 benefits available to your wife and daughter?

27 A Yeah, sure, I haven't made a full investigation at this

1 point.

2 Q Okay. And is this the first step that you have taken
3 in this litigation since you learned of the litigation?

4 A Filing my Affidavit?

5 Q Yes.

6 A I would say so, yes.

7 Q Okay. Now in paragraph 11 you say that you don't
8 consent to the variation. Are you suggesting that the
9 definition of beneficiaries from the 1985 Trust should
10 stay as it is?

11 A No, that is not what I am saying.

12 Q Okay. So what are you saying?

13 A I am saying that I am opposed to the variation of the
14 definition of beneficiary to band membership.

15 Q Okay. And so what should happen then, in your opinion,
16 in respect of the definition of beneficiary?

17 A Well, I think that there needs to be more of an
18 inclusive definition that is more consistent, better
19 due process, and is more fair to everyone, not just to
20 a select few.

21 Q So are you suggesting that the beneficiary definition
22 in the 1985 Trust should change?

23 A I think that it could probably change and could be
24 altered and reworded and perhaps then it would be a
25 little more acceptable.

26 Q And what is your proposal for the change?

27 A Well, I don't have a proposal at this point. That

1 would have to be -- I would have to look at that with
2 my counsel. I am not a lawyer. I don't think that I
3 should be expected to have a definitive answer at this
4 point. I just know that if we are going to change this
5 definition to band membership, that is going to be
6 extremely unfair, and it is going to not include a lot
7 of people who have a right to beneficiary status.

8 Q So you don't have a position now on how the beneficiary
9 definition should change?

10 A No, that is not what I am saying. I am saying that it
11 -- varying this definition to band membership is not
12 acceptable.

13 Q I understand that. That wasn't my question. My
14 question is, do you have a position now on how the
15 definition of beneficiary should change in the 1985
16 Trust?

17 A I have an idea of what that definition should look
18 like. Would I be able to give you that answer today?
19 No.

20 Q Will you be able to undertake to give me that answer?

21 A Sure, I would have to consult with my counsel about
22 that, though.

23 MS. SHANNON: We will give that upon --

24 MS. BONORA: Are you giving the undertaking?

25 MS. SHANNON: No, we will take that under
26 advisement.

27 MS. BONORA: Okay.

1 UNDERTAKING NO. 6: (UNDER ADVISEMENT)
2 RE ADVISE OF PATRICK TWINN'S POSITION ON
3 HOW THE DEFINITION OF BENEFICIARY SHOULD
4 CHANGE IN THE 1985 TRUST.

5 Q MS. BONORA: In paragraph 12 you say that your
6 brothers do not consent. Are you representing them?

7 A Well, I don't think that I am representing them, but I
8 am looking out for their best interests. I think they
9 could make their own statements if they wanted to.

10 Q You have spoken to them?

11 A About the variation, yes.

12 Q But they have not made an application to be involved?

13 A Well, I don't think so otherwise you would see an
14 Affidavit from them in front of you.

15 Q Have they made an application as far as you are aware?

16 A In terms of?

17 Q My question is really simple and I just need a yes or
18 no. Are you aware that they have made an application?

19 A I am not aware.

20 Q Okay. And are they disabled in any way and unable to
21 make any application?

22 A No, they are not disabled. They are fully capable.

23 Q Okay. When you say in paragraph 12 they don't consent
24 on behalf of their present or future spouses and issue,
25 what do you mean by "issue"?

26 A Well, I mean that they don't consent with the proposed
27 variation that is being proposed by trustees, the

1 chair, and the Trust administrator.

2 Q So are the chair and the Trust administrators party to
3 this action?

4 A Well, they are part of the Trusts, yes. The chair
5 would oversee the trustees and they are -- they should,
6 in theory, be looking out for the best interests of the
7 beneficiaries.

8 Q You think the chair and the administrator have that
9 responsibility?

10 A To look out for the best interests of the
11 beneficiaries?

12 Q Yes.

13 A Yeah, they should have that.

14 Q And are they parties to this action as far as you are
15 aware?

16 A I am not sure what you mean.

17 Q Are they a party -- you are asking to be a party. So
18 clearly you understand that concept.

19 A Yeah.

20 Q Are the chair and the administrator a party to the
21 action?

22 A I am not sure.

23 Q Can you undertake to determine that?

24 A Sure.

25 MS. SHANNON: Counsel, he just answered your
26 question. He will not undertake to provide you an
27 answer to a question that he has already answered.

1 MS. BONORA: When an answer is "I am not sure",
2 "I don't recall" or "I don't remember", I have the
3 opportunity to ask for an undertaking. If he feels
4 that he cannot give me that answer, he is welcome to
5 say I can't answer it any further.

6 MS. SHANNON: We will take that under advisement.

7 MS. BONORA: Okay.

8 UNDERTAKING NO. 7: (UNDER ADVISEMENT)
9 RE ADVISE IF PATRICK TWINN BELIEVES THE
10 CHAIR AND ADMINISTRATOR ARE A PARTY TO
11 THE ACTION.

12 Q MS. BONORA: Now we will get back to the
13 original question that I asked you which led us off to
14 that little tangent. And the question was, what do you
15 mean by "issue"?

16 A Well, I just told you. They don't consent.

17 Q No, there is a very specific question I am asking you.

18 A M-hm.

19 Q Look at paragraph 12, you use this word. What do you
20 mean by "issue"?

21 A Well, in terms of their future spouses or issues, I
22 guess I could mean anything like their children that
23 are not born yet.

24 Q In paragraph 13 you say that you are a descendant and
25 listed member of the Sawridge First Nation. What does
26 it mean to be a descendant of the Sawridge First
27 Nation?

1 A Well, it means that my family, my father was a band
2 member of the Sawridge First Nation, and my mother was
3 a listed band member.

4 Q So you are a descendant of your parents?

5 A Who are members of the Sawridge First Nation.

6 Q Are you a descendant of your parents?

7 A I would say so, yes.

8 Q And you say in paragraph 13 you are directly affected
9 by the advice and direction application being brought
10 forward involving the 1985 Trust. Do you see that?

11 A Yes.

12 Q So you will agree with me that you will be a
13 beneficiary of the Trust if the definition is amended?

14 A I would currently, yes, I would agree. However, things
15 can change.

16 Q Are you a beneficiary of the 1985 Trust currently?

17 A Currently I am a member -- I am a beneficiary of the
18 1985 Trust.

19 Q Will you be a beneficiary of the 1985 Trust if the
20 definition is amended to members?

21 A I don't know.

22 Q Are you a member of the Sawridge First Nation?

23 A I currently am, yes.

24 Q If you are a member of the Sawridge First Nation and
25 the definition is amended to members, you don't know
26 whether you will be a beneficiary?

27 A Well, under the current leadership, yes.

1 Q Do you believe -- so if the definition is changed to
2 members will you be a beneficiary of the Trust?

3 A As it stands today I would be.

4 Q Okay. In paragraph 14 you say that Chief and council
5 can revoke membership.

6 A Yeah.

7 Q What is the source of your information for that?

8 A I am not sure what you really mean there.

9 Q Where did you get the information that Chief and
10 counsel can revoke membership?

11 A Well, they have ultimate power.

12 Q You are saying that they just simply have power as
13 Chief and counsel to revoke membership?

14 A Yeah.

15 Q Okay. And are you aware of any membership being
16 revoked for any person in the Sawridge First Nation?

17 A Not to my recollection, but I believe it has happened
18 in other First Nation communities.

19 Q So your answer is you have never heard of it happening
20 at Sawridge First Nation?

21 A But I have heard of it happening in other First
22 Nations.

23 Q So can you just answer my question? Have you heard it
24 happening at Sawridge First Nation?

25 A Up to today, no.

26 Q And you believe that the absolute discretion with
27 respect to accepting, rejecting or revoking membership

1 is in Chief and council?

2 A Currently, yes.

3 Q And we talked about the appeal process?

4 A M-hm.

5 Q Are you suggesting that despite the appeal process
6 there still is absolute discretion in Chief and
7 council?

8 A What do you mean by "absolute discretion"?

9 Q I have used your language from your Affidavit.

10 A Okay, then I am not sure.

11 Q What are you not sure about?

12 A I'm not sure of your question.

13 Q Do the Chief and counsel have absolute discretion with
14 respect to accepting, rejecting and revoking
15 membership?

16 A I believe so, yes.

17 Q And you are saying that you believe that even though we
18 have talked about the appeal to the electorate and the
19 appeal to the Federal Court?

20 A That is correct.

21 Q Paragraph 15 you talk about concerns about the
22 administration of the Trust. I'm going to ask you how
23 that is relevant to your application.

24 A How is that relevant?

25 Q Yes.

26 A Well, the Trust should be looking out for the best
27 interests of the beneficiaries.

1 Q How is that relevant to your application to become a
2 party?

3 A Well, if the variation of the Trust is changed to band
4 membership it is going to have a huge impact on people
5 like my daughter.

6 Q So let me ask you the question again. You have sworn
7 that you have concerns about the administration of the
8 Trust?

9 A M-hm.

10 Q I am asking you how you think that that is relevant to
11 you being added as a party to this action.

12 A Okay, well I am not sure what you mean then.

13 Q You don't understand my question?

14 A No.

15 Q Is it you don't understand it or you are refusing to
16 answer my question?

17 A I don't understand what you are trying to get at.

18 Q How does this statement in your Affidavit have any
19 relevance to you being added as a party? It is
20 possible, Mr. Twinn, that it has no relevance.

21 A I'm sorry?

22 Q It is possible, Mr. Twinn, that it has no relevance.
23 That is a possible answer for you.

24 A I didn't say that.

25 Q I am helping you to try and understand my question and
26 to help you with the answer to that question.

27 A Okay, well I am not sure.

1 Q You don't know how it is relevant?

2 A I am not sure.

3 Q Do you know who the trustees of the Trust are at this
4 point?

5 A I do.

6 Q And when you say that you believe that there is a
7 conflict of interest between the duties of the Sawridge
8 trustees who were or are elected band officials, tell
9 me which of the trustees are band officials?

10 A Chief Roland Twinn is currently -- well, he is the
11 Chief of the Sawridge First Nation, so he is an elected
12 band official.

13 Q Right. Are there any others?

14 A Justin Twin used to be a councillor.

15 Q Right. Is he currently a councillor?

16 A No.

17 Q Okay. Are there any other elected officials who are
18 trustees?

19 A I am not sure if Bertha is still part of the elders
20 committee or not. I would have to look into that.

21 Q Will you undertake to do that?

22 A I sure will.

23 UNDERTAKING NO. 8:

24 RE ADVISE IF BERTHA IS STILL PART OF THE
25 ELDERS COMMITTEE.

26 Q MS. BONORA: So at this point other than Bertha,
27 the only elected official would be the Chief?

1 A To my knowledge, yes. But again, I would have to look
2 into that because there is committees that come and go.

3 Q Okay. So you will undertake to do that for me?

4 A Sure.

5 UNDERTAKING NO. 9:

6 RE CONFIRM THAT AT THIS POINT OTHER THAN
7 BERTHA, THE ONLY ELECTED OFFICIAL WOULD
8 BE THE CHIEF.

9 Q MS. BONORA: And are you aware that the Chief
10 has always been a trustee since the creation of the
11 Trust?

12 A I have not.

13 Q Okay. Do you know that your father was a trustee from
14 the time that he created the Trust until his death?

15 A I am aware that he was a trustee, yes.

16 Q Okay. And he was a trustee while he was the Chief?

17 A Sure.

18 Q Is that a yes?

19 A I believe so, yeah.

20 Q And are you aware that when Bertha was the Chief she
21 was also a trustee?

22 A No.

23 Q And are you aware that -- obviously you know that
24 Roland was Chief and is a trustee?

25 A I know that Roland is the Chief and I know that he is
26 currently a trustee.

27 Q Are you aware that your father appointed a number of

1 elected officials as trustees during the time that he
2 was a trustee of the 1985 and 1986 Trust?

3 A I was not, no.

4 Q When you say in the last sentence of paragraph 15, "I
5 believe this does not happen when the Chief is a
6 trustee and the majority of trustees are or were
7 elected band officials as is the case here." Do you
8 believe that statement is true?

9 A Yes, I do.

10 Q Even though you are not aware of whether -- let's deal
11 with the majority of trustees. Today, are the majority
12 of trustees elected officials?

13 A I just told you that I would have to look into that and
14 get back to you.

15 Q So you will undertake to determine if today a majority
16 of the trustees are elected band officials?

17 A I will.

18 MS. SHANNON: I thought we already had that
19 undertaking.

20 MS. BONORA: I don't think that we dealt with
21 the majority of the trustees.

22 UNDERTAKING NO. 10:

23 RE ADVISE IF CURRENTLY A MAJORITY OF THE
24 TRUSTEES ARE ELECTED BAND OFFICIALS.

25 Q MS. BONORA: You say in paragraph 15 that you
26 are aware that other First Nation Trusts prohibit
27 elected band officials, employees and agents to act as

1 trustees to avoid conflict of interest and ensure an
2 equality among the trustees. Do you see that?

3 A I do.

4 Q What other First Nations?

5 A Off the top of my head I believe Samson is one, I
6 believe Ermineskin is another one.

7 Q Are you aware that there are a number of First Nation
8 Trusts that have elected band officials as trustees?

9 A I am sure that there are.

10 Q This is taking a lot longer. I think we should take a
11 break.

12 Mr. Twinn, perhaps your counsel has already told
13 you, you are not allowed to talk to anyone about your
14 evidence during the break?

15 A I'm aware.

16 Q And then we will come back and you will still be under
17 oath.

18 (Questioning adjourned 12:00 p.m.)

19 (Questioning resumed 12:45 p.m.)

20 Q MS. BONORA: Mr. Twinn, you acknowledge that you
21 are still under oath?

22 A I do.

23 Q And did you have any discussions about your evidence
24 over the lunch hour with anyone?

25 A No.

26 Q Very good. Now in respect of drafting this Affidavit,
27 did you have any assistance in drafting this Affidavit?

1 A This -- yes, I did. This was done in part with my law
2 firm.

3 Q And did you have assistance from anyone other than your
4 law firm in drafting the Affidavit?

5 A Not to my knowledge, no.

6 Q You didn't have assistance from your mom, Catherine
7 Twinn?

8 A To my knowledge, no.

9 Q What does that mean, not to your knowledge?

10 A Well, this was done up by Nancy Golding, and she sent
11 it to me and I read over it.

12 Q You gave her the information directly and then she
13 drafted it?

14 A No. The information was provided to her.

15 Q And who provided her the information?

16 A I'm not sure.

17 MS. SHANNON: That, counsel, is privileged
18 information.

19 MS. BONORA: Your objection to that is on the
20 record.

21 MS. SHANNON: Yes.

22 Q MS. BONORA: Thanks. And you read the Affidavit
23 before you signed it?

24 A Yeah.

25 Q Okay. And in respect of this whole question around the
26 conflict of interest with respect to the trustees, when
27 you read that paragraph did you do any investigation

1 about who the elected officials were before you swore
2 the Affidavit?

3 A Well, I knew -- I know who the trustees are, and I know
4 who some of the elected officials are, yes.

5 Q But you didn't -- that was it, you just knew it, you
6 didn't do any other investigation?

7 A No.

8 Q Okay. And were you aware of a decision of the court in
9 this action in December of 2015 issued by Justice
10 Thomas?

11 A I was aware there was -- that he requested a proposal
12 from the trustees.

13 Q Okay, I'm going to ask you the question again. Were
14 you aware that there was a decision rendered by Justice
15 Thomas in December of 2015 in this action?

16 A No.

17 Q And how did you learn about a requirement to do a
18 distribution proposal?

19 A Well, I saw the distribution arrangement which was
20 filed in January, I believe.

21 Q And how did you see that?

22 A Well, it is -- I got that from my mother.

23 Q Okay. So you haven't read the decision of Justice
24 Thomas from December of 2015?

25 A I haven't read the decision, no. No, but I know that
26 he requested a proposal from the trustees.

27 Q So I don't want to talk about the proposal. I am happy

1 for you to give me your answers as you choose them, but
2 that isn't the question that I asked you.

3 A Okay.

4 Q I just asked about the decision.

5 A Okay. So can you ask me the question again, please?

6 Q Sure. So have you read that decision?

7 A No.

8 Q Have you made your counsel aware of that decision?

9 A No.

10 Q And you say in paragraph 15 that you believe a trustee
11 must represent all beneficiaries past, present, and
12 future. What do you mean by the trustees representing
13 the past beneficiaries?

14 A Well, beneficiaries who may have passed away and left
15 children.

16 Q So you are saying that the trustees have to represent
17 deceased beneficiaries?

18 A Well, their interests, yeah.

19 Q The interests of deceased beneficiaries?

20 A So in there is deceased beneficiaries, their interests,
21 yes. So if they had kids, for example.

22 Q Okay. So you are saying that that really is an issue
23 of representing -- the trustees have to represent the
24 children of deceased beneficiaries?

25 A Sorry, I'm not sure what you mean by that question.
26 Can you please rephrase it?

27 Q Well, you told me that your reference to past

1 beneficiaries was to deceased beneficiaries who might
2 have children.

3 A So that could be one example, yes.

4 Q So one example is that the deceased beneficiaries, the
5 trustees have to pay attention to the children of
6 deceased beneficiaries?

7 A That could be one example, yes.

8 Q So is there something else that you mean by past
9 beneficiaries?

10 A I am not sure.

11 Q It is your word in this Affidavit.

12 A Okay. And I am not sure.

13 Q You are not sure if you meant anything else by it?

14 A Well, I would have to really think about that, yeah.

15 Q Do you want to think about it and provide me with an
16 answer?

17 A If you are requesting that.

18 Q Yes, I am.

19 A Sure.

20 MS. SHANNON: What exactly are you requesting
21 with that undertaking?

22 MS. BONORA: I am asking him if he meant
23 anything else in respect of past beneficiaries other
24 than deceased beneficiaries.

25 MS. SHANNON: Thank you.

26 UNDERTAKING NO. 11:

27 RE ADVISE IF PATRICK TWINN MEANT

1 ANYTHING ELSE IN RESPECT OF PAST
2 BENEFICIARIES IN PARAGRAPH 15 OF HIS
3 AFFIDAVIT, OTHER THAN DECEASED
4 BENEFICIARIES.

5 Q MS. BONORA: And when you say that you believe
6 the trustee must represent all beneficiaries, not just
7 their political constituency, what do you mean by that?

8 A They need to look out for the best interests of all of
9 the beneficiaries, not just a select few.

10 Q So political constituency means a select few?

11 A Yes.

12 Q A select few of what?

13 A Of beneficiaries.

14 Q And are you suggesting that the trustees are doing that
15 now?

16 A I'm not saying that they are, and I am not saying that
17 they are not.

18 Q Well, if you are not saying that they are not, then you
19 must be saying that they are?

20 A Well, that is kind of putting words in my mouth, so.

21 Q Can you give an example of a trustee just representing
22 their political constituencies?

23 A Well, four of the trustees -- not four, but the
24 trustees are proposing to amend the definition and vary
25 the definition to band membership. So right there that
26 excludes certain beneficiaries.

27 Q And you are saying the exclusion of the beneficiaries

1 is representing their political constituency?

2 A Yes.

3 Q Okay. Have you ever been told that the December 2015
4 decision of the court suggested that membership should
5 not be an issue in this litigation?

6 A Have I been informed?

7 Q Yes.

8 A No.

9 Q Have you been informed that conflict is also a subject
10 that should not be involved in this litigation?

11 A What do you mean by conflicts?

12 Q The conflicts that you have described in --

13 A So conflicts of interest?

14 Q Yes.

15 A Okay. And the question was again?

16 Q Have you been advised that the court has determined in
17 its December 2015 decision that conflict of interest
18 should not be discussed in this litigation?

19 A No.

20 Q Did you review any of the documents filed in court or
21 filed on the web site before you swore this Affidavit?

22 A Not before I swore it, no. Afterwards.

23 Q And after you reviewed those documents did you make any
24 changes to your Affidavit?

25 A No.

26 Q Have you ever opposed the appointment of trustees for
27 the Trust?

1 A Specifically, no, I have never opposed it, no.

2 Q You have been aware of who the trustees have been over
3 time?

4 A I know who the trustees currently are. I am aware of
5 some of the trustees that have been appointed in the
6 past.

7 Q In paragraph 16 you say you don't believe appropriate
8 steps have been taken to properly ascertain all of the
9 persons who are beneficiaries of the 1985 Trust. Are
10 you aware of the steps that were taken to advertise for
11 potential beneficiaries of the 1985 Trust?

12 A No.

13 Q Are you aware of any steps taken by the trustees to
14 ascertain the beneficiaries?

15 A No.

16 Q Did you review any of the procedural orders that
17 occurred in 2011 and 2012 that dealt with
18 identification of persons who might be interested in
19 this litigation?

20 A No.

21 Q You say, "I and the other 1985 beneficiaries that I
22 know of have not been consulted by the trustees to
23 grandfather us and our issue."

24 Do you need to be grandfathered?

25 A I would not, no.

26 Q And what does it mean to "grandfather our issue"?

27 A I would say to address our issue of the proposed

1 variation.

2 Q Are you aware that the trustees made a proposal to
3 grandfather minors and that was rejected by the Office
4 of the Public Guardian and Trustee?

5 A I was aware of a list that was brought forward of some
6 individuals who would be grandfathered.

7 Q And are you aware that that was opposed by the Office
8 of the Public Guardian and Trustee?

9 A No.

10 Q And are you aware that Catherine Twinn also opposed the
11 grandfathering of minors?

12 A I was aware of that, yes.

13 Q Paragraph 16 it says you have not been asked to consent
14 to substituting the existing beneficiary definition
15 with band membership. Do you see that?

16 A Yeah.

17 Q You were aware of the litigation, correct?

18 A M-hm, yeah.

19 Q You could have participated in the litigation, correct?

20 A Sure.

21 Q And this is the first step that you have taken?

22 A This is the first step, yeah.

23 Q And has someone told you that your consent is required
24 to the variation?

25 A Yes, my mother has told me that. And I have also read
26 the Trustee Act which states that -- it says something
27 along the lines of if a variation is going to take

1 place written consent must be obtained from all
2 beneficiaries who are capable of doing so. And no one
3 has notified me or asked for my consent. And this is
4 what I am opposed to.

5 Q In paragraph 17 you say you believe that vested
6 beneficiaries are being excluded from Sawridge Band
7 membership. So tell me what a vested beneficiary is?

8 A I would say it would be like -- it could be a current
9 beneficiary such as myself, and that could directly
10 translate to someone like my daughter, Aspen.

11 Q So vested means current to you?

12 A No, vested could mean a variety of different things.

13 Q So what does that mean to you? I am asking you that
14 question. What are the variety of things that vested
15 means you to?

16 A Well, as I mentioned one of them could be people like
17 my daughter.

18 Q So vested means someone who is a child of a member? Is
19 that right?

20 A Or a beneficiary, yes.

21 Q A child of a beneficiary. That could be vested?

22 A That could be one, yes.

23 Q Okay. And anything else?

24 A Not off the top of my head, no.

25 Q So when you read this Affidavit and you signed it you
26 believed that vested meant you and your daughter?

27 A No, not just myself and my daughter. That is just one

1 example.

2 Q Well, I am asking you what you meant by vested when you
3 swore this Affidavit. So that is one example. So tell
4 me if there are any other examples.

5 A Someone like Melissa, my wife.

6 Q She would be a vested beneficiary?

7 A Well, to me she has a right to be a beneficiary.

8 Q Okay. So she is one example of a vested beneficiary?

9 A Sure.

10 Q Okay. Is there anything else?

11 A Not at this time, no.

12 Q And then if those are the vested beneficiaries who are
13 the potential beneficiaries?

14 A Those would be any sort of future beneficiaries such as
15 Aspen or Melissa, or someone like Shelby Twinn or
16 Deborah Serafinchon.

17 Q Sorry, so you told me Melissa was a vested beneficiary,
18 right?

19 A M-hm.

20 Q So is that -- so you are saying vested and potential
21 are the same?

22 A Not necessarily, no.

23 Q Okay. How are they different?

24 A I am not sure.

25 Q Well, these are your words.

26 A M-hm.

27 Q So you are saying today you don't know what those words

1 mean?

2 A No, I understand what they mean. People, you know,
3 vested beneficiaries would be beneficiaries with
4 interest.

5 Q And so Melissa is a person with an interest and your
6 daughter is a person with an interest?

7 A Well, they are potential beneficiaries. I would be a
8 vested beneficiary.

9 Q You are a vested because why?

10 A Sorry?

11 Q Why are you vested?

12 A Well, because I could be essentially excluded from band
13 membership if this proposed variation moves forward.

14 Q You could be excluded from band membership if this
15 application moves forward. Are those your words?

16 A I could -- things can change, okay. I am not a lawyer.

17 Q Okay. So let's just examine your words.

18 A Sure.

19 Q You could be excluded from membership if this
20 application moves forward?

21 A Down the road you never know what can happen.

22 Q If this application moves forward, this application,
23 you mean this 1103 action?

24 A No, my application.

25 Q If your application to be a party moves forward you
26 could be excluded from membership?

27 A Maybe, I don't know.

1 Q But is that your answer? You are saying if your
2 application for being a party moves forward you could
3 be excluded from membership?

4 A Potentially. Anything can happen.

5 Q Is that your answer, that is what I am asking you?

6 A Potentially anything can happen and that is my answer.

7 Q Your answer is that you are putting your membership at
8 risk by moving this application to be a party to this
9 forward. That is what you believe?

10 A I think my band membership could be at risk, yeah.

11 Q And in respect of, you believe that the vested and
12 potential beneficiaries are being excluded from
13 Sawridge Band membership as a result of personal
14 animosities, so you believe that these vested and
15 potential beneficiaries are being excluded from
16 Sawridge Band membership. But you told me that you are
17 a vested beneficiary. You are not being excluded from
18 band membership, correct?

19 A Not today, no.

20 Q Will you ever be excluded from band membership? You
21 might be revoked. You told me your band membership
22 might be revoked, but you will never be excluded from
23 band membership, correct?

24 A Sure.

25 Q Is that correct?

26 A I am not sure what you mean.

27 Q So you are having trouble with my question?

1 A I am having trouble with the way that you are putting
2 words in my mouth and the way that you are phrasing the
3 questions.

4 Q I am just trying to use the words that you used in your
5 Affidavit, right?

6 A Okay.

7 Q So we read the sentence from your Affidavit. I will
8 read it again to you. "Further I believe that vested
9 and potential beneficiaries are being excluded from
10 Sawridge Band membership as a result of personal
11 animosities." Correct? You said that in your
12 Affidavit?

13 A M-hm.

14 Q Then you told me that you were a vested beneficiary,
15 correct?

16 A Perhaps, yeah.

17 Q Are you changing your answer? Are you not a vested
18 beneficiary?

19 A Well, I'm not sure.

20 Q Now you aren't sure what vested means?

21 A In this context I am going to have to think about it.

22 Q You gave me answers before about vested. Are you
23 saying those answers are incorrect now?

24 A I am not sure.

25 Q Well, are they correct or are they incorrect?

26 A I'm not sure.

27 Q You swore under --

1 A Exactly, that is why I am telling you I am not sure.

2 Q So you are telling me now that the answers that you
3 gave before where you were very certain about who was
4 vested, now you are unsure of those answers?

5 A I'm going to have to consult with my counsel and get
6 back to you on that.

7 Q No, I'm asking you a question and I want an answer. It
8 is not hard. You gave me answers under oath.

9 A M-hm.

10 Q And now you are telling me that you are unsure of those
11 answers?

12 A No, I am -- I believe that I would be a vested
13 beneficiary.

14 Q Okay. So you believe that you are a vested
15 beneficiary. So now let's go back. You believe that
16 the vested -- let's just deal with vested
17 beneficiaries. "I believe that the vested
18 beneficiaries are being excluded from Sawridge Band
19 membership as a result of personal animosity."

20 Is that a correct statement? You are being
21 excluded from Sawridge Band membership as a result of
22 personal animosities?

23 A I am being excluded? I am not being excluded today.

24 Q Okay. And are there any other vested beneficiaries
25 that you are aware of that are being excluded from
26 Sawridge Band membership as a result of personal
27 animosities?

1 A Well, I know people like -- there is other people that
2 have applied to the band and have been rejected.

3 Q We are talking about vested beneficiaries, right?

4 A M-hm.

5 Q So I asked you are there any other vested
6 beneficiaries?

7 A I don't know.

8 Q Are there any other vested beneficiaries that are being
9 excluded from Sawridge Band membership?

10 A I am not sure.

11 Q So when you said this statement, "Further, I believe
12 that vested beneficiaries are being excluded from
13 Sawridge Band membership", you don't, in fact, know of
14 anyone that that is true of; is that correct?

15 A No.

16 Q It is true that you know no one who has been excluded
17 who is a vested beneficiary?

18 A Well, Shelby is being excluded.

19 Q Has she applied for band membership?

20 A No, she has -- I'm not sure if she has. I don't think
21 so.

22 Q So you are saying today that you believe that she is
23 being excluded from band membership?

24 A Well, she hasn't applied for band membership to my
25 knowledge.

26 Q All right. So is she being excluded from band
27 membership?

1 A Not at this point, then no.

2 Q So are there any other vested beneficiaries that are
3 being excluded from Sawridge Band membership?

4 A I don't know.

5 Q You don't know of any, do you?

6 A No.

7 Q And do you know of any potential beneficiaries that are
8 being excluded from band membership?

9 A That would be excluded from band membership? Well, I
10 know people like Gina McDonald and Gail McConnell have
11 applied.

12 Q And what was the results of their application?

13 A They were denied.

14 Q And you are saying they are potential beneficiaries?

15 A Yeah.

16 Q And what do you mean by a potential beneficiary?

17 A That they are -- they have a right to be a beneficiary.

18 Q So why are they a potential then?

19 A Because they are currently not a beneficiary.

20 Q So people who are not a beneficiary are applying for
21 band membership?

22 A I am not saying that, no. I'm saying people -- there is
23 people who have a right to be a beneficiary,
24 potentially are not beneficiaries.

25 Q So I am trying to understand that, because I would say
26 to you that people are either a beneficiary or not a
27 beneficiary. So when you say they are a potential

1 beneficiary I am having trouble understanding that.

2 I'm trying to understand your words in your Affidavit.

3 A Okay.

4 Q What is a potential beneficiary?

5 A A potential beneficiary would be someone who could be a
6 beneficiary but is currently not.

7 Q Okay. And your example of somebody who could be a
8 beneficiary but currently is not is who?

9 A Shelby Twinn is one.

10 Q You are suggesting that she is not a beneficiary
11 currently of the 1985 Trust?

12 A She is currently not a beneficiary, to my knowledge.

13 Q Okay. And are there other potential beneficiaries?
14 People who are not beneficiaries of the 1985 Trust as
15 far as you know?

16 A Yeah, I believe there are some.

17 Q And who did you have in mind when you drafted this
18 Affidavit?

19 A My daughter.

20 Q So you are saying that she is not a beneficiary of the
21 1985 Trust?

22 A No, she is -- I'm not saying that. I am saying that
23 she is a potential beneficiary who could be excluded
24 from band membership.

25 Q Right. So you just told me that potential
26 beneficiaries mean people who are not beneficiaries,
27 right?

1 A Yeah.

2 Q So you are saying now your daughter is not a
3 beneficiary of the 1985 Trust?

4 A No, I am saying that she is a potential beneficiary and
5 she could be excluded from band membership.

6 Q So let's just not deal with the issue of she could
7 potentially be excluded from band membership. I just
8 want to understand what you understand about your
9 daughter, right?

10 A Okay.

11 Q So let's agree, you agree that potential beneficiaries
12 are people who are not beneficiaries of the 1985 Trust?

13 A Who are not beneficiaries, yeah.

14 Q And so you are telling me right now that your daughter
15 is not a beneficiary of the 1985 Trust?

16 A I am not saying that, no. I don't know which category
17 she would fall in. Again, I'm not a lawyer. I don't
18 know the ins and outs of the Indian Act, or I don't
19 have an in-depth knowledge of the 1985 Trust or the
20 1986 Trust.

21 Q In paragraph 11 of your Affidavit you say, "My newborn
22 daughter, Aspen Saya Twinn, is the youngest beneficiary
23 of the 1985 Trust." Are you changing your answer about
24 that?

25 A No. It is Aspen Saya.

26 Q So in paragraph 11 you told me she is the youngest
27 beneficiary. Now when we are talking about paragraph

1 17 you are saying that you don't know if she is a
2 beneficiary?

3 A No, I am not saying that. I am saying she is not a
4 band member.

5 Q So she is a beneficiary?

6 A Sure, yes.

7 Q Okay. So when we go back to potential beneficiaries
8 you told me are people who are not beneficiaries, that
9 doesn't include your daughter, correct?

10 A Sure.

11 Q Correct?

12 A Correct.

13 Q Yes?

14 A Yes.

15 Q And so then now let's go back to who are the potential
16 beneficiaries.

17 A I am not sure.

18 Q You don't know what you meant when you swore this
19 Affidavit, when you wrote potential beneficiaries?

20 A I am not sure.

21 Q Do you know what you wrote and what you meant by
22 potential beneficiaries when you swore this Affidavit?

23 A Yes, I had an idea.

24 Q And what was it?

25 A Potential beneficiaries are being excluded from band
26 membership.

27 Q No, I understand that you want me to go to the rest of

1 the sentence, but I just want to focus on those two
2 words because these are your words and I want to
3 understand what you mean by potential beneficiaries.
4 That is my question to you. So who do you mean by
5 potential beneficiaries?

6 A Well, I am not sure.

7 Q So you didn't understand these words when you swore
8 your Affidavit?

9 A Sure.

10 Q Is that correct? You did not understand those words?

11 A Not fully, no.

12 Q So then we can't really understand who is being
13 excluded from Sawridge Band membership as a result of
14 personal animosities, can we, since you don't know who
15 potential beneficiaries are?

16 A I am not sure what you mean.

17 Q Okay. Well, now we have determined that you don't know
18 who potential beneficiaries are, correct?

19 A Okay.

20 Q And, therefore, when you say potential beneficiaries
21 are being excluded from Sawridge Band membership as a
22 result of personal animosities, you don't know who the
23 potential beneficiaries are, you certainly can not say
24 that the potential beneficiaries are being excluded,
25 can you?

26 A They would be excluded if this variation moves forward,
27 yes.

1 Q Who are they?

2 A Well, my daughter is currently not a band member. So
3 if this variation changes to band membership she may
4 never be a beneficiary.

5 Q Okay, let's go back to potential beneficiaries. Is
6 your daughter a potential beneficiary?

7 MS. SHANNON: Counsel, I think we have asked the
8 same question now a number of times and he has answered
9 it.

10 MS. BONORA: He has not answered the question.
11 So you are welcome to object and we can go to court
12 over it, but he is now trying to get away from the fact
13 that he has sworn to something that just simply doesn't
14 exist and isn't true. And I am going to continue to
15 pursue it, either now or at a further application, so.

16 MS. SHANNON: My objection can stand on the
17 record then.

18 MS. BONORA: So you are saying no more questions
19 on this potential beneficiary issue?

20 MS. SHANNON: I think you have asked the question
21 and he has answered the question.

22 MS. BONORA: I don't think he has at all.

23 MS. SHANNON: The transcript will speak for
24 itself.

25 MS. BONORA: Yes, it certainly will. We will
26 move on.

27 Q MS. BONORA: And so you say, "and others are

1 being accepted based on their personal relationships
2 with some of the Sawridge trustees." Who are "and
3 others"? Is that referring to vested and potential
4 beneficiaries?

5 A Well, others that are being accepted would be band
6 members that have been admitted into band membership.

7 Q Sorry, so you are saying when you say others there, you
8 are not referring back to vested and potential
9 beneficiaries. You are just saying that there is
10 people out there?

11 A I am not sure.

12 Q This is your Affidavit?

13 A M-hm.

14 Q So when you swore this Affidavit and you read these
15 words, you didn't know what they meant and who they
16 were referring to?

17 A No, I knew what they meant but I feel like, you know,
18 you have put words into my mouth and now I am really
19 confused.

20 Q Okay. Well, I'm not putting any words in your mouth,
21 although that is exactly what cross-examination is
22 about, but let me ask you this. I'm asking you the
23 very simple question about who you meant by others?

24 My first question was, is others a reference to
25 these vested and potential beneficiaries? Is it?

26 A I am not sure.

27 Q So this is your Affidavit, right? So the question

1 really should be answered yes or no because it is your
2 Affidavit. I am not finding something outside of this
3 Affidavit. I am asking you about your Affidavit. What
4 you mean by others, does it refer to vested and
5 potential beneficiaries?

6 A Can you please rephrase that question and, you know,
7 make it easy for me to understand, because I find that
8 you are being very condescending and disrespectful.

9 Q I don't intend to be condescending and disrespectful.

10 A Well, you are.

11 Q All right, Mr. Twinn. I'm just trying to get you to
12 answer the question. And I think that you are being
13 very evasive in the answers. So I will ask you the
14 question again as simply as I can.

15 A Okay.

16 Q Let's just move on. I'm asking you about the words
17 "and others" in paragraph 17 of your Affidavit. These
18 are your words. I am asking you what you mean by them.

19 My first question is, when you say "and that
20 others", are you referring to the first part of your
21 sentence that says these are vested and potential
22 beneficiaries?

23 A Yes.

24 Q We will leave it at that. And you then know of people
25 who have been accepted based on their personal
26 relationships with the Sawridge trustees?

27 A Into -- as a beneficiary?

1 Q Well, your sentence says they have been accepted into
2 band membership.

3 A Yeah.

4 Q Based on their personal relationships with the Sawridge
5 trustees?

6 A Yeah.

7 Q And so are you suggesting that personal relationships
8 with the Sawridge trustees allowed them membership into
9 the band?

10 A Well, some of -- there is elected officials that sit on
11 the Board of Trustees.

12 Q So is it their relationship with the trustees that gets
13 them into membership?

14 A Well, when you have elected officials who sit on the
15 Board of Trustees, yes.

16 Q So is it their relationship with the elected official
17 or their relationship with the trustee?

18 A It would be with the elected official.

19 Q In fact when you say it is based on their personal
20 relationship with Sawridge trustees, you actually meant
21 with elected officials?

22 A Well, there is elected officials that sit on the Board
23 of Trustees.

24 Q Right. But we just determined that it is the
25 relationship with the elected official that gets them,
26 you say, into band membership?

27 A Yes.

1 Q Okay. So it is not their relationship with the
2 trustees. Do you understand the difference?

3 A I do, yeah.

4 Q Okay.

5 A But we have elected officials that sit on the Board of
6 Trustees.

7 Q I will leave it at that. Mr. Twinn, did you receive a
8 letter from the Trust in 2011 notifying you of the
9 court action?

10 A No.

11 Q And giving you an opportunity to file an Affidavit?

12 A No.

13 Q Can you undertake to look through your records and see
14 if you, in fact, got a letter in 2011?

15 A Sure.

16 MS. SHANNON: We will take that under advisement.

17 MS. BONORA: Okay. Is there some reason that
18 determining when he received notice of the application
19 would be something that isn't relevant?

20 MS. SHANNON: I don't think that that was the
21 question that you asked. You asked if he received the
22 letter and he responded to you no. And then you said
23 can you go back and look. He already gave you an
24 answer no, he hasn't. So we will take it under
25 advisement.

26 MS. BONORA: Okay.

27 UNDERTAKING NO. 12: (UNDER ADVISEMENT)

1 RE REVIEW RECORDS AND ADVISE IF PATRICK
2 TWINN RECEIVED A LETTER FROM THE TRUST
3 IN 2011 NOTIFYING HIM OF A COURT ACTION.

4 Q MS. BONORA: In respect of your request for an
5 accounting, you understand that Mr. Bujold has advised
6 that an accounting will, in fact, be provided at some
7 time in the future. Do you understand that?

8 A Well, he denied my request.

9 Q Did he outright deny your request?

10 A I would have to double-check the email, but I believe
11 so.

12 Q Well, I think the email is attached to your Affidavit.

13 A Okay, great. So he says "Patrick, unfortunately at
14 this time we are unable to address your request."

15 Q Right. So do you believe that that is an outright
16 denial of your request?

17 A Well, he says at this time.

18 Q Right.

19 A But it was still denied.

20 Q At this time?

21 A Yeah.

22 Q Okay. Do you believe that you will get an accounting
23 in the future?

24 A I do not believe that I will get one, no.

25 Q And that is based on the email provided to you by
26 Mr. Bujold?

27 A Correct.

1 Q In respect of your application for full
2 indemnification, will you produce to me all of your
3 financial statements, including your employment income,
4 your assets and their values, and supporting documents
5 in respect of that?

6 MS. SHANNON: We can undertake to provide
7 financial information.

8 MS. BONORA: Okay.

9 UNDERTAKING NO. 13:
10 RE PRODUCE ALL FINANCIAL STATEMENTS,
11 INCLUDING EMPLOYMENT INCOME, ASSETS AND
12 THEIR VALUES, AND SUPPORTING DOCUMENTS
13 IN RESPECT OF THE APPLICATION FOR FULL
14 INDEMNIFICATION.

15 Q MS. BONORA: When you say in paragraph 27 that
16 "I represent the interests of my partner and my infant
17 daughter", you will agree with me that, in fact, you
18 are not going to represent those interests, correct?

19 A Well, the public trustee is handling my daughter, yes.

20 Q And that your wife is going to file her own Affidavit
21 and represent her own interest, correct?

22 A Correct.

23 Q And thus they will be represented in this matter,
24 rather than saying that are currently not represented
25 in this matter, right? So they will be represented,
26 correct?

27 A Correct.

1 Q Okay. And then you say, "These interests I represent
2 are of broader public import and I do not believe that
3 they have been previously determined."

4 So if your daughter and wife are going to be
5 represented then you don't have any interests that are
6 of broader public import, correct?

7 A I didn't say that, no.

8 Q So what are the interests that "I represent are of
9 broader public import" in respect of that sentence in
10 paragraph 27?

11 A Okay. Well, I know that there is other beneficiaries
12 who do not support this proposed variation, so they
13 would be some.

14 Q So you are representing other beneficiaries that don't
15 support this application?

16 A I am not officially representing them, but I am -- I
17 have heard from them that they don't support this.

18 Q So let's just go back to the words in your Affidavit.

19 A Okay.

20 Q It says, "The interests I represent are of broader
21 public import."

22 So what I am asking you are, what are the interests
23 that you represent?

24 A Okay, well I am looking out for the interests of all of
25 the beneficiaries.

26 Q You are representing the interests of all the
27 beneficiaries of the 1985 Trust?

1 A Sure, yeah.

2 Q You have spoken to those beneficiaries and they have
3 asked you to represent their interest?

4 A I haven't spoken to every single beneficiary, no.

5 Q Which beneficiary have you spoken to who you are
6 representing their interest?

7 A Well, I have spoken with my three brothers.

8 Q And are you suggesting that you are representing their
9 interests?

10 A I would think so, yes.

11 Q And are they -- I think we talked before that they are
12 not disabled. So why do you have to represent their
13 interest?

14 A Because this is a big undertaking. I don't think that
15 perhaps at this time they want to get involved in this.

16 Q So they don't want to get involved, but you are
17 representing them?

18 A M-hm.

19 Q They have told you to represent them?

20 A No, they haven't officially told me to represent them,
21 but they have told me that they don't support this
22 proposed variation.

23 Q So when we talk about that, then, the interests that
24 you represent that are of broader public import are
25 your brothers?

26 A Yes.

27 Q You told me before that you paid a retainer of \$5,000?

1 A M-hm.

2 Q Have you paid any other bills to Borden Ladner Gervais
3 in this action?

4 A Not at this point, no.

5 Q I am going to take a break and then I could be done.

6 MS. SHANNON: Okay.

7 (Questioning adjourned.)

8 (Questioning resumed.)

9 MS. BONORA: Subject to anything arising from
10 the undertakings, or the objections, or the things
11 taken under advisement, we are concluding our
12 questioning.

13 And we will put on the record that we are opposing
14 questions from Ms. Osualdini in respect of the fact
15 that these would be questions from Patrick's mother to
16 him.

17 MS. OSUALDINI QUESTIONS THE WITNESS:

18 Q MS. OSUALDINI: Patrick, I'm showing you a letter
19 dated January 4th, 2010. Have you ever seen that
20 letter before?

21 A Yeah, I have seen this before.

22 MS. BONORA: Can I look at the letter?

23 MS. SHANNON: I would like to look at it as well.

24 MS. OSUALDINI: This is the attachment to it.

25 MS. SHANNON: Can we get copies of that?

26 MS. OSUALDINI: Of course.

27 Q MS. OSUALDINI: So you have seen that letter

1 before?

2 A I have definitely seen it before, yeah.

3 Q And how did you receive a copy of it?

4 A I think I got it by mail.

5 Q From who?

6 A From Paul Bujold.

7 Q I note in the letter it refers to --

8 MS. BONORA: Sorry, what is on the back of that
9 letter?

10 MS. OSUALDINI: It is the newspaper notice.

11 Q MS. OSUALDINI: The letter references that the
12 eligibility process is expected to take some months.
13 Information concerning progress on this issue will be
14 available on the web site, through regular mailouts to
15 potential applicants, and through this office.

16 Did you ever receive any further mailouts on this?

17 A Not to my -- not to my recollection, no.

18 Q Were you ever contacted by the Trust administrator to
19 discuss the matter any further?

20 A No.

21 MS. OSUALDINI: Those are all of my questions. And
22 we will enter this as an exhibit unless you have any
23 objections.

24 MS. BONORA: Sure.

25 EXHIBIT NO. 1:

26 LETTER DATED JANUARY 4, 2010 FROM MR.
27 BUJOLD TO THE APPLICANT.

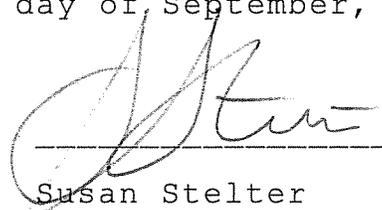
(Questioning adjourned 1:50 p.m.)

PROCEEDINGS ADJOURNED
SUBJECT TO UNDERTAKINGS

Certificate of Transcript

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed to the best of my skill and ability.

Dated at the City of Edmonton, Province of Alberta, this 23rd day of September, 2016.



Susan Stelter
Court Reporter

1 EXHIBITS

2 EXHIBIT NO. 1: 75
 3 LETTER DATED JANUARY 4, 2010 FROM MR. BUJOLD
 4 TO THE APPLICANT.

5 UNDERTAKINGS

6 UNDERTAKING NO. 1: 8
 7 RE ADVISE IF APPLICATION ON BEHALF OF
 8 PATRICK TWINN'S DAUGHTER IS STILL BEING
 9 PURSUED NOW THAT THE OFFICE OF PUBLIC
 10 TRUSTEE AND GUARDIANSHIP IS INVOLVED.

11 UNDERTAKING NO. 2: 9
 12 RE ADVISE IF PATRICK TWINN'S WIFE WILL BE
 13 MAKING HER OWN INDEPENDENT APPLICATION TO
 14 BECOME A PARTY IN THE ACTION.

15 UNDERTAKING NO. 3: 21
 16 RE ADVISE WHAT IS MEANT BY THE PHRASE
 17 "WITHOUT EXCEPTION" IN PARAGRAPH 9 OF
 18 PATRICK TWINN'S AFFIDAVIT.

19 UNDERTAKING NO. 4: 24
 20 RE ADVISE WHY PATRICK TWINN IS A BENEFICIARY
 21 OF THE 1986 TRUST.

22 UNDERTAKING NO. 5: 26
 23 RE ADVISE IF PATRICK TWINN BELIEVES THE
 24 APPEAL TO THE ELECTORS AFTER THE CHIEF AND
 25 COUNCIL MAKE A DECISION ABOUT MEMBERSHIP IS
 26 FLAWED.

27 UNDERTAKING NO. 6: (UNDER ADVISEMENT) 34
 RE ADVISE OF PATRICK TWINN'S POSITION ON HOW
 THE DEFINITION OF BENEFICIARY SHOULD CHANGE
 IN THE 1985 TRUST.

UNDERTAKING NO. 7: (UNDER ADVISEMENT) 36
 RE ADVISE IF PATRICK TWINN BELIEVES THE
 CHAIR AND ADMINISTRATOR ARE A PARTY TO THE
 ACTION.

UNDERTAKING NO. 8: 41
 RE ADVISE IF BERTHA IS STILL PART OF THE
 ELDERS COMMITTEE.

UNDERTAKING NO. 9: 42
 RE CONFIRM THAT AT THIS POINT OTHER THAN
 BERTHA, THE ONLY ELECTED OFFICIAL WOULD BE
 THE CHIEF.

1	UNDERTAKING NO. 10:	43
2	RE ADVISE IF CURRENTLY A MAJORITY OF THE TRUSTEES ARE ELECTED BAND OFFICIALS.	
3	UNDERTAKING NO. 11:	48
4	RE ADVISE IF PATRICK TWINN MEANT ANYTHING ELSE IN RESPECT OF PAST BENEFICIARIES IN PARAGRAPH 15 OF HIS AFFIDAVIT, OTHER THAN DECEASED BENEFICIARIES.	
5		
6	UNDERTAKING NO. 12: (UNDER ADVISEMENT)	69
7	RE REVIEW RECORDS AND ADVISE IF PATRICK TWINN RECEIVED A LETTER FROM THE TRUST IN 2011 NOTIFYING HIM OF A COURT ACTION.	
8		
9	UNDERTAKING NO. 13:	71
10	RE PRODUCE ALL FINANCIAL STATEMENTS, INCLUDING EMPLOYMENT INCOME, ASSETS AND THEIR VALUES, AND SUPPORTING DOCUMENTS IN RESPECT OF THE APPLICATION FOR FULL INDEMNIFICATION.	
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