

COURT FILE NO. 1103 14112

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON



IN THE MATTER OF THE TRUSTEE ACT, R.S.A. 2000,
C. T-8, AS AMENDED, and

IN THE MATTER OF THE SAWRIDGE BAND INTER
VIVOS SETTLEMENT CREATED BY CHIEF WALTER
PATRICK TWINN, OF THE SAWRIDGE INDIAN BAND,
NO. 19, now known as SAWRIDGE FIRST NATION, ON
APRIL 15, 1985

APPLICANT **ROLAND TWINN, EVERETT JUSTIN TWIN, MARGARET WARD, TRACEY
SCARLETT and DAVID MAJESKI, as Trustees for the 1985 Trust**

RESPONDENTS **THE OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE and CATHERINE TWINN**

DOCUMENT **WRITTEN BRIEF OF THE INTERVENOR, SHELBY TWINN**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
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DOCUMENT

Shelby Twinn
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PART 1 INTRODUCTION

1. I am self-represented, unable to afford legal counsel.
2. I am not a lawyer and therefore may not appreciate the legal nuances recently raised by the Court about the effect of the August 24, 2016 Consent Order.
3. I was present in Court August 24, 2016, represented by our lawyer, Nancy Golding, when Justice Thomas refused to sign a Consent Order giving Ms. Golding procedural notice pending our application. Linda Maj was there for the Minister of Aboriginal Affairs and Northern Development and Ms. Wanke was there for Maurice Stoney. Ms. Wanke was told to sit down and not speak as she was not a party. Ed Molstad represented the Sawridge First Nation (SFN), a non-party, and spoke first. Justice Thomas invited Ed Molstad to comment on my lawyer's Consent Order, agreed to by all counsel for the parties. I was present when the parties, and non-parties, approved the Consent Order which Justice Thomas signed. I am not producing the Consent Order as I believe others will.
4. I understood that once an Order is agreed to by all the parties, it is final. Yet now, the SFN who had full participation in relation to the Consent Order, is challenging the effect of the Consent Order, saying assets from the 1982 Trust were never transferred to the 1985 Trust and if they were, it can only benefit members whose names are on the SFN administered Membership List ("List").
5. I read the documents the Trustees filed in support of the Consent Order and understood that the Consent Order was confirming that all of the transferred assets would belong to the 1985 Trust and would be there for the benefit of the 1985 Trust beneficiaries.
6. I understand that the Trustees volunteered and filed on September 13, 2019 an application to address the issue raised by the Court, adding 2 issues not raised by the Court – namely

the sufficiency of service and the ability of the Trustees to transfer the 1985 assets to the 1986 Trust.

7. I understand the Trustees cannot now argue against the meaning and consequences that flow from the Consent Order which they advocated for. My concern is that they will rely on the SFN to argue what they cannot. The Trustees have made it no secret that they want to convert the assets of the 1985 Trust for the benefit of only SFN members. While the Trustees now say they will consider grandfathering, they are unwilling to officially state that they will protect the interest of all current and future beneficiaries. Based on the steps taken by the Trustees, they are not consistent with wanting to protect beneficiary interests.
8. I have read the Trustees Brief and I am shocked by its silence on the key issue raised by the Court whether the transfer of assets to the 1985 Trust was to benefit the 1985 Trust beneficiaries or the 1982 Trust beneficiaries. From my perspective, the Trustees silence — particularly in the face of the SFN submissions - is more evidence that Trustees are not protecting my interests and the interests of other 1985 Trust beneficiaries.
9. The Consent Order is more than three years old. We have all acted on it. It is final. It was never appealed. Everyone understood what it meant. The Trustees had access to the records controlled by the SFN and identified the Asset Transfer issue in August, 2011 as one of two issues to be resolved.
10. At the August 24, 2016 hearing, I heard that the Asset Transfer issue was “behind us”. In oral submissions to the Court, counsel for the Trustees said:

“Sir, you’ll recall that in this application, there were basically two issues. One was the beneficiary designation and the second was to confirm that the transfer of assets from the 1982 Trust to the 1985 Trust were — was appropriate, and that we’ve put that issue behind us. And through the work of counsel we’ve been able to reach agreement on the issue of the transfer of assets. I believe, Sir, you

received a brief from us and a copy of the consent order.” Page 3, lines 21 – 25, August 24, 2016 Transcript.

11. Justice Thomas replied:

“I did. And thank you very much for the brief, because it makes it pretty clear – well, what the basis for it is, and I’m certainly satisfied that the consent order is appropriate and properly based in law.”

Page 3, lines 29-35, August 24, 2016 Transcript

12. I understood that the Consent Order meant that the only Trust to deal with was the 1985 Trust, not the 1982 Trust, and that the 1985 Trust held all the assets for our benefit, the 1985 Beneficiaries, regardless of whether our names had been added to the List by the SFN Chief and Council. Once the Trustees completed their litigation on the definition, and assuming the Court does not vary the definition to SFN membership, we would finally begin to access benefits from the 1985 Trust, on par with SFN members who have been enjoying benefits from the 1986 Trust for some 10 years now. They have not had to endure protracted litigation or see millions of dollars of their Trust funds depleted on litigation.
13. I’ve applied to Northern Lakes College in Slave Lake and will start my online courses January, 2020, with full time classes scheduled to start September, 2020. I require support to achieve my educational goals. I live a good, clean life, volunteering and helping others less fortunate. I want to contribute. I don’t want a hand out. I want a hand up .I am aware of the type and level of educational funding Paul Bujold the Trust Administrator has given to some SFN members. My grandfather established the 1985 Trust to help me and others achieve our education and life goals. My father’s addiction disconnected him from relationships, including a relationship with me, rendering him unable to support me.

14. If the Consent Order fails, the SFN wants to disentitle the 1985 Trust beneficiaries from benefiting from the 1985 Trust property, by arguing only SFN members can benefit. This outcome is exactly what the SFN and the Trustees want – a small beneficiary pool limited to 45 SFN members whose beneficiary status is revocable at the whim of the SFN.
15. The SFN and the Trustees had every opportunity to challenge the Consent Order. They did not have to consent or support it. Their eyes were wide open. They had full access to documents and trust indemnified legal advice, unlike me.
16. I've experienced the 2011 process as a continuing attack on my status and interests.
17. The Trustees have spent large amounts of Trust money on their lawyers and the SFN lawyers opposing beneficiaries and potential beneficiaries and seeking punitive costs against us to silence us and intimidate others. The Trustees raise concerns about financially burdening the 1985 Trust when it involves us, not when they are in pursuit of the end goals they share with the SFN.
18. I've witnessed the deferential treatment accorded the SFN while individual beneficiaries like myself were made to feel unwelcome and fearful. Solicitor client costs were awarded against me because I knew and sought to defend my rights as an indigenous woman who is a beneficiary. Patrick Twinn and I had to appeal the decision against us. I lived in fear of bankruptcy. That said, I was very appreciative of the kindness recently shown to me by the Court at my application to become an intervenor. This is a very appreciated change.
19. I listened to the submissions of the SFN that the trust monies came from the capital and revenue accounts maintained by the Government and that they can only be used to benefit band members. I am not certain that this is true.
20. SFN practices contradict this suggestion. For example:

- a. Chief Roland Twinn's mother, who is not a SFN member and had enfranchised from the SFN taking a very large per capita payment, resides in a Band owned home on the SFN Reserve. The SFN pays all maintenance, repairs and utilities with access to yard services.
- b. The 1986 Trust provides benefits to non-SFN members who qualify as family members to 1986 Trust beneficiaries.
- e. At one time, my grandfather provided free Satellite TV to all of Slave Lake who were not SFN members.
- f. In the video, One for All, a Tribute to my grandfather Walter Patrick Twinn, Ron Ewoniak from Deloitte details the financing of the Slave Lake Sawridge Hotel:

Hotel financing is very, very difficult for anybody, but being the Native group, and that was their first venture, was – it was basically impossible. So the only way that they could fund the hotel was to get some financing and grant money from another government agency called DREE, which is Department of Regional Economic Expansion. It's a federal government agency. And after many, many months of negotiations, they agreed to give a certain amount of money in grant and a certain amount of loan money to the Sawridge Group. And even after they agreed to give the money, they still wouldn't trust Walter and the Sawridge Group. They hold money, and in this case, it was over a million bucks, which was the cost of the hotel. Walter nor anybody in the Sawridge Group could sign the cheques. The department – or DREE – gave the money in effect to me to write the cheques. They wouldn't trust Walter to write the cheques.

- 21. This same video details Sigmond Sowada's comments about the satellite TV for everyone in Slave Lake at SFN expense.

REMEDY SOUGHT

22. I respectfully request an Order:

- a) Confirming that the meaning and effect of the Consent Order confirms that the assets transferred to the 1985 Trust are for the 1985 Trust beneficiaries;
- b) Declaring that the service regarding the Asset Transfer application was proper and reject the Trustees request for direction regarding the transfer of assets from the 1985 Trust to the 1986 Trust;
- c) Declaring that the Trustees failed to meaningfully defend the interests of the 1985 Trust beneficiaries on these matters.

ALL OF WHICH IS RESPECTFULLY SUBMITTED at the City of Edmonton, in the Province of Alberta, this 15th day of November, 2019.

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Shelby Twinn
Self-Represented