

Clerk's Stamp:



COURT FILE NUMBER: 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 (the "1985
Sawridge Trust")

APPLICANTS ROLAND TWINN, MARGARET WARD, TRACEY SCARLETT,
EVERETT JUSTIN TWIN AND DAVID MAJESKI as Trustees for the
1985 Sawridge Trust;

DOCUMENT **AFFIDAVIT OF ROMAN BOMBAK**

ADDRESS FOR SERVICES
AND CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, AB T8H 2A3

Attn: **Janet L. Hutchison**

Telephone: (780) 417-7871
Fax: (780) 417-7872
File: 51433 JLH

Field Law
2500 - 10175 101 ST NW
Edmonton, AB T5J 0H3

Attn: **P. Jonathan Faulds, Q.C.**

Telephone: (780) 423-7625
Fax: (780) 428-9329
File: 551860-8 JLH

AFFIDAVIT OF ROMAN BOMAK

Sworn December 19, 2019

I, ROMAN BOMBAK, of the City of Edmonton, in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am the Manager of Information and Legal Services in the Office of the Public Trustee.
2. Unless otherwise stated, my Affidavit is based on information I have obtained from a review of the attached exhibits, the information on the Sawridge Trusts Court Documents website or my personal knowledge of the file. In all cases, I verily believe the same to be true.
3. The OPGT's first questioning of Paul Bujold was held May 27 and 28, 2014. Paul Bujold's Answers to Undertakings were received December 1, 2014. A true copy of the letter serving the Answers to Undertakings is attached to my Affidavit as **Exhibit "A"**. Paul Bujold's Affidavit of Records was received on November 3, 2015. A true copy of the letter serving the Affidavit of Records is attached to my Affidavit as **Exhibit "B"**.
4. The OPGT understood from the September 12, 2011 Affidavit of Paul Bujold that the Order sought by the Sawridge Trustees regarding the transfer of assets from the 1982 Sawridge Band Trust (the 1982 Trust) to the 1985 Sawridge Inter Vivos Settlement (the 1985 Trust) was "to declare that the asset transfer was proper and that the assets in the 1985 Trust are held in trust for the beneficiaries of the 1985 Trust". The OPGT has proceeded, and continues to proceed, on that understanding throughout these Advice and Direction proceedings, including in consenting to the August 24, 2016 Asset Transfer Order ("ATO").
5. On February 1, 2016 the OPGT filed a 5.13 Application seeking document production from the Sawridge First Nation ("SFN") in relation to matters relevant to the settlement of the assets into the 1985 Trust ("the Settlement Application), including the assets transferred from the 1982 Trust. A true copy of the Settlement Application is attached to my Affidavit as **Exhibit "C"**. As indicated in that application, the OPGT had not concluded its questioning of Paul Bujold on asset documentation in February 2016. The OPGT advised the parties it would not do so until the Settlement Application was determined. A true copy of Hutchison Law's June 17, 2016 correspondence in that regard is attached to my Affidavit as **Exhibit "D"**.

6. The SFN responded to the Settlement Application by way of correspondence dated March 10, 2016, a true copy of which is attached to my Affidavit as **Exhibit "E"**. The Settlement Application sought production from SFN in relation to 10 separate categories of documents. The SFN advised it considered 9 of the 10 categories to be irrelevant to the Trustees' application for advice and direction. The SFN advised only one category of documents had actually been searched for. The submissions filed by the SFN on March 15, 2016 reflected a similar position.
7. The Office of the Public Trustee and Guardian was still pursuing production of information relevant to the settlement of assets into the 1985 Trust and accounting of said assets at the time the Sawridge Trustees proposed the form of ATO.
8. The Sawridge Trustees began discussions on the proposal to deal with the asset transfer issue by consent in or about May 2016. Counsel for SFN was involved in those discussions from the outset. The OPGT understood the SFN not only had no objections to the form of order ultimately agreed to by the parties but vigorously supported it. This understanding was confirmed by the correspondence attached as Exhibits "E", "F" and "G" in the Questioning of Darcy Twin and SFN's oral submissions to the Court on August 24, 2016.
9. The OPGT's understanding of the SFN's full support of, and agreement to, the proposed form of order ultimately agreed to by the Parties was reinforced by:
 - i) SFN counsel being included in the correspondence between the parties as they negotiated the terms of the ATO;
 - ii) Being directly served with the Trustees' August 11, 2016 ATO Application to which the draft ATO was attached;
 - iii) Being provided with the draft submissions by the Trustees in support of the ATO;
 - iv) Attending in Court on August 24, 2016 and raising no concerns about the ATO; and
 - v) Being directly served with the filed order.
10. Attached to my Affidavit as **Exhibit "F"** are 11 items of correspondence sent by counsel for the parties regarding the ATO, and which were copied to Parlee McLaws, between July 15, 2016 and December 1, 2016.
11. On the basis of the above understanding, its understanding of the purpose of the ATO as described in the September 12, 2011 Affidavit of Paul Bujold, and the SFN's concurrence

regarding the terms of the ATO, the OPGT withdrew the Settlement Application and consented to the ATO. The ATO was subsequently issued on August 24, 2016.

12. The OPGT received the following Affidavits of Records after the ATO was entered:

- i) Paul Bujold Supplementary Affidavit of Records, sworn April 27, 2018;
- ii) Catherine Twinn's Affidavit of Records, sworn June 21, 2018, with documents released to the parties February 1, 2019.

13. The April 27, 2018 Supplementary Affidavit was the first occasion on which the 1993 and 1994 correspondence between Canada and the SFN regarding the s.64 and s.66 *Indian Act*, now relied upon by SFN in its submissions, were provided to the OPGT as producible documents. Attached to my Affidavit as **Exhibit "G"** are Documents #SAW001879, #SAW001881, #SAW001885, #SAW001886, #SAW001892 and #SAW001893 from the Trustees' April 27, 2018 Supplemental Affidavit of Records.

14. On the understanding that the Asset Transfer Order had entirely resolved the question of whether the 1982 Trust assets were properly transferred into the 1985 Trust to be held for the benefit of the 1985 Trust beneficiaries, the OPGT did not pursue any further questioning or production on asset issues after the ATO. The OPGT has not questioned Paul Bujold or Catherine Twinn on the documents in **Exhibit "G"**.

15. In the course of the submissions filed in October and November 2019, the SFN has put in issue matters on which there has been little or no questioning or production including:

- i) The source of the funds used to purchase the assets now held in the 1985 Trust;
- ii) The knowledge or understanding of the 1982 Trustees' regarding their ability to transfer assets to the 1985 Trust;
- iii) Whether the 1982 beneficiaries were aware of or fully supported the 1985 asset transfer;
- iv) The value of the 12 million dollar debenture transferred directly into the 1985 Trust; and
- v) The ongoing existence of the 1982 Trust.

16. On November 22, 2019, the Court provided clarification of its intentions with respect to the Asset Transfer issue. The OPGT understands from the clarification that the aspects of the Asset Transfer submissions by the SFN, which the OPGT and Catherine Twinn regard as final relief or a revisiting of issues resolved by the ATO, were intended by the Court to be argued in the course of dealing with the Asset Transfer Issue (“the New Asset Transfer Issues”).
17. On December 6, 2019, the OPGT was advised that Catherine Twinn had located additional records relevant to this proceeding, including to the New Asset Transfer Issues. A true copy of McLennan Ross’ email communication dated December 6, 2019 is attached to my Affidavit as **Exhibit “H”**.
18. Counsel for the Trustees initially raised concerns about the documents in the Supplementary Affidavit of Records being released to the parties, including the OPGT. On Friday December 13, 2019 at 7:40PM, counsel to the Sawridge Trustees agreed the documents could be released to the OPGT. A true copy of the email string regarding that matter is attached to my Affidavit as **Exhibit “I”**. At the time of swearing my Affidavit, I understand the SFN has not finalized its position on the use of the documents. A true copy of Ms. Sopko’s email dated December 18, 2019 is attached to my Affidavit as **Exhibit “J”**.
19. McLennan Ross sent an email with a link to the documents on December 16, 2019 at 4:38PM. A true copy of that email is attached to my Affidavit as **Exhibit “K”**.
20. On December 19, 2019 the OPGT advised the parties it wishes to question Mr. Bujold and Ms. Twinn on the documents produced by Ms. Twinn. The OPGT has also requested the Trustees and SFN consider voluntary production of additional relevant and material documents. A true copy of Hutchison Law’s letter dated December 19, 2019 is attached to my Affidavit as **Exhibit “L”**.
21. Given the confirmation by Ms. Twinn’s Supplementary Affidavit of Records that additional relevant and material documents do exist, the OPGT considers it essential to the interests of the minors and the fairness of this process that time be permitted for adequate questioning on the new evidence and any documents voluntarily produced. If SFN and the Sawridge Trustees will not voluntarily produce documents, the OPGT considers it essential to the fairness of process for an application on additional production to be decided, any resulting questioning held, prior to the Court hearing the Asset Transfer Issue.

22. While the OPGT has been diligent in pursuing these matters, the timing of receipt of the Supplemental Affidavit of Records introduced a new factor into the proceeding which has affected the timelines.
23. I am not aware of SFN ever providing actual evidence in this proceeding that would confirm that:
- i) SFN has conducted a complete search of all records in its power and possession, including those relating to the 9 categories of records which it deemed irrelevant in 2016 but which are now relevant areas of inquiry based on SFN's submissions dated September 26, 2019, November 15 and 20, 2019;
 - ii) None of the records in SFN's power and possession are relevant or material to the Asset Transfer Issue as framed by the Court on November 22, 2019.
24. I swear this Affidavit in support of the OPGT's application for further production of documents relevant and material to the Asset Transfer issue as framed by the Court on November 22, 2019 and, if necessary, for an adjournment of the hearing of the January 16, 2020
25. Asset Transfer issue to permit the parties to deal with further production and questioning prior to filing further reply briefs and arguing the Asset Transfer issue.

SWORN BEFORE ME at Edmonton, Alberta,)
 this 19th day of December, 2019.)


 _____)
 Commissioner for Oaths in and for the)
 Province of Alberta)
 P. JONATHAN FLOUS Q.C.)
 Barrister & Solicitor)


 _____)
 ROMAN BOMBAK)



Doris Bonora

doris.bonora@dentons.com
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Salans FMC SNR Denton
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Dentons Canada LLP
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November 3, 2015

File No.: 551860-1

Hutchison Law
Unit #190 Broadway Business Square
130 Broadway Blvd
Sherwood Park AB T8H 2A3

This is Exhibit "A" referred to in the
Affidavit (or statutory declaration) of
ROMAN BOMBAK

Attention: Janet Hutchison

Sworn (or affirmed or declared)
before me this 19 day of
December A.D. 20 14

Dear Madam:

RE: **Sawridge Trust**
Action No.: 1103 14112

[Signature]
A Commissioner for Oaths in and for Alberta
P JONATHAN FAUL
Barrister & Solicitor

Enclosed for service upon you is a copy of an Affidavit of Records prepared in accordance with the Order of the Honourable Justice D.R.G. Thomas pronounced September 2-3, 2015.

Please advise if you would like to receive an electronic copy of the producible documents.

Yours truly,
Dentons Canada LLP

[Signature]
Doris Bonora
DCEB/sh

Enclosure



Doris C.E. Bonora

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51433

December 1, 2014

File No.: 551860-1

DELIVERED VIA MAIL

Chamberlain Hutchison
Barristers and Solicitors
155 Glenora Gates
10403 122 Street
Edmonton AB T5N 4C1

Attention: Janet Hutchison

Dear Madam:

RE: Undertakings of Paul Bujold – Questioning on May 27 and 28, 2014

Please find enclosed three volumes consisting of answers to of the undertakings of Paul Bujold at the questioning referenced above.

Yours truly,
Dentons Canada LLP

Doris C.E. Bonora

DCEB/si

Enclosure

This is Exhibit "B" (referred to in the Affidavit (or statutory declaration) of

ROMAN BOMBALAK

Sworn (or affirmed or declared)

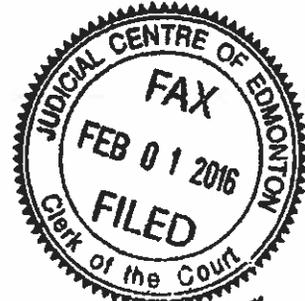
before me this 19 day of

December A.D. 2014

Attestation for Oaths in and for Alberta

P. JONATHAN FAULDS QC
Barrister & Solicitor

Clerk's Stamp:



104 2222

COURT FILE NUMBER:

1103 14112

COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE

EDMONTON

This is Exhibit C referred to in the Affidavit (or statutory declaration) of

ROMAN BOYBAK

Sworn (or affirmed or declared)

before me this 19 day of

February

A.D. 20 19

Attestation for Oaths in and for Alberta

APPLICANTS P. JONATHAN FAULSTICH
Boris Kozlov

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

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
(the "1985" Sawridge Trust")

ENTERED
by MP

ROLAND TWINN,
CATHERINE TWINN,
WALTER FELIX TWIN,
BERTHA L'HIRONDELLE, and
CLARA MIDBO, as Trustees for the 1985
Sawridge Trust

APPLICANT in this Application

OFFICE OF THE PUBLIC TRUSTEE OF
ALBERTA

RESPONDENT in this Application

THE SAWRIDGE FIRST NATION

DOCUMENT

APPLICATION BY THE OFFICE OF THE
PUBLIC TRUSTEE OF ALBERTA FOR
PRODUCTION UNDER RULE 5.13.

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

HUTCHISON LAW
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, AB T8A 3X1

Attention: Janet L. Hutchison
Telephone: (780) 417-7871
Fax: (780) 417-7872
Email: jhutchison@jlhlaw.ca
File: 51433 JLH

NOTICE TO THE RESPONDENT, SAWRIDGE FIRST NATION

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

You have the right to state your side of this matter before the Justice.

To do so, you must be in Court when the application is heard as shown below:

Date: To be set by the Case Management Justice, but in any event prior to April 30, 2016 as directed in the Reasons for Judgment dated December 17, 2015

Time: To be set by the Case Management Justice

Where: Law Courts Building
1A Sir Winston Churchill Square,
Edmonton, Alberta T5J 3Y2

Before: Justice D.R.G. Thomas in Chambers

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought includes:

1. The OPGT requests the Sawridge First Nation ("SFN") provide it with the following types of documents, the OPGT believes may be relevant and material to the issue of which assets, were to be, and were settled in the 1985 Trust:
 - a.) Band Council meeting minutes, Band Council Resolutions, or documents presented to or before, or approved by, Band Council in the 1970's, including records of transfers or any transfer documents, when land, hotel and other business assets acquired by the SFN were registered in Chief Walter Twinn's, George Twin's, Walter Felix Twin's, Samuel Gilbert Twin's, and David Fennel's names to hold in trust for the members of SPN, which assets were to be transferred to the 1982 Trust and ultimately into the 1985 Trust. [Source: Affidavit of Paul Bujold, filed September 13, 2011, para. 8];
 - b.) Band Council meeting minutes, Band Council Resolutions or documents presented to or before, or approved by, Band Council in the June 1982 meeting held at the Sawridge Band Office to address the transfer of all property held by Chief Walter Twinn, George Twin, Walter Felix Twin, Samuel Gilbert Twin and David Fennel in trust for the present and future members of the 1982 Trust, which assets were ultimately to be transferred into the 1985 Trust, that contain any information about the assets held by the individuals and/or the transfer to the Trust, including records of transfers or any transfer documents. [Source- Affidavit of Paul Bujold, filed September 13, 2011, para. 10 and Exhibit B]

- c.) Band Council meeting minutes or documents presented to or before, or approved by, Band Council, including records of transfers or any transfer documents, at its April 15, 1985 Band Council meeting that would provide any greater detail or information regarding the transfer of assets from the 1982 Trust to the 1985 Trust, beyond that contained in the Band Council Resolution. [Source: Affidavit of Paul Bujold, filed September 13, 2011, Exhibit H]
- d.) Any documents SFN has in its possession or control, including records of transfers or any transfer documents, that would assist in identifying the specific additional assets that Mr. Bujold believes were later transferred from SFN or individuals holding the property in trust for SFN members and the dates and manner of transfer. [Source: Affidavit of Paul Bujold, filed September 13, 2011, para. 22]
- e.) Copies of SFN financial statements prepared prior to June 1, 1984 that would provide details of the assets which composed the transferred assets with a carrying value of \$17,951,590.00 as referred to in Note 16 to the June 1, 1984 Financial Statements provided at Undertaking #16 of Paul Bujold's Answers to Undertakings;
- f.) Further to item (e) above, any Band Council meeting minutes, Band Council resolutions or documents presented to or before, or approved by, Band Council, or minutes of meetings of Band members, including records of transfers or any transfer documents, or other documentation regarding the December 17, 1983 transfer of assets to the 1982 Trust, and ultimately 1985 Trust;
- g.) Any documentation that would assist in understanding if the 1985 Contribution from Beneficiaries related to any of the assets that were being held by individuals in trust for the SFN members and that were later settled in the Trust. [Source- Sawridge Trust Financial statements dated December 31, 1986 (produced as part of Paul Bujold's Answers to Undertakings, UT #16) which refers in Note 7 to a 1985 "contribution from beneficiaries"]
- h.) Copies of the series of demand promissory notes held in trust by Walter Twinn for the SFN band members, as referred to in the January 21, 1985 Demand Debenture, which was later transferred to the Trust, as well as any Band Council meeting minutes or documents presented to or before, or approved by, Band Council relating to the promissory notes or the 1985 Demand Debenture. [Source: Paul Bujold Answers to Undertakings, UT #16]
- i.) Band Council meeting minutes, Band Council resolutions, or documents presented to or before, or approved by, Band Council, including records of transfers or any transfer documents, in relation to the transfers of \$3,706,060.00 and \$17,951,590.00 to the Trust in 1985 and 1984 respectively, that would identify that specific assets that comprised the transfers, if not already produced in response to the above requests;

j.) Any documentation in the SFN's possession and control that would assist in determining what assets were intended to be included in the Trust Settlement, the 1982 Trust, or the Declaration of Trust, or any documentation that would confirm the specific transfers from the 1982 Trust to the 1985 Trust. [Source – Paul Bujold Answer to Undertaking #18, Response from Justice Canada suggesting SFN would be the party that would best be able to locate the documents requested.]

2. The OPGT bases its request, including its assessment of whether SFN may have control of the requested records and their relevance and materiality, on the information available in the proceeding as of today's date. It must be noted that the OPGT has not had the benefit of questioning the Trustee's affiant, Paul Bujold, on the documents produced regarding assets, on his answers to undertakings or on his Affidavit of Records, dated November 2, 2015, as of the date of filing.

Grounds for making this application:

1. This application is made under direction of the Court as set out in the December 17, 2015 Reasons for Judgment. The Public Guardian and Trustee is filing its application under revised terms from the December 17, 2015 judgment, which is under appeal.
2. The Public Guardian and Trustee is also filing this application despite the fact that the Parties have also provided the Court with a signed consent order for an extension of time, to file the within application.
3. The OPGT reserves the right to file an amended application once its Questioning of Paul Bujold on asset documentation has actually been held and upon the result of Appeals 1603-0029AC and 1603-0026AC.

Material or evidence to be relied upon:

1. All relevant materials filed to date in Court of Queen's Bench Action 1103 14112, including all transcripts, affidavits, excerpts of evidence and answers to undertakings;
2. Such further and other materials as Counsel may advise and this Honourable Court may allow.

Applicable rules:

1. *Alberta Rules of Court, Alta Reg 124/2010, Rule 5.13;*
2. Such further and other rules as Counsel may advise.

Applicable Acts and regulation:

1. *Public Trustee Act*, SA 2004, c P-44.1
2. Such further and other Acts and regulation as Counsel may advise.

Any irregularity complained of or objection relied on:

How the application is proposed to be heard or considered:

In chambers before Justice Thomas, the case management justice assigned to this file.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on that date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.



This is Exhibit "D" referred to in the Affidavit (or statutory declaration) of

ROMAN BOMBAK

Sworn (or affirmed or declared)

before me this 19 day of

December A.D. 2019

A Commissioner for Oaths in and for Alberta

P. JONATHAN FREDLOS
Q.C.
Barrister & Solicitor

Our File: 51433 JLH

SENT BY EMAIL ONLY

June 17, 2016

Reynolds Mirth Richards & Farmer LLP
Suite 3200 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Attention: Marco Poretti

Dentons LLP
Suite 2900 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Attention: Doris Bonora

Parlee McLaws LLP
1500 Manulife Place
10180-101 Street
Edmonton, Alberta
T5J 4K1

Attention: Edward Molstad, Q.C.

McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton, Alberta
T5N 3Y4

Attention: Karen Platten, Q.C. and Crista Osualdini

Dear Sirs and Mesdames:

Re: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust); QB Action No. 1103 14112

We are writing to provide the OPGT's position on the litigation plan that has been under discussion. This letter will also serve as a response to Dentons' June 7 and June 9, 2016 correspondence and Parlee McLaws' June 15, 2016 correspondence.

OPGT 5.13 Applications

In relation to the 5.13 Application regarding Distribution for documents that Sawridge First Nation ("SFN") may have possession of that would assist in testing the fairness of the Trustees' proposed distribution schedule, in light of the restrictions set out in Sawridge #3 the OPGT will not be seeking consent, or leave of the Court, to file an application on that topic.

In relation to the 5.13 Application regarding Membership, the OPGT will be filing a brief written submission on that application to ensure that the Court is made aware of the information that has been provided by the SFN since January 29, 2016. We expect, based on *Sawridge #3*, the Court would then make a decision regarding whether the information received fully satisfies its directions. The OPGT will not be seeking to file affidavit evidence in relation to that application and anticipates its submissions will be relatively brief, similar in length to the SFN submissions. The nature of those submissions is anticipated to be similar in nature to a report or update to the Court. That submission will also speak to the SFN's ongoing request for a costs award against the OPGT.

The 5.13 Application regarding Assets is, in the OPGT's view, related to the Trustees' proposed application to "clarify" the relief they are seeking in relation to assets. We note, in that regard, that while OPGT counsel did receive Dentons' May 13, 2016 email in that regard, for some reason OPGT counsel was not copied with the form of proposed consent order that was sent to all other counsel on June 8, 2016.

In any event, the OPGT's current instructions are not to consent to that "clarification" in the form of a consent order at this time. In particular, the OPGT is conscious that there remain many unanswered questions, including those posed by McLennan Ross' email of May 18, 2016. The clarification provided did not include specific statements that, if the parties or the Court accepted the "clarification", the Trustees would commit to a binding legal position that nothing in the within proceeding would be relied on by the Trustees to attempt to prevent any beneficiary (the OPGT's interest being, of course, the minor beneficiaries) from seeking a full accounting from the 1985 Trust, including an accounting to establish whether all the assets intended to be settled into the 1982 Trust were actually transferred into the 1985 Trust.

The OPGT remains open to discussions on this point, but for the purposes of scheduling, is currently of the view that the parties require the guidance of the Court as to its interpretation and directions on the transfer issue originally put before it by the Trustees.

The OPGT will be filing a concise written submission in relation to the 5.13 Assets application to make the Court aware of the OPGT's understanding of the scope of the asset element of the application, advise of the information received from the SFN and Trustees regarding their view of the scope, and request the Court to determine which issues it has an obligation, in a trust context, to consider before granting any relief sought by the Trustees. We expect that if the Court considers it has an obligation to examine any of the issues identified by the OPGT, the Court will direct the SFN to comply with the 5.13 document requests. If the Court finds that it has no obligation to consider those matters, it may also decide it does not require any of the information sought in the OPGT's application. Those are matters for the Court to determine.

The OPGT will not be filing affidavit evidence in support of this submission. The OPGT will not be seeking to conclude Paul Bujold's questioning prior to the August 24, 2016 hearing as the Court's decision on the issues identified above will determine what scope of future questioning the Court feels it requires in order to deal with the final order regarding the asset issue.

The proposed timelines for the remaining steps regarding the 5.13 Applications are set out in the attached revised Litigation Plan.

Trustees' Position on OPGT Accounts

We do not intend to address the substantive disputes over these matters in correspondence to all counsel. It is sufficient for the purposes of this correspondence to note that the OPGT and the Trustees clearly have a very different understanding of their without prejudice agreements regarding the advance and full costs indemnity awarded by the Court of Appeal and, indeed, a very different understanding of the obligations placed on the Trustees by that indemnity.

In relation to Trustees' proposal to include deadlines for addressing these issues in the litigation plan, the OPGT is willing to do so. However, the OPGT expects the Trustees to be bound by specific deadlines in that process as well and has revised the litigation plan accordingly.

Other Items for Follow Up

- 1.) The Trustees had requested that the Minutes of Settlement relating to the discontinuance of the appeal from *Sawridge #3* be provided to Justice Thomas. The OPGT does not see any need to put those Minutes before the Court. The only situation the OPGT is currently aware of that might necessitate putting this without prejudice settlement document before a Court would be a situation where a party was in breach of the Minutes. Please confirm the Trustees are not suggesting that any such situation currently exists.
- 2.) Regarding the Trustees' request for the OPGT's consent to the Proposed Distribution arrangement, we will be responding to the Trustees regarding this matter by way of separate correspondence, in advance of any possible filing deadlines for submissions for the August 24, 2016 case management meeting.
- 3.) The OPGT will be following up regarding aspects of the April 20, 2016 meeting by way of separate correspondence. However, Parlee McLaws' June 15, 2016 correspondence suggests that clarification of one element of that meeting is required prior to further response. OPGT's counsel requested confirmation, at least twice during the April 20, 2016 meeting, that the entire meeting was acknowledged by all counsel to be without prejudice. Do any of the participants in the April 20, 2016 meeting (in that we refer to the clients as well as their representatives) have a different understanding of the status of the April 20, 2016 meeting?

Thank you for your attention to this matter.

Yours truly,

HUTCHISON LAW

PER: JANET L. HUTCHISON

JLH/cm
Enclosures

cc: Client
cc: E. Meehan, Q.C., Supreme Advocacy LLP

Clerk's stamp:

COURT FILE NUMBER

1103 14112

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

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
(the "1985 Sawridge Trust")

DOCUMENT

LITIGATION PLAN

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Attention: Marco S. Poretti
Reynolds, Mirth, Richards & Farmer LLP
3200 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3W8

Telephone: (780) 497-3325
Fax: (780) 429-3044
File No: 108511-001-MSP

Attention: Doris Bonora
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2900 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3V5

Telephone: (780) 423-7188
Fax: (780) 423-7276
File No: 551860-001

The following steps and actions are to be completed on a best efforts basis, and subject to the Court's availability, on or before the dates specified below:

Comments in red by Ed Molstad

Comments in Blue by Karen Platten

Comments in green by Dentons

No comments provided by the OPGT to date

Comments in burgundy provided by the OPGT

	ACTION	DEADLINE
1.	Sawridge Trustees - to provide clarification on transfer issue.	May 15, 2016 - Completed
2.	Sawridge Trustees - to provide position on proposed distribution scheme.	May 15, 2016 - Completed
3.	OPGT – response to March 15, 2016 Sawridge First Nation Brief re: Beneficiary Application and Settlement Application. Unnecessary because OPGT will be filing and serving the amended application on June 15, 2016 (EM) Acceptable to remove this item Acceptable to remove this item. Require clarification re: the SFN’s comments re: an amended application if June 17, 2016 does not address their position.	May 30, 2016.
4.	OPGT – to advise which 5.13 applications are proceeding.	June 17, 2016 Completed
5.	OPGT - to advise on whether it shall question Paul Bujold in advance of 5.13 application. OPGT will not seek to complete questioning of Paul Bujold until Court has determined what the scope of the asset issue in the Trustee’s application will be.	June 17, 2016 Completed
6.	OPGT to provide additional responses to Trustee’s questions on the July 2015 accounts, specifically to respond to the Trustee’s list of questions in the March 31, 2016 correspondence	July 4, 2016
7.	Trustees to provide final response regarding OPGT July 2015 accounts, or full or partial payment, of July 2015	July 19, 2016, or two weeks after receipt of

	OPGT accounts	#6, whichever date is earlier.
8.	OPGT to file written submissions in response to SFN March 31, 2016 submissions on 5.13 applications and costs.	July 15, 2016
9.		
10.		
11.	Respondents - response on 5.13 applications.	July 29, 2016
12.	OPGT – provide up to date billing to Trustees (from June 2015 to the present).	Within 30 days of receipt of payment of at least 50% of the amounts owing on the July 2015 accounts or final resolution of the Trustee's questions regarding the July 2015 accounts
13.	An application to be filed by the OPGT and Twinn to determine if Justice Thomas is able to hear the proposed distribution scheme application. Change to: Whether Justice Thomas is to hear any application involving final relief such as the definition of beneficiaries under the 1985 Trust. Change is acceptable	TBD
14.	Case Management Conference – to set the terms and procedure for the final determination of the matter. No indication of what is being sought in the final determination. In paragraph 11, 12 and 13 there is no indication on the steps to get to the determination such as the steps to file briefs, applications to be filed etc. Only deal with the 5.13 applications in the Litigation Plan. Propose that the application August 24 be guided by the special chambers rules with the Sawridge Trustees as the applicants. The transfer issue will only proceed if there is agreement by the parties. We do not agree that we should leave everything out except the 5.13 applications as we need to continue to	TBD

	<p>move the litigation forward.</p> <p>The OPGT shares the concerns expressed by Counsel for Catherine Twinn and requests a specific and detailed explanation from the Trustees and SFN regarding what else the Trustees and SFN are currently contemplating addressing on August 24, 2016. This information was requested in the OPGT's correspondence dated June 10, 2016, point #4.</p>	
15.	<p>Potential Applications: (a) 5.13 applications; (b) Transfer issue; (c) Proposed Distribution Scheme (not to include definition of beneficiaries issue).</p>	August 24, 2016

This Litigation Plan is agreed by the Parties

**REYNOLDS MIRTH RICHARDS &
FARMER LLP**

Per:

Marco S. Poretti
Solicitors for the Trustees of the 1985
Sawridge Trust (Roland Twinn, Catherine
Twinn, Walter Felix Twin, Bertha
L'Hirondelle and Clara Midbo)

PARLEE McLAWS LLP

Per:

Edward H. Molstad Q.C.
Solicitors for the Sawridge First Nation

McLENNAN ROSS LLP

Per:

Karen Platten, Q.C.
Solicitors for Catherine Twinn

DENTONS CANADA LLP

Per:

Doris Bonora
Solicitors for the Trustees of the 1985
Sawridge Trust (Roland Twinn, Catherine
Twinn, Walter Felix Twin, Bertha
L'Hirondelle and Clara Midbo)

HUTCHISON LAW

Per:

Janet Hutchison
Solicitors for the Office of the Public
Trustee of Alberta



March 10, 2016

GABRIEL JOSHEE-ARNAL
DIRECT DIAL: 780 423 8573
DIRECT FAX: 780 423 2870
EMAIL: gjoshee-arnal@parlee.com
OUR FILE #: 1203-7/EHM

This is Exhibit "E" (return to sender)
Affidavit (or statutory declaration)

Hutchison Law
190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, Alberta T8H 2A3

Sworn (or affirmed or declared)
before me this 19 day of December
2019 A.D. 20 19

Attention: Janet Hutchison

Dear Madam:

Re: **Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust)**
QB Action No. 1103 14112

[Signature]
Commissioner for Oaths in and for Alberta
J. JONATHAN PAULOS QC
Barrister & Solicitor

I am assisting Mr. Molstad with the above matter. Further to the Notices of Application that were provided on January 29, 2016, please find below the Sawridge's First Nation's ("Sawridge") position regarding the substance of those Applications.

A. Records Related to the Identification of Minors

In Justice Thomas' reasons in *1985 Sawridge Trust v Alberta (Public Trustee)*, 2015 ABQB 799, he affirmed that Sawridge was required to provide you with the following information by January 29, 2016:

1. The names of individuals who have:
 - a. made applications to join the SFN which are pending; and
 - b. had applications to join the SFN rejected and are subject to challenge; and
2. The contact information for those individuals where available. (*Paragraph 57*)

The above information was provided to you via letter dated January 18, 2016. As part of that letter, Sawridge provided a table containing a list of all of the adult individuals who had applied to join Sawridge, but whose applications were still pending. Sawridge also provided a list of all of the adult parents who had made applications for membership for their minor children. Additionally, Sawridge confirmed that there were no membership appeal decisions outstanding, and that there were no membership decisions that were subject to challenge in accordance with the relevant limitations period under the Sawridge Constitution and its laws.

Justice Thomas indicated in his reasons that the information provided by Sawridge should allow for the following:

1. permit the Public Trustee to know the number and identity of the minors whom it represents and additional minors who may in the future enter into category 2 [i.e., children of Sawridge members] and become potential minor recipients of the 1985 Sawridge Trust distribution;
2. allow timely identification of:
 - a. the maximum potential number of recipients of the 1985 Sawridge Trust distribution;
 - b. the number of adults and minors whose potential participation in the distribution has “crystalized”; and
 - c. the number of adults and minors who are potential members of categories 1 [i.e., adult members of Sawridge] and 2 at some time in the future. (*Paragraph 59*)

In your Notice of Application, you have requested, “all documents in the possession of [Sawridge] that may assist in identifying current and possible minors who are children of members of [Sawridge].”

It is Sawridge’s position that it has provided the Public Trustee with all of the information that it is required to pursuant to Justice Thomas’ decision, and that it is not required to provide any additional records to the Public Trustee. The information provided by Sawridge clearly allows the Public Trustee to determine the number and identity of all of the minors who it represents and who it may represent. Furthermore, the information provided on January 18, 2016, as well as the other information previously provided by the 1985 Sawridge Trust Trustees, would allow for the timely identification of the above-listed adults and minors.

Additionally, Sawridge takes issue with the manner in which you have framed your request for records. Specifically, your request fails to delineate what records you are seeking. Case law interpreting Rule 5.13 is clear that as an applicant, the Public Trustee is required to clearly identify the records it is seeking from Sawridge, and must establish that Sawridge has said records in its possession. Those records must accordingly be described with some level of precision (see e.g., *Ed Miller Sales & Rentals Ltd v Caterpillar Tractor Co*, (1988) 63 Alta LR (2d) 189 (QB)). In light of the fact that your request for documents from Sawridge fails to clearly identify what is being sought, it is Sawridge’s position that it is under no obligation to disclose any further records pursuant to Rule 5.13.

B. Records Related to the Settlement of Assets to the Trust

In his decision, Justice Thomas affirmed that the Public Trustee was entitled to serve Sawridge with an application for documents, “which it believes are relevant and material to the issue of the assets settled in the 1985 Sawridge Trust.” (*Paragraph 46*)

In order to understand what is “relevant and material” to this request, it is important to look back at the Order obtained by the 1985 Sawridge Trust Trustees on August 31, 2011, which defines the scope of the advice and direction being sought from the Court. That Order notes at Paragraph

1(b) that one of the purposes of this Action is to seek direction, "with respect to the transfer of assets to the 1985 Sawridge Trust." The Order does not indicate that the 1985 Sawridge Trust Trustees are seeking any kind of accounting of the assets in the 1985 Sawridge Trust, or that any tracing-related remedy is being sought. Rather, the focus of this request for direction was the transfer of the assets, and not the assets themselves. Additionally, at Paragraph 25 of the Affidavit of Paul Bujold, sworn on September 12, 2011, he notes the following:

25. The Trustees seek the Court's direction to declare that the asset transfer was proper and that the assets in the 1985 Trust are held in trust for the benefit of the beneficiaries of the 1985 Trust.

In light of the above, it is Sawridge's position that the only records that are relevant and material to the issue of the settlement of the assets in the 1985 Sawridge Trust are records concerning the transfer of the assets from the 1982 Sawridge Trust to the 1985 Sawridge Trust in April of 1985.

With regards to the specific requests for records outlined in Paragraph 1 of your Notice of Application, Sawridge's position is as follows:

Paragraph 1(a): The records that you have requested are irrelevant. The requests for records regarding the ownership of property dating back to the 1970s (i.e., prior to the inception of the 1985 Sawridge Trust) are not relevant to the issue of the transfer of the assets to that trust in April of 1985.

Paragraph 1(b): The records that you have requested concerning the assets settled in the 1982 Sawridge Trust are irrelevant to the issue of seeking direction regarding the transfer that occurred to the 1985 Sawridge Trust. As noted above, the focus of this Action is not to provide an accounting of all of the assets in the 1985 Sawridge Trust, but rather to seek direction regarding the transfer of the assets to that trust.

Paragraph 1(c): Sawridge has reviewed its records, and has advised that it has not located any other records in its possession concerning the April 15, 1985 meeting.

Paragraph 1(d): Much like the first two requests for records, this request concerns records that are unrelated to the transfer of assets into the 1985 Sawridge Trust in April of 1985. As such, it is Sawridge's position that any documents concerning assets added to the 1985 Sawridge Trust after April of 1985 would be irrelevant.

Paragraph 1(e): The records that you have requested concerning the note in the 1984 financial statements are irrelevant to the issue of the transfer of the assets into the 1985 Sawridge Trust. That note concerns a transfer that took place in 1983, and is thus irrelevant to the transfer into the 1985 Sawridge Trust.

Paragraph 1(f): Sawridge takes the position that the records concerning the transfer that occurred on December 17, 1983 are irrelevant to the issue of the transfer to the 1985 Sawridge Trust.

Paragraph 1(g): Sawridge takes the position that the records that you have requested concerning note 7 in the Sawridge Trust's financial statement from December 31, 1986 are irrelevant to the issue of the transfer that occurred in April of 1985.

Paragraph 1(h): Sawridge takes the position that the records that you have requested concerning the promissory notes or the 1985 Demand Debentures are irrelevant to the issue of the transfer that occurred in April of 1985.

Paragraph 1(i): In light of the fact that you have not provided any evidence in support of this request, Sawridge takes the position that it is not required to provide any such records pursuant to Rule 5.13. Sawridge is prepared to reconsider its position should you provide some evidentiary basis for your request.

Paragraph 1(j): It is Sawridge's position that any records regarding the "intention" to transfer assets to the 1985 Sawridge Trust are irrelevant to the issue of the transfer itself.

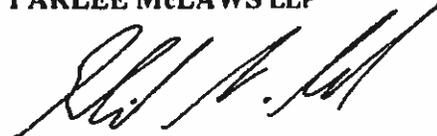
C. Conclusion

In light of the above, could you please advise in writing if you will be withdrawing your Applications against Sawridge? If you do not withdraw your Applications, we will be following the direction of Justice Thomas and will be submitting written submissions.

I look forward to your reply.

Yours truly,

PARLEE McLAWS LLP



GABRIEL JOSHEE-ARNAL

GJA/

Cc: Edward H. Molstad, Q.C.
Cc: Reynolds Mirth Richards & Farmer LLP - Attn: Mr. Marco Poretti
Cc: Dentons LLP - Attn: Ms Doris Bonora
Cc: Bryan & Company - Attn: Ms Nancy Cumming, Q.C.
Cc: McLenna Ross LLP - Attn: Ms Karen Platten, Q.C.
Cc: Supreme Advocacy LLP - Mr. Eugene Meehan, Q.C.



This is Exhibit 'F' referred to in the Affidavit (or statutory declaration) of

ROMAN BOMBAK

Sworn (or affirmed or Declared)

before me this 19 day of

December A.D. 2019

P. JONATHAN FAULKS Q.C.

A Commissioner for Oaths in and for Alberta

Our File: 51433 JLH

Baird & Solis

SENT BY EMAIL ONLY

July 15, 2016

Reynolds Mirth Richards & Farmer LLP
Suite 3200 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Dentons LLP
Suite 2900 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Attention: Marco Poretti

Attention: Doris Bonora

Parlee McLaws LLP
1500 Manulife Place
10180-101 Street
Edmonton, Alberta
T5J 4K1

McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton, Alberta
T5N 3Y4

Attention: Edward Molstad, Q.C.

Attention: Karen Platten, Q.C. and Crista Osualdini

Dear Sirs and Mesdames:

Re: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust); QB Action No. 1103 14112

We are writing in relation to the Trustees' request for responses on:

- 1.) The with prejudice offer regarding the transfer of assets from the 1982 Trust to the 1985 Trust, specifically to Denton's correspondence dated June 22, 2016 (received June 24, 2016); and
- 2.) The OPGT's position on the Trustees' Proposed Distribution Scheme, provided in response

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to the Court's directions in *Sawridge #3*.

We will respond to other recent correspondence, including the current wording of the Litigation Plan in separate correspondence.

Consent Order Regarding Assets

In relation to the Trustees' offer of June 24, 2016, the OPGT will consent to the form of Consent Order attached. We note that the proposed additions to this order are primarily taken from the body of Dentons' correspondence and, as such, we do not expect these to be controversial proposed revisions.

The OPGT has no concerns with the proposed revisions suggested by McLennan Ross' letter dated July 14, 2016 and has revised its form of Order to include those revisions.

The OPGT would also welcome comments from Counsel if additional discussion would bring this matter to resolution. We note that a consent order, in the form attached, may also make the OPGT's Rule 5.13 application on assets unnecessary and may save all parties considerable expense.

As you are aware, the parties have yet to deal with the Rule 4.15 issue of whether Case Management Justice can deal with final relief in this proceeding. To the extent that a consent order in this matter constitutes final relief, the OPGT's consent to having a Case Management Justice deal with the order is not a consent to a Case Management Justice dealing with any future applications that constitute final relief.

Proposed Distribution Scheme

In relation to the Trustees' application to the Court for approval of its Proposed Distribution Scheme, as discussed in the past, the OPGT does not have concerns about establishing a benefits plan that would provide minor beneficiaries with the proposed benefit plan. Past concerns focused on beneficiary identification.

The OPGT will not oppose the application by the Trustees. However, the OPGT reserves the right to make comments to the Court or answer questions the Court may have of it in relation to the Proposed Distribution Scheme.

The OPGT's position is based on considerations which include:

- 1.) The Trustees' have stated, on a with prejudice basis, that they have no intention of applying for approval of a final distribution from the 1985 Trust, despite the elements of *Sawridge #3* that suggest that may be what the Court was requesting submissions on.

The OPGT's position on the current Proposed Distribution Scheme relies on the Trustee's stated position. The OPGT has not waived any role it may have in relation to providing comments or submissions on behalf of affected minors in relation to a final distribution scheme, should such a proposal be brought forward in the future.

- 2.) The Trustees have stated, on a with prejudice basis, that they will refrain from any distribution from the Trust until after the beneficiary definition issue is resolved. The OPGT will suggest to the Court that given this position by the Trustees, this should form part of any order on the Proposed Distribution Scheme.
- 3.) The OPGT's position on the current Proposed Distribution Scheme also relies on the Trustees' with prejudice commitments that the Proposed Distribution Scheme application not deal with the issue of the beneficiary definition, and final identification of beneficiaries will be dealt with in a separate application at a later date. We note this position confirmed with prejudice in Denton's letter dated May 16, 2016.
- 4.) As of *Sawridge #3*, the OPGT understands its role in relation to the current Proposed Distribution Scheme to be, primarily, to assess whether it creates unfairness as between the adult and minor beneficiaries of the 1985 Trust (see paragraphs 37, 41 and 67 of *Sawridge #3*). Based on the current available information, the OPGT cannot identify anything in the proposed benefits plan that is the focus of the current Proposed Distribution Scheme that would create unfair treatment for minor beneficiaries or potential minor beneficiaries (as potential minor beneficiaries are delineated within *Sawridge #3*). The view is based, in part, on the OPGT's understanding that the Trustees' remain committed to providing access to these benefits to all minor beneficiaries who would lose beneficiary status under the proposed definition.
- 5.) The OPGT's position on this application should not be treated as a waiver of the OPGT's ability to make submissions regarding distribution once actual distribution occurs.
- 6.) In addition to the above, the OPGT expects to provide comments to the Court on items including:
 - i. The OPGT is not taking any specific positions on the portions of the document that address the Trustees' positions on the extent of their discretion and the limitations on the Court's ability to review Trustees' decisions. The OPGT will take the position that it is not necessary, or appropriate, to seek rulings on those concepts as general propositions and the Court does not need to rule on those positions in order to address the substance of the Proposed Distribution Scheme.
 - ii. The OPGT and the Court have a role in evaluating whether the current Proposed Distribution Scheme is in the best interests of minor beneficiaries in terms of its financial viability for the 1985 Trust. The OPGT is not aware of the Trustees' providing specific evidence of financial viability. In this regard, the OPGT will simply refer the Court to the evidence in Mr. Bujold's Affidavit filed September 13, 2011 regarding the 2009 costs of the benefits

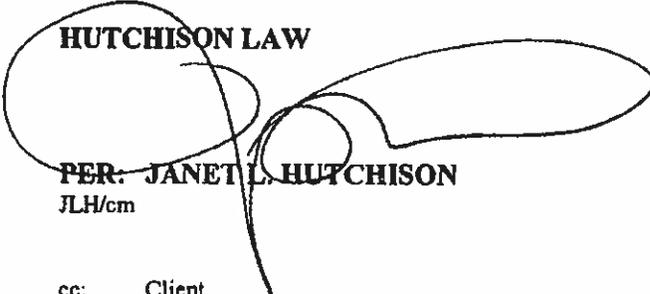
plan. The OPGT will also refer to the Court to the advice of the Trustees that the Trusts are experiencing financial challenges as a result of the Fort McMurray wildfires.

As I have advised all counsel earlier this week, I am out of town on business next week. As such, if you have any time sensitive communications on this matter between July 18-22, 2016 I would appreciate it if you would ensure they are sent to Mr. Meehan's office as well as my own.

Thank you for your attention to this matter.

Yours truly,

HUTCHISON LAW



PER: JANET L. HUTCHISON

JLH/cm

cc: Client

cc: E. Meehan, Q.C., Supreme Advocacy LLP

COURT FILE NUMBER 1103 14112

Clerk's Stamp

COURT: COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

IN THE MATTER OF THE TRUSTEE ACT, RSA 2000, c T-8, AS AMENDED

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 (the "1985 Sawridge Trust")

APPLICANTS: ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust (the "Sawridge Trustees")

DOCUMENT CONSENT ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, AB T8H 2A3
Attention: Janet L. Hutchison
Telephone: (780) 417-7871
Fax: (780) 417-7872
Email: jhutchison@jlhlaw.ca
File: 51433 JLH

DATE ON WHICH ORDER WAS PRONOUNCED:

_____, 2016

LOCATION WHERE ORDER WAS PRONOUNCED:

Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: Hon. Justice D.R.G. Thomas

ORDER

UPON HEARING representation from counsel for the Sawridge Trustees **THAT** the Trustees have exhausted all reasonable options to obtain a complete documentary record regarding the transfer of assets from the 1982 Trust to the 1985 Trust; **AND THAT** the parties to this proceeding have been given access to all documents regarding the transfer of assets from the 1982 Trust to the 1985 Trust that the Trustees reviewed; **AND THAT** the Trustees have not conducted an accounting to determine whether the 1985 Trust includes all assets that were intended to be settled into the 1985 Trust, specifically the Trustees have not determined whether all of the assets intended to be settled in the 1982 Trust are actually now held by the 1985 Trust; **AND THAT** as a result of not conducting that accounting, no relief is sought in relation to determining whether all of assets intended to be settled in the 1982 Trust are actually now held by the 1985 Trust; **AND UPON NOTING** that the 1985 Sawridge Trust was settled by transfer of assets from the Sawridge Band Trust, settled in 1982 (the "1982 Trust"); and upon noting that no information is available as to the method of transfer of assets to the 1985 Sawridge Trust from the 1982 Trust;

IT IS HEREBY ORDERED THAT:

1. The transfer of assets which occurred in 1985 from the Sawridge Band Trust ("1982 Trust") to the Sawridge Band Inter Vivos Settlement ("1985 Trust") is approved *nunc pro tunc*. The approval of the transfer shall not be deemed to be an accounting of the assets of the 1982 Trust that were transferred and shall not be deemed to be an accounting of the assets in the 1985 Trust that existed upon settlement of the 1985 Trust.
2. There is no aspect of the Trustee's application in relation to assets that seeks to deal with an accounting and the Trustees will not rely on the within order as having regularized or approved any matters relevant to accounting.
3. Without limiting the generality of the foregoing, the Trustees' application and this Consent Order cannot be relied upon by the Trustees in the future as a basis to oppose or prevent a beneficiary from seeking an accounting from the 1985 Trust, including an accounting to determine whether the entirety of the assets that were intended to be settled in the 1982 Trust have actually been transferred into the 1985 Trust.

Hon. Justice D.R.G. Thomas

**APPROVED AS TO FORM AND
CONTENT BY:
Reynolds, Mirth, Richards & Farmer LLP**

Per: _____
Marco Poretti, Counsel for the Sawridge

**APPROVED AS TO FORM AND
CONTENT BY:
Dentons Canada LLP**

Per: _____
Doris Bonora, Counsel for the Sawridge

Trustees

**APPROVED AS TO FORM AND
CONTENT BY:
Hutchison Law**

Per: _____
Janet Hutchison, Counsel for the Office of the
Public Trustee

**APPROVED AS BEING THE ORDER
GRANTED:
Parlee McLaws LLP**

Per: _____
Edward H. Molstad, Q.C., Counsel for the
Sawridge First Nation

Trustees

**APPROVED AS BEING THE ORDER
GRANTED:
McLennan Ross LLP**

Per: _____
Karen Platten, Q.C., Counsel for Catherine
Twinn as a Trustee of the 1985 Sawridge Trust



BARRISTERS SOLICITORS

Reynolds
Mirth
Richards
& Farmer LLP

WRITER'S EMAIL mporetta@rmrf.com

YOUR FILE

WRITER'S DIRECT PHONE (780) 497-3325

OUR FILE

108511-001-MSP

July 19, 2016

Via Email

WITH PREJUDICE

Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, AB T8H 2A3

Attention: Janet L. Hutchison

McLennan Ross LLP
#600, 12220 Stony Plain Road
Edmonton, AB T5N 3Y4

Attention: Karen Platten, Q.C.

Dear Madams:

Re: Sawridge Trust
Q.B. Action No. 1103 14112

Thank you for your letters dated July 14, 2016 (McLennan Ross LLP) and July 15, 2016 (Hutchison Law) regarding the transfer issue. We are encouraged with the progress on this issue and are hopeful that we can reach an agreement on the form of a consent order that can be presented to Justice Thomas on August 24, 2016.

We have considered your proposed changes contained in your respective letters and, in substance, have incorporated these changes into the form of order. Some of the proposed wording has been changed, as discussed below, however we believe the revised form of order which is attached hereto captures substantially all of the proposed changes and addresses the concerns of all parties.

We have the following comments with respect to the proposed form of order:

1. Settlement of 1985 Sawridge Trust – the 1985 Sawridge Trust was settled through the transfer of \$100.00 in Canadian currency (see the schedule to the 1985 Trust, found under the signature of the trustees). The transfer of assets from the 1982 Trust then took place after the 1985 Trust had already been settled. We have revised the proposed wording in the preamble to reflect this.
2. While there is little information available regarding the transfer of assets into the 1985 Trust, it would be incorrect to say that there is “no information” available, and accordingly we have revised this portion of the preamble.
3. The proposed preamble states that the trustees have not conducted an accounting in respect of the transfer of assets into the 1985 Trust. A great deal of work has been carried out by the trustees in respect of the transfer of assets into the 1985 Trust, and

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3200 Manulife Place, 10180 - 101 Street, Edmonton, Alberta, Canada T5J 3W8 PH 780.425.9510 FX 780.429.3044 www.rmrf.com

accordingly we have revised the preamble to simply state that the trustees "are not seeking an accounting of the assets transferred into the 1985 Trust." We believe that this is not only a more accurate reflection of what has occurred, but is consistent with the concerns expressed by the OPGT and Catherine Twinn in regard to the effect of this proposed consent order.

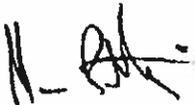
4. Paragraphs 2 and 3 proposed by Hutchison Law, as well as portions of the preamble, would appear to reflect a concern by the OPTG that no beneficiary is prevented from seeking an accounting in respect of the 1985 Trust in the future, including an accounting to determine whether the assets from the 1982 Trust were transferred into the 1985 Trust. We have no objection in principle to include wording to this effect, and have combined the proposed paragraphs and removed the reference to what was "intended" back in 1985. We understand that resolutions were passed to transfer all of the assets from the 1982 Trust to the 1985 Trust, and to the extent that a beneficiary may wish to have an accounting of the 1985 Trust in the future, including with respect to the transfer of assets into the 1985 Trust, we have included wording that allows such an accounting to occur.

We look forward to hearing from you.

Yours truly,

REYNOLDS, MIRTH, RICHARDS & FARMER LLP

PER:

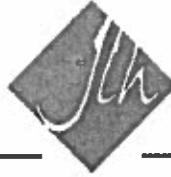


MARCO S. PORETTI
MSP/cam
Encl.

cc: Dentons LLP
Attention: Doris Bonora
(Via email with encl.)

Parlee McLaws LLP
Attention: Edward Molstad, Q.C.
(Via email with encl.)

Supreme Advocacy
Attention: Eugene Meehan
(Via email with encl.)



HUTCHISON LAW

Our File: 51433 JLH

SENT BY EMAIL ONLY

July 22, 2016

Reynolds Mirth Richards & Farmer LLP
Suite 3200 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Dentons LLP
Suite 2900 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Attention: Marco Poretti

Attention: Doris Bonora

McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton, Alberta
T5N 3Y4

**Attention: Karen Platten, Q.C. and Crista
Osualdini**

Dear Sirs and Mesdames:

**Re: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust); QB Action No. 1103
14112**

We are writing in response to Mr. Poretti's letter dated July 19, 2016 regarding the transfer issue. We have reviewed the Trustees' comments with respect to the revised proposed form of order and have the following comments and inquiries:

1. We note the language was changed from having all the items in the preamble as being "representations from counsel for the Sawridge Trustees" to having only the first item described as a representation. The remaining preamble items now follow "UPON noting that", which suggests they are the Court's own findings. The former is more appropriate, as it makes it clear the Court is relying upon the Trustees' representations.

2. In point #4 of your July 19, 2016 letter you address revisions to the preamble. We are concerned about the removal of detail in the preamble with respect to the lack of information or lack of accounting relating to whether all the assets intended to be settled in the 1982 Trust did in fact make it into the 1985 Trust. Questions remain as to assets held by individuals prior to 1982 actually making it into the 1985 Trust and we believe it is important to reflect this in the preamble. The revised version only refers to the transfer from the 1982 Trust to the 1985 Trust and not whether everything was properly settled in the 1982 Trust.
3. Point #4 also addresses the removal of our proposed paragraph 2. While there is some crossover between paragraphs 2 and 3, our proposed paragraph 2 addresses that the Trustees are not seeking to regularize any accounting issues, while paragraph 3 relates to possible impacts on beneficiaries attempting to seek an accounting. We believe the distinction warrants the inclusion of that paragraph.

We agree with the balance of your revisions and trust that an agreement on the revisions can be reached in short order. We are mindful of the benefit of having this resolved prior to the scheduled questioning on July 27, 2016 by SFN of Mr. Bujold.

Thank you for your attention to this matter.

Yours truly,

HUTCHISON LAW

PER: JANET L. HUTCHISON

JLH/cm

Enclosures

cc: Client
E. Meehan, Q.C., Supreme Advocacy LLP
E. Molstad, Q.C., Parlee McLaws LLP

Taryn Karstens-Smith

From: Janet Hutchison <jhutchison@jlhlaw.ca>
Sent: Monday, July 25, 2016 1:54 PM
To: Edward H. Molstad (emolstad@parlee.com); Marco S. Poretti (mporetti@rmrf.com)
Cc: Doris C.E. Bonora (doris.bonora@dentons.com); Karen Platten; Crista Osualdini (cosualdini@mross.com); Eugene Meehan (emeehan@supremeadvocacy.ca); Marie-France Major; Thomas Slade; Chantelle Monson (CMonson@jlhlaw.ca)
Subject: Questioning of Paul Bujold - 51433 JLH
Attachments: Unknown; Unknown

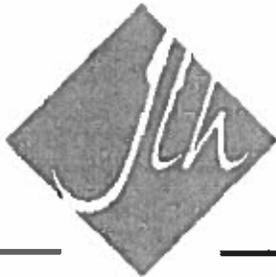
Gentlemen,

I am just touching base to inquire if there is any merit to the concept of discussing scheduling Mr. Bujold's questioning the week of August 1st in order to allow the parties to conclude their discussions on the assets form of consent order. I do appreciate that SFN has indicated it wishes to proceed unless both 5.13 applications are fully resolved. However, I would expect that if the assets issue was resolved, the questioning could be anticipated to be shorter and thus result in less expense to all parties.

The OPGT would be more than pleased to cooperate in any approach that would avoid unnecessary costs being incurred on the 27th.

We look forward to hearing from all counsel with their thoughts in this regard.

Yours truly,



HUTCHISON LAW

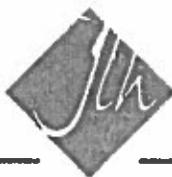
Janet L. Hutchison

Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, Alberta T8H 2A3
Phone: 780-417-7871 (ext. 225)
Fax: 780-417-7872

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HUTCHISON LAW

Our File: 51433 JLH

SENT BY EMAIL ONLY

July 26, 2016

Reynolds Mirth Richards & Farmer LLP
Suite 3200 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Dentons LLP
Suite 2900 Manulife Place
10180 - 101 Street
Edmonton, Alberta T5J 3W8

Attention: Marco Poretti

Attention: Doris Bonora

McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton, Alberta
T5N 3Y4

**Attention: Karen Platten, Q.C. and Crista
Osualdini**

Dear Sirs and Mesdames:

**Re: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust); QB Action No. 1103
14112**

Further to your correspondence of earlier today, the OPGT will consent to either of the following options for additional revisions to the form of proposed consent order:

1. We agree on sentences #1, #2 and #6 of the preamble as drafted by you. The OPGT will agree to the removal of its proposed paragraph #2 if the OPGT's sentences #3, #4 and #5 as originally drafted in our July 15, 2016 correspondence are used; or
2. Adopt the preamble wording proposed by the Trustees' correspondence of today's date and add the following sentence at the end of paragraph #2 "... or an accounting of the assets transferred into the 1982 Trust."

If one of these options is not acceptable to the Trustees, we suggest that the various versions of the Consent Order, with brief submissions by the parties to the proposed Order, be presented to the Court on August 24, 2016.

Thank you for your attention to this matter.

Yours truly,

HUTCHISON LAW



(signed in the writer's absence to avoid delay)

PER: JANET L. HUTCHISON

JLH/cm

cc: Client
E. Meehan, Q.C., Supreme Advocacy LLP
E. Molstad, Q.C., Parlee McLaws LLP



BARRISTERS SOLICITORS

**Reynolds
Mirth
Richards
& Farmer LLP**

WRITER'S E-MAIL

mporetti@rmrf.com

WRITER'S CONTACT PHONE

(780) 497-3325

YOUR FILE

OUR FILE

108511-001-MSP

July 26, 2016

Via Email

WITH PREJUDICE

Hutchison Law
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park, AB T8H 2A3

Attention: Janet L. Hutchison

McLennan Ross LLP
#600, 12220 Stony Plain Road
Edmonton, AB T5N 3Y4

Attention: Karen Platten, Q.C.

Dear Madams:

Re: Sawridge Trust
Q.B. Action No. 1103 14112

Thank you for your respective comments on our proposed form of order regarding the transfer issue. We have the following comments:

1. Hutchison Law July 22, 2016 letter:
 - a. Paragraph 1 – we agree to change the preamble to reflect that the items previously identified in the July 15, 2016 draft order are representations from the Sawridge Trustees.
 - b. Paragraph 2 – regarding our revisions to the preamble, and whether all of the assets that were intended to be settled into the 1982 Trust actually made it into the 1985 Trust, our concern is that our application deals with the transfer that took place into the 1985 Trust. We are not concerned with what took place in 1982. We are only concerned with the transfer that took place in 1985. Despite this, in an effort to reach agreement, we are prepared to include a statement in the preamble that we are not seeking an accounting of the assets transferred into the 1982 Trust.
 - c. Paragraph 3 – you raise a concern about the removal of your proposed paragraph 2, which paragraph put forth the proposition that no aspect of the application seeks to deal with an accounting and that the Trustees will not rely on the order as having regularized or approved any matters relevant to an accounting. Our view is that this paragraph is unnecessary. The order already makes it clear that the Trustees are not seeking an accounting, the approval of the transfer is not deemed to be an accounting, and the order cannot be relied upon to prevent an accounting from taking place.

1656541.doc

3200 Manulife Place, 10180 - 101 Street, Edmonton, Alberta, Canada T5J 3W8 PH 780.425.9510 FX 780.429.3044 www.rmrf.com

2. McLennan Ross July 21, 2016 email:

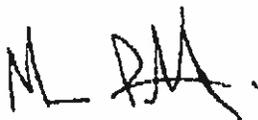
- a. The documentation relating to the transfer of assets includes the documentation attached to Paul Bujold's affidavits, answers to undertakings of Paul Bujold Nos. 16 and 50, and documents produced in the Trustees' affidavit of records. We had understood that you had been provided with all of these materials.
- b. With respect to your concern that our application relates to an unstated issue, we have provided clarification of the transfer issue on a number of occasions. Further, the order itself now sets the parameters of the relief sought, and we believe that the proposed form of order, including the statements contained therein clarifying not only what is being sought but what is not being sought, removes any ambiguity on this issue.
- c. We agree that an explanation will have to be given to the Court with respect to the documentation that is available and why the order is necessary.

We attach hereto a revised form of order for your consideration. We have attempted to accommodate your respective concerns and are hopeful that this form of order is acceptable to you. The failure to come to an agreement on the transfer issue at this time would be unfortunate given that we appear to agree in principle on the substance of the order. A failure to reach agreement at this stage would result in the need for the application for advice and directions on the transfer issue to proceed, including all steps leading up to the application, including the questioning of Mr. Bujold that is scheduled for July 27, 2016. We trust that you agree that these unnecessary steps should be avoided at all costs. We look forward to hearing from you.

Yours truly,

REYNOLDS, MIRTH, RICHARDS & FARMER LLP

PER:



MARCO S. PORETTI
MSP/cam
Encl.

cc: Dentons LLP
Attention: Doris Bonora
(Via email with encl.)

Parlee McLaws LLP
Attention: Edward Molstad, Q.C.
(Via email with encl.)

Supreme Advocacy
Attention: Eugene Meehan
(Via email with encl.)



McLENNAN ROSS LLP

LEGAL COUNSEL

Our File Reference: 144194

Karen A. Platten, Q.C.
Direct Line: (780) 482-9278
e-mail: kplatten@mross.com

Amanda Riboreau, Assistant
Direct Line: (780) 482-9281

Fax: (780) 482-9102

PLEASE REPLY TO EDMONTON OFFICE

July 28, 2016

WITH PREJUDICE

SENT VIA E-MAIL

Dentons Canada LLP
2900 Manulife Place
10180-101 Street
Edmonton, AB T5J 3V5

Attention: **Doris Bonora**

Dear Madam:

Re: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust)
QB Action No. 1103 14112

We agree in substance with the letter of the OPGT dated July 15, 2016. In reference to the transfer of assets from the 1982 Trust to the 1985 Trust, you have our letter dated July 14, 2016 and further correspondence. We believe the latest Consent Order can be signed after we receive an answer to our latest inquiry.

In terms of the application on the Proposed Distribution Scheme (as set out for Justice Thomas on January 21, 2016), it appears that most, if not all parties are in agreement with the approach to be taken. We agree in principle with the benefits as set out in the Proposed Distribution Scheme, always of course, keeping in mind the need for regular monitoring to plan for and keep pace with changing needs and circumstances and the principle of even-handedness. The Trustees cannot set this scheme and never look at it again so there is always a need for a system of regular review not only respecting the current needs of the beneficiaries but also the ability of the Trust to support the programs into the future. This process was not set out in the Proposed Distribution Scheme and we would like to see this

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cf. 1.888.543.9120

Yellowknife Office
301 Nunasi Building
5109 - 48th Street
Yellowknife, NT X1A 1N5
p. 867.766.7677
f. 867.766.7678
cf. 1.888.836.6684

included as part of the proposal. Additionally, once the beneficiaries of the 1985 Trust are determined, there must be a consultation process with them to determine their needs. We understand that this consultation took place with band members relative to the 1986 Trust resulting in the current benefits which are being provided.

To forestall the need for any further applications to Justice Thomas on the Proposed Distribution Scheme, we suggest that all relevant parties agree to a form of Order which will include those provisions of the Proposed Distribution Scheme that are agreed to. The remaining issue of beneficiary definition will be dealt with as a separate application as final relief in the 2011 application with respect to the definition of the term Beneficiaries contained in the 1985 Trust and, if necessary, to vary the 1985 Trust to clarify the definition of Beneficiaries.

To be clear, the form of Order will reflect the benefits plan, as set out in the Proposed Distribution Scheme. It will not deal with a final distribution of the 1985 Trust or beneficiary definition and final identification of beneficiaries will be dealt with in a separate application at a later date.

In addition, there will not be any distributions made from the 1985 Trust until there is a final determination of the issue of beneficiary definition under the 1985 Trust.

We have provided a form of Order, which we appreciate will need to be massaged to capture all points of view, in the hope that we can present the form of Order to Justice Thomas on August 24, 2016.

Yours truly,



KAREN A. PLATTEN, Q.C.

KAP/ar

Encl.

cc: E. Molstad, Q.C., Parlee McLaws LLP
(Sawridge First Nation) (via e-mail)

J. Hutchison, Hutchison Law (via e-mail)

Marco Poretti, Reynolds, Mirth, Richards & Farmer LLP (via e-mail)

\\mrdata1\edmdata\WDocs\144194\01441078.DOCX

COURT FILE NUMBER 1103 14112

Clerk's Stamp

COURT: COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

IN THE MATTER OF THE TRUSTEE ACT, RSA 2000, c T-8, AS AMENDED

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 (the "1985 Sawridge Trust")

APPLICANTS: ROLAND TWINN, CATHERINE TWINN, WALTER FELIX TWIN, BERTHA L'HIRONDELLE and CLARA MIDBO, as Trustees for the 1985 Sawridge Trust (the "Sawridge Trustees")

DOCUMENT CONSENT ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

**DATE ON WHICH ORDER WAS
PRONOUNCED:**

_____, 2016

**LOCATION WHERE ORDER WAS
PRONOUNCED:**

Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice D.R.G. Thomas

CONSENT ORDER

UPON HEARING representations from counsel for the Sawridge Trustees and counsel for Catherine Twinn and counsel for the Office of the Public Guardian and Trustee; AND UPON noting that the Court had requested that a property distribution scheme be brought before it; AND UPON noting that all parties have agreed that the benefits package proposed in the Proposed Distribution Scheme put forward to the Court by letter dated January 21, 2016 is appropriate; AND UPON noting that the parties agree that the Beneficiaries of the 1985 Sawridge Trust have yet to be determined and that this Proposed Distribution Scheme does not, in any way, affect the definition of Beneficiary as currently set out in the 1985 Sawridge Trust;

IT IS HEREBY ORDERED THAT:

1. That the benefits currently enumerated for beneficiaries of the 1985 Sawridge Trust and the 1986 Sawridge Trust being the following:
 - a) Health, Dental, Vision Care and Life Insurance;
 - b) Education Support Fund;
 - c) Addictions Treatment Support Fund;
 - d) Child and Youth Development;
 - e) Compassionate Care and Death;
 - f) Seniors Support;
 - g) Personal Development and Alternate Health;
 - h) Income Replacement;
 - i) Recognition of Beneficiaries and Dependents Educational Achievements;
 - j) One time Only Good Faith Cash Disbursement.

Are hereby confirmed.

2. That the benefits currently enumerated for minor children of beneficiaries of the 1985 Sawridge Trust and the 1986 Sawridge Trust being the following:

- a) Health, Dental, Vision Care;
- b) Education Support Fund;
- c) Addictions Treatment Support Fund;
- d) Child and Youth Development;
- e) Personal Development and Alternate Health;
- f) Income Replacement;
- g) Recognition of Beneficiaries and Dependents Educational Achievements;
- h) Compassionate Care and Death.

Are hereby confirmed.

3. A final determination as to the definition of Beneficiary under the 1985 Sawridge Trust will be made at a future date and this Order does not modify, confirm or affect, in any way, the current definition of Beneficiary as contained in the 1985 Sawridge Trust.
4. No distributions will be made from the 1985 Sawridge Trust until the definition of Beneficiary under the 1985 Sawridge Trust has been determined by Court Order.

5. Costs of this application on a solicitor-client basis will be paid by the 1985 Sawridge Trust for the lawyers for the Trustees, the lawyers for Catherine Twinn and the lawyers for the Office of the Public Guardian and Trustee.

The Honourable Mr. Justice D.R.G. Thomas

CONSENTED TO BY:

Dentons Canada LLP

Reynolds Mirth Richards & Farmer LLP

Doris Bonora
Counsel for Sawridge Trustees

Marco S. Poretti
Counsel for Sawridge Trustees

McLennan Ross LLP

Hutchison Law

Karen Platten, Q.C.
Counsel for Catherine Twinn as
a Trustee of 1985 Sawridge Trust

Janet Hutchison
Counsel for The Office of the
Public Guardian and Trustee

Taryn Karstens-Smith

From: Hagerman, Susan <susan.hagerman@dentons.com>
Sent: Friday, August 05, 2016 12:51 PM
To: Marco S. Poretti <MPoretti@rmrf.com> (MPoretti@rmrf.com); jhutchison@jlhlaw.ca; Karen Platten <kplatten@mross.com> (kplatten@mross.com); cosualdini@mross.com; emolstad@parlee.com
Cc: Bonora, Doris; Paul@sawridgetrusts.ca; Brian Heidecker <brian@sawridgetrusts.ca> (brian@sawridgetrusts.ca)
Subject: Sawridge Trust
Attachments: Brief - Transfer of Assets v.2.DOCX; Draft Transfer Brief and Tabs - sent for review August 5 2016.PDF

Attached is a copy of a Draft Brief with respect to the transfer of assets for your review and comment. It is attached as a word document and attached as a PDF together with the Tabs intended to be attached.

We look forward to your comments.



Susan Hagerman
Assistant to Doris Bonora

D +1 780 423 7318
susan.hagerman@dentons.com
Website

Dentons Canada LLP
2900 Manulife Place, 10180 - 101 Street Edmonton, AB T5J 3V5 Canada

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August 11, 2016

File No.: 551880-1

McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton AB T5N 3Y4

Hutchison Law LLP
#190 Broadway Business Square
130 Broadway Boulevard
Sherwood Park AB T8H 2A3

Attention: Karen Platten/Crista Osualdini

Attention: Janet Hutchison

Dear Sir/Madam:

RE: Sawridge Band Inter Vivos Settlement (1985 Sawridge Trust)

Please find enclosed an application that we have filed in order to post on the website. The application is entirely to deal with the fact that the transfer issue will be dealt with on August 24, 2016. We wanted to ensure that everyone had notice since this is the final relief we are seeking on this issue.

You will see that I have attached the form of order that has been approved by the Trustees, OPGT and Catherine Twinn. I have amended the Order as per the comments of Ms. Platten that it might be best if this were not treated as a consent order.

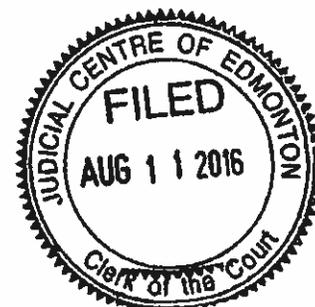
We do not think this is entirely necessary, as we were entitled to post all documents on the website as sufficient service. We thought that it would be useful to make sure that no one could suggest they did not have notice that this final relief was being dealt with at the August 24, 2016 application.

Yours truly,
Dentons Canada LLP

Doris Bonora
DCEB/sh

Enclosure

COURT FILE NUMBER 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**

**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
 (the "1985 Sawridge Trust")**

APPLICANTS
 ROLAND TWINN
 CATHERINE TWINN
 WALTER FELIX TWIN
 BERTHA L'HIRONDELLE, and
 CLARA MIDBO, as Trustees for the 1985
 Sawridge Trust

DOCUMENT
 APPLICATION for Advice and Direction in
 Respect of the transfer of assets

**ADDRESS FOR SERVICE
 AND CONTACT
 INFORMATION OF PARTY
 FILING THIS DOCUMENT:**
 DENTONS CANADA LLP
 2900, 10180 - 101 Street
 Edmonton, Alberta T5J 3V5
 T 780 423 7100 F 780 423 7276
 Attention : Doris Bonora

REYNOLDS, MIRTH, RICHARDS & FARMER LLP
 3200 Manulife Place
 10180 - 101 Street
 Edmonton, AB T5J 3W8
 Attention: Marco S. Poretti

Telephone: (780) 497-3325
 Fax: (780) 429-3044
 File No: 108511-001-MSP

NOTICE TO RESPONDENT(S)

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

You have the right to state your side of this matter before the master/judge.

To do so, you must be In Court when the application is heard as shown below:

Date	Thursday, August 24, 2016
Time	10:00 AM
Where	Law Courts Building 1 Sir Winston Churchill Square Edmonton, AB T5J 3Y2
Before Whom	Justice D.R.G. Thomas

Go to the end of this document to see what you can do and when you must do it.

1. Applicants

- (a) The Trustees of the 1985 Sawridge Trust

2. Issues to be determined or nature of claims

- (a) Approval of the transfer of assets which occurred in 1985 from the Sawridge Band Trust ("1982 Trust") to the Sawridge Band Inter Vivos Settlement ("1985 Trust") *nunc pro tunc*. The approval of the transfer shall not be deemed to be an accounting of the assets of the 1982 Trust that were transferred and shall not be deemed to be an accounting of the assets in the 1985 Trust that existed upon settlement of the 1985 Trust.
- (b) Providing Direction that without limiting the generality of the foregoing, the Trustees' application cannot be relied upon by the Trustees in the future as a basis to oppose or prevent a beneficiary from seeking an accounting from the 1985 Trust, including an accounting to determine the assets that were transferred into the 1985 Trust from the 1982 Trust or an accounting of the assets transferred into the 1982 trust.

3. Grounds for request and relief sought

- (a) Assets were transferred from the 1982 trust to the 1985 trust in 1985;
- (b) There are representations from counsel for the Sawridge Trustees that the Sawridge Trustees have exhausted all reasonable options to obtain a complete documentary record regarding the transfer of assets from the 1982 Trust to the 1985 Trust;
- (c) The parties to this action have been given access to all documents regarding the transfer of assets from the 1982 Trust to the 1985 Trust that the Trustees have obtained;

- (d) The Trustees are not seeking an accounting of the assets transferred into the 1982 Trust;
- (e) The Trustees are not seeking an accounting of the assets transferred into the 1985 Trust;
- (f) The Trustees are not seeking an accounting of the assets transferred from the 1982 Trust into the 1985 Trust;
- (g) Little information is available regarding the transfer of assets from the 1982 Trust to the 1985 Trust.

4. Documents filed in this application

- (a) Affidavits of Paul Bujold filed in this action;
- (b) Questioning on the affidavits of Paul Bujold filed in this action;
- (c) Undertakings of Paul Bujold filed in this action;
- (d) Form of Order in respect of this matter attached as Schedule "A" hereto.

5. Applicable Statutes

- (a) Trustee Act R.S.A. 2000, c.T-8, s.43, as amended

6. Any irregularity complained of or objection relied on:

7. How the application is proposed to be heard or considered:

In chambers before Justice D.R.G. Thomas, the case management justice assigned to this file.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicants what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE "A"

Clerk's Stamp:

COURT FILE NUMBER 1103 14112
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
IN THE MATTER OF THE TRUSTEE ACT, RSA 2000, c
T-8, AS AMENDED

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 (the "1985 Sawridge Trust")

APPLICANTS ROLAND TWINN, CATHERINE TWINN, WALTER
FELIX TWIN, BERTHA L'HIRONDELLE and CLARA
MIDBO, as Trustees for the 1985 Sawridge Trust (the
"Sawridge Trustees")

DOCUMENT ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Doris C.E. Bonora Dentons Canada LLP 2900 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3V5 Ph. (780) 423-7188 Fx. (780) 423-7276 File No.: 551860-1	Marco Poretti Reynolds Mirth Richards & Farmer LLP 3200, 10180 - 101 Street Edmonton, AB T5J 3W8 Ph. (780) 425-9510 Fx: (780) 429-3044 File No. 108511-MSP
--	--	---

DATE ON WHICH ORDER WAS PRONOUNCED: _____, 2016

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, AB

NAME OF JUSTICE WHO MADE THIS ORDER: Mr. Justice D.R.G. Thomas

ORDER

UPON HEARING representations from counsel for the Sawridge Trustees that the Sawridge Trustees have exhausted all reasonable options to obtain a complete documentary record regarding the transfer of assets from the 1982 Trust to the 1985 Trust; AND that the parties to this Order have been given access to all documents regarding the transfer of assets from the 1982 Trust to the 1985 Trust that the Trustees have reviewed; AND that the Trustees are not seeking

an accounting of the assets transferred into the 1982 Trust; AND that the Trustees are not seeking an accounting of the assets transferred into the 1985 Trust; AND UPON noting that assets from the 1982 Trust were transferred into the 1985 Trust; AND UPON noting that little information is available regarding the transfer of assets from the 1982 Trust to the 1985 Trust;

IT IS HEREBY ORDERED THAT:

1. The transfer of assets which occurred in 1985 from the Sawridge Band Trust ("1982 Trust") to the Sawridge Band Inter Vivos Settlement ("1985 Trust") is approved *nunc pro tunc*. The approval of the transfer shall not be deemed to be an accounting of the assets of the 1982 Trust that were transferred and shall not be deemed to be an accounting of the assets in the 1985 Trust that existed upon settlement of the 1985 Trust.
2. Without limiting the generality of the foregoing, the Trustees' application and this Order cannot be relied upon by the Trustees in the future as a basis to oppose or prevent a beneficiary from seeking an accounting from the 1985 Trust, including an accounting to determine the assets that were transferred into the 1985 Trust from the 1982 Trust or an accounting of the assets transferred into the 1982 trust.

The Honourable Mr. Justice D.R.G. Thomas

Taryn Karstens-Smith

From: Hagerman, Susan <susan.hagerman@dentons.com>
Sent: Wednesday, August 17, 2016 5:24 PM
To: jhutchison@jhlaw.ca; Karen Platten <kplatten@mross.com> (kplatten@mross.com);
cosualdini@mross.com; emolstad@parlee.com; ngolding@blg.com;
priscilla.kennedy@dlapiper.com
Cc: Bonora, Doris; Marco S. Poretti <MPoretti@rmrf.com> (MPoretti@rmrf.com);
Paul@sawridgetrusts.ca; Brian Heidecker <brian@sawridgetrusts.ca>
(brian@sawridgetrusts.ca)
Subject: Sawridge Trust - Action No. 1103 14112
Attachments: Ltr to counsel serving Brief re transfer of Assets.PDF; BRIEF OF THE TRUSTEES - Transfer
of Assets filed August 17 2016.PDF; Ltr to Justice Thomas re consent order transfer of
Assets.PDF; Ltr to Thomas with Agenda attached.PDF

Please find enclosed our letter of August 17, 2016 serving the Brief of the Trustees for Approval of the Transfer of Assets from the 1982 Trust to the 1985 Trust together with the Brief of the Trustees.

We also enclose:

1. Letter to Justice Thomas with enclosures regarding the Consent Order and Brief of the Trustees; and
2. Letter to Justice Thomas with enclosure forwarding an Agenda for the August 24, 2016 Application.



Susan Hagerman
Estates Paralegal

D +1 780 423 7318
susan.hagerman@dentons.com
Website

Dentons Canada LLP
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大成 Salans FMC SNR Denton McKenna Long

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Taryn Karstens-Smith

From: Hagerman, Susan <susan.hagerman@dentons.com>
Sent: Friday, December 02, 2016 4:13 PM
To: 'jhutchison@jlhlaw.ca'; 'cosualdini@mross.com'; Karen Platten <kplatten@mross.com> (kplatten@mross.com); 'emolstad@parlee.com'; 'ngolding@blg.com'; priscilla.kennedy@dlapiper.com
Cc: Bonora, Doris; Loparco, Anna; Marco S. Poretti <MPoretti@rmrf.com> (MPoretti@rmrf.com); 'Paul@sawridgetrusts.ca'; Brian Heidecker <brian@sawridgetrusts.ca> (brian@sawridgetrusts.ca)
Subject: Sawridge Order of August 24 2016
Attachments: 1103 14112 FILED ORDER issued August 24-16 and filed December 1 - 16 (5).PDF

Attached for service upon you is a copy of the Order of Justice Thomas pronounced on August 24, 2016 and filed December 1, 2016.

 Susan Hagerman
Estates Paralegal

D +1 780 423 7318
susan.hagerman@dentons.com
Website

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2900 Manulife Place, 10180 - 101 Street Edmonton, AB T5J 3V5 Canada

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Department of Justice / Ministère de la Justice
Canada

Legal Services
Indian Affairs and Northern Development
Room 1018, Les Terrasses de la Chaudière
10 Wellington Street
Hull, Québec
K1A 0H4

Nov 9 3 29 PM '94

This is Exhibit "G" referred to in the
Affidavit (or statutory declaration) of

ROMAN BOMBAK

Sworn / or affirmed or Declared)

before me this 19 day of December

A.D. 20 19

A Commissioner for Oaths in and for Alberta

J. JONATHAN FAUDS Q.C.
Barrister + Solicitor

November 9, 1994

VIA FAX NUMBER (416) 863-0871

Mr. Maurice C. Cullity, Q.C.
Davies, Ward & Beck
P.O. Box 63, Suite 1400
1 First Canadian Place
Toronto, Ontario
M5X 1B1

Sawridge Indian Band Expenditures pursuant to
Sections 64 and 66 of the Indian Act

Dear Mr. Cullity:

We are in receipt of your letter of October 24th, 1994.

Although we note the concern expressed in your letter regarding the inclusion on the list of amounts for recurring and other expenditures which would not involve the acquisition of specific assets, we should remember that the suggestion for the production of such a statement originated from your letter of April 19, 1994.

We and our client, the Department of Indian Affairs and Northern Development, are concerned regarding the delay in resolving this matter.

In an attempt to accelerate the resolution of the current situation, we are prepared to limit the scope of the statement to be provided by your client's auditors. Accordingly, we hereby request confirmation by way of statement from Sawridge's accountants that all funds that were released for the acquisition of capital assets were in fact used for that specific purpose, and further confirmation that those assets are held in trust or have been converted into other assets which are held in trust for the members of the Band. In other words, at this time we do not seek confirmation regarding amounts released for purposes other than the acquisition of capital assets.

.../2

Canada

11/10/94 10:40 416 863 0871 D W B (E)
11/09/94 15:25 LEGAL SERVICES + 416 863 0871

2003
NO. 231

2

We would appreciate receiving confirmation of this proposal at your earliest convenience.

Yours very truly,



Margaret McIntosh
Counsel

DAVIES, WARD & BECK

BARRISTERS & SOLICITORS

MAURICE C. CULLITY, Q.C.
DIRECT LINE (416) 863-5522

File No. 21902

VIA TELECOPIER

October 20, 1994

Ms. Margaret McIntosh
Counsel, Legal Services
Indian Affairs and Northern Development
Room 1018
Les Terrasses de la Chaudière
10 Wellington Street
Hull, Quebec
K1A 0H4

Dear Ms. McIntosh:

Sawridge

Further to our recent discussions, I am writing to confirm that I do not believe that the list of expenditures provided with your letter of October 5, 1994 is helpful for the purposes we have discussed. Many of the amounts referred to on the list relate to recurring expenditures, such as legal and other professional fees, and some are as small as \$500. They extend back over a period of 20 years and to ask for a statement from the auditors that all were properly expended on the particular purposes referred to in the BCRs would be prohibitively expensive even if, after such a period, it were possible to deal with them.

In my discussion with Mr. Gregor MacIntosh on April 7, 1994, I was told that the Department's concern was to ensure that all funds distributed to the Band pursuant to section 64 or section 69 were either held in trust, or could be traced into assets held in trust, for members of the Band. I suggested that the auditors might be asked to certify that all funds distributed to the band by the Minister pursuant to section 64 or section 69 of the *Indian Act* for the acquisition of specific assets, or property or investments into which those funds have been converted, are now held in trusts for members of the band. In my letter of April 19 to Mr. Van Iterson, I referred too generally to funds distributed to the band for specific purposes pursuant to those sections of the *Indian Act*. A large number of the amounts on the list you have provided refer to section 66 of the Act but, more importantly, many of them were amounts for recurring and other expenditures that would not involve the acquisition of assets and could not be expected to end up in trusts or otherwise in property of the Band.

DAVIES, WARD & BECK

- 2 -

In order to try to resolve this matter without further delay and expense, I wonder whether it would be an acceptable solution to ask the auditors to confine their attention to amounts on your list of \$500,000 or more that were advanced for the purpose of acquiring specific assets. If this is not satisfactory from the viewpoint of the Department, perhaps you would suggest another alternative.

As I have indicated to you on a number of occasions, we do not agree that the Department is entitled to demand details of expenditures made by the band in the past or with respect to the assets that it now holds. At the same time, in the interests of avoiding the litigation that will be inevitable if your client intends to make unreasonable demands, I have attempted to find a solution that will satisfy the Department without involving the Band in unnecessary expense. I still wish to do this if it is possible.

Yours very truly,



Maurice C. Cullity

MCC/dp

cc: M. McKimney, Esq.

 Department of Justice / Ministère de la Justice
Canada / Canada

Ottawa, Canada
K1A 0H8

Legal Services
Indian Affairs and Northern Development
Room 1018, Les Terrasses de la Chaudière
10 Wellington Street
Hull, Quebec
K1A 0H4

August 29, 1994

Mr. Maurice C. Cullity, Q.C.
Davies, Ward Beck
P.O. Box 63, Suite 4400
1 First Canadian Place
Toronto, Ontario
M5X 1B1

Subject: Sawridge Trusts

Dear Mr. Cullity:

Further to our telephone conversation of August 9, 1994, we continue to anticipate a statement from the auditors of the Sawridge Indian Band to the effect that funds released to the Band pursuant to sections 64 and 69 of the *Indian Act* are being held in trust for the members of the Band, and that any funds were used for the purposes for which they were authorized by the Minister of Indian Affairs and Northern Development.

My client is anxious to have this matter settled as expeditiously as possible. Accordingly, I respectfully request some written indication of when this information will be available.

Thank you for your consideration of this matter.



Margaret McIntosh
Counsel

Canada



March 21, 1994

Davies Ward & Beck
Barristers & Solicitors
Box 63, 44th Floor
1 Canadian Place
Toronto, Ontario
M5X 1B1

ATTENTION: M. Cullity

Dear Sir:

RE: Sawridge Trusts

Further to our recent telephone conversation, we wish to confirm that the Department was aware of the existence of Trusts for the benefit of Sawridge Band Members for quite some time. This knowledge can be attributed to the Department from several sources including:

1. Annual Audits
2. Capital Project Funds Requests
3. Self-Government Negotiations
4. Early Trust discussions

1. Annual Audits

The annual audit reports show an amount each year as "*Distributions to Band Members*". In the March 31, 1984 statement Note #16 reads:

16. *Distributions to Band Members*

On December 17, 1983 the Members of the Band transferred certain assets with a carrying value of \$17,951,590 to "The Sawridge Band Trust", a trust formed for the benefit of the members of the Sawridge Indian Band".

HEAD OFFICE: BOX 326, SLAVE LAKE, ALBERTA, T0G 2A0 • TEL: (403) 849-4311 • FAX: (403) 849-3446

BRANCH OFFICE: # 766, 10201 JASPER AVENUE, EDMONTON, ALBERTA, T5J 3N7 • TEL: (403) 421-4845 • FAX: (403) 428-7022



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Assistant Deputy Minister

Sous-ministre adjoint

Ottawa, Canada
K1A 0H4

FILED TRUSTS

MAR 30 1994

RECEIVED
APR - 8 1994
Sawridge

Mr. Maurice C. Cullity
Davies, Ward & Beck
Barristers & Solicitors
P.O. Box 63, Suite 4400
1 First Canadian Place
TORONTO ON M5X 1B1

Dear Mr. Cullity:

Thank you for your letter of March 16, 1994 concerning the existence of trusts that were apparently established on behalf of members of the Sawridge Band. I appreciate your willingness to meet to discuss this matter.

A meeting is desirable because of the Minister's statutory responsibilities for ensuring that moneys released to the band, pursuant to sections 61 to 69 of the Indian Act, are used for the benefit of the band and its members.

It may be that a relatively small amount of information on the above trusts, the existence of which was unknown to the Minister, will provide sufficient assurances that the above concerns have been met. We may also be assured that the assets are being held in those trusts for the benefit of all band members, including those who may be entitled to membership, as will be determined by the current related litigation.

To make the necessary arrangements for the meeting, would you please contact my office at (819) 953-5577.

Yours sincerely,

Original by/par
W. VAN ITERSON

W. (Bill) Van Iterson
A/Assistant Deputy Minister
Lands and Trust Services

c.c.: Chief Walter Twinn
Gregor MacIntosh
Ken Kirby
Chris McNaught

Canada

ORIGINAL in
CAPITAL/Red file
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Trust
Trust
COPY

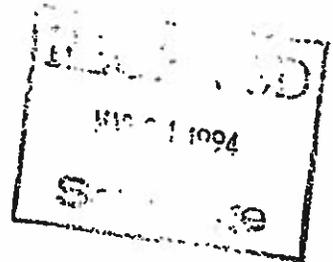
DAVIES, WARD & BECK
BARRISTERS & SOLICITORS

MAURICE C. CULLITY, Q.C.
DIRECT LINE (416) 863-5522

File No. 21902

March 16, 1994

W. Van Iterson, Esq.
A/Assistant Deputy Minister
Lands and Trust Services
Indian and Northern Affairs Canada
Ottawa, Ontario
K1A 0H4



Dear Sir:

Sawridge Indian Band

I refer to the letters of May 7, 1994 and December 23, 1993 addressed to Chief Walter Twinn. *Sp March*

For some years we have been retained to advise the Band with respect to, among other matters, any trusts established for its members. Accordingly, I have been instructed to respond to any questions you may have in connection with such trusts to the extent that you are entitled to receive answers.

You will understand that the Band, like any other community, organization or entity engaged in business and other activities for the benefit of its members is reluctant to release financial information relating to such activities to anyone other than such members unless it determines that this is in its best interests or is required by law. For this reason, although I have no objection to meeting with individuals from your department, it would be helpful if you would indicate in advance why you believe such a meeting to be desirable and the grounds, if any, on which you believe you are entitled to receive information about the trusts referred to in the letter from Ms. Porteous.

It would be appreciated if you would address your reply and any further correspondence or questions on this matter to this office.

Yours very truly,

Maurice C. Cullity

MCC/dp

- cc: Chief Walter Twinn ✓
- bcc: M. Henderson

Chantelle Monson

From: Crista Osualdini <cosualdini@mross.com>
Sent: Friday, December 06, 2019 4:32 PM
To: Sestito, Michael; Jon Faulds; Janet Hutchison; Edward H. Molstad; Ellery Sopko; Shelby Twinn
Cc: Bonora, Doris; Martin, Katherine; Hagerman, Susan
Subject: RE: DRAFT Litigation Plan for January 16 Application

Hi Michael,

Thank you for circulating this. Following the recent direction from Justice Henderson and in light of our client's continuing obligation to disclose relevant records, our client reviewed her records and has located additional records that are relevant to this matter. We are preparing a supplementary affidavit of records and intend to circulate same early next week. We anticipate that the parties will likely wish to consider their position on further applications in light of this production.

Further, I don't believe that staggered deadlines for response submissions are required as my understanding of the Court's direction was that the parties and intervenors were to be provided one further opportunity for response submissions in light of the clarification from the Court on the issues Justice Henderson wants addressed. This would allow for one deadline of January 10th.



Crista Osualdini | Partner | direct 780.482.9239 | toll free 1.800.567.9200 | fax 780.733.9723
McLennan Ross LLP | www.mross.com | [BIOGRAPHY](#) | Member of Meritas
600 McLennan Ross Building, 12220 Stony Plain Road, Edmonton, AB T5N 3Y4

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From: Sestito, Michael [mailto:michael.sestito@dentons.com]
Sent: Thursday, November 28, 2019 10:25 PM
To: Jon Faulds <jfaulds@fieldlaw.com>; Janet Hutchison <JHutchison@jlhlaw.ca>; Crista Osualdini <cosualdini@mross.com>; Edward H. Molstad <emolstad@parlee.com>; Ellery Sopko <esopko@parlee.com>; Shelby Twinn <S.Twinn@LIVE.CA>
Cc: Bonora, Doris <doris.bonora@dentons.com>; Martin, Katherine <katherine.martin@dentons.com>; Hagerman, Susan <susan.hagerman@dentons.com>
Subject: RE: DRAFT Litigation Plan for January 16 Application

Notice: External Email

Sorry, resending with a few small typos corrected and also adding in Shelby. This is Exhibit "H" referred to in Affidavit (or statutory declaration)

Thanks,

Mike

DENTONS

Michael S Sestito
Partner

D +1 780 423 7300
michael.sestito@dentons.com

Sworn (or affirmed or declared)
before me this 19 day of
December A.D. 20 19
A Commissioner for Oaths in and for Alberta

ROMAN DOMBAL
P. JONATHAN FAULDS Q.C.
Barrister & Solicitor

Bio | Website

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2500 Stantec Tower, 10220 - 103 Avenue NW Edmonton, AB T5J 0K4 Canada

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From: Sestito, Michael
Sent: November 28, 2019 10:22 PM
To: 'Jon Faulds' <jfaulds@feldlaw.com>; Janet Hutchison <JHutchison@jhlaw.ca>; Crista Osualdini <cosualdini@mross.com>; Edward H. Molstad <emolstad@parlee.com>; Ellery Sopko <esopko@parlee.com>
Cc: Bonora, Doris <doris.bonora@dentons.com>; Martin, Katherine <katherine.martin@dentons.com>; Hagerman, Susan <susan.hagerman@dentons.com>
Subject: DRAFT Litigation Plan for January 16 Application

Hello all,

Please review this draft litigation plan and provide any commentary. We would like to send this over to His Lordship as soon as possible.

Thanks,

Mike



Michael S Sestito
Partner

D +1 780 423 7300
michael.sestito@dentons.com
Bio | Website

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2500 Stantec Tower, 10220 - 103 Avenue NW Edmonton, AB T5J 0K4 Canada

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Chantelle Monson

From: Sestito, Michael <michael.sestito@dentons.com>
Sent: Friday, December 13, 2019 7:40 PM
To: Crista Osualdini
Cc: Janet Hutchison; jfaulds@fieldlaw.com; 'emolstad@parlee.com'; esopko@parlee.com; Bonora, Doris
Subject: Twinn Supplemental AOR

Hi Crista,

We have had the opportunity to review your client's supplemental affidavit of records.

As you know, we have great concerns over the fact that these records are proposed to be produced by your client and the very late hour in which they are being produced. With respect, we have provided you with a binder of material some months ago with material relating to the transfer and in response your client ought to have made prompt disclosure so as not to risk unduly harming the litigation schedule. We will save addressing what consequences might flow from these two preliminary points for another day.

With respect to records, we ask that you observe standard practice and not file the supplemental affidavit of records. With respect to any material that may be included in your client's brief, we may apply to the court to protect any commercially sensitive information from public consumption. We also must make absolutely clear that the 1985 Trustees do not view your client's production of these records as a waiver of the Trustee's privilege nor do we agree that these records are properly records in your client's rightful possession or legal control. Certainly, we do not agree that her disclosure constitutes waiver of privilege on behalf of the 1985 Trustees. We also do not agree that they are relevant.

Furthermore, we have consulted with our clients and not all of the documents contained in your client's supplemental affidavit of records are in their possession. We therefore do not concede that any of these documents came to your client's possession in her role as a Trustee.

The 1985 Trustees have nothing further to add at this point and will reserve their rights to address these matters further in written submissions.

Please proceed to release the affidavit and records to SFN and the OPGT

Yours truly,



Michael S Sestito
Partner

D +1 780 423 7300
michael.sestito@dentons.com
Bio | Website

Dentons Canada LLP
2500 Stantec Tower, 10220 - 103 Avenue NW Edmonton, AB T5J 0K4 Canada

This is Exhibit "I" referred to in the
Affidavit (or statutory declaration) of

ROMAN BOMBALAK

Sworn (or affirmed or declared)

before me this 19 day of
December A.D. 2019

A Commissioner for Oaths in and for Alberta

J. JONATHAN FAULDS QC
Barrister & Solicitor

Larraín Rencoret > Hamilton Harrison & Mathews > Mardemootoo Balgobin > HPRP > Zain & Co. > Delany Law > Dinner Martin > Maclay Murray & Spens > Gallo Barrios Pickmann > Muñoz > Cardenas & Cardenas > Lopez Velarde > Rodyk > Boekel > OPF Partners

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Chantelle Monson

From: Ellery Sopko <esopko@parlee.com>
Sent: Wednesday, December 18, 2019 1:59 PM
To: 'Crista Osualdini'; Bonora, Doris; Janet Hutchison; Jonathan Faulds; Edward H. Moistad; Sestito, Michael; David Risling
Cc: Matthew Cressatti
Subject: RE: Sawridge Trust - Action 1103 14112

This is Exhibit "J" referred to in the Affidavit (or statutory declaration) of ROMAN BOMBAL Sworn (or affirmed or declared) before me this 19 day of December A.D. 2019
P. Jonathan Faulds Solicitor

We are available on either December 20 or 23rd as well.

With respect to Catherine Twinn's 2nd Supplement Affidavit, we note that there may be issues with respect to privilege relating to some of these documents and we are seeking instructions from our client in this regard. Further, you have indicated various redactions in the document production and we would appreciate your advice as to the basis on which those redactions were made (privilege, irrelevant, etc.).

Best Regards,

Ellery Sopko | Associate | Bio



1700 Enbridge Centre, 10175-101 Street NW, Edmonton, Alberta T5J 0H3
Direct: 780.423.8536 | Fax: 780.423.2870 | Email: esopko@parlee.com

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From: Crista Osualdini [mailto:cosualdini@mross.com]
Sent: Wednesday, December 18, 2019 1:06 PM
To: Bonora, Doris; 'Janet Hutchison' (jhutchison@jlhlaw.ca); Jonathan Faulds; Edward H. Moistad; Ellery Sopko; Sestito, Michael; David Risling
Subject: RE: Sawridge Trust - Action 1103 14112

We can advise that our office is available on either December 20 or 23rd for the application.



Crista Osualdini | Partner | direct 780.482.9239 | toll free 1.800.567.9200 | fax 780.733.9723
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600 McLennan Ross Building, 12220 Stony Plain Road, Edmonton, AB T5N 3Y4

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From: Bonora, Doris [mailto:doris.bonora@dentons.com]
Sent: Wednesday, December 18, 2019 12:59 PM
To: 'Janet Hutchison' (jhutchison@jlhlaw.ca) <jhutchison@jlhlaw.ca>; Jonathan Faulds <jfaulds@fieldlaw.com>; Edward H. Moistad (emolstad@parlee.com) <emolstad@parlee.com>; Ellery Sopko <esopko@parlee.com>; Sestito, Michael <michael.sestito@dentons.com>; Crista Osualdini <cosualdini@mross.com>; David Risling <drisling@mross.com>
Subject: FW: Sawridge Trust - Action 1103 14112

Notice: External Email

Janet and Jon

Please see below. If you wish to use this date, we will need to secure it. We will need consent from all counsel and the nature of the application. You advised that you may be able to get other dates and so we leave this with you if you wish to secure it, Please do so immediately. We can advise that we are available.

In addition, we wonder if we could be advised today of the nature of your application and from whom, if anyone, you will be seeking production. If there are specific documents you are seeking, we can at least start our investigation. We would very much appreciate this cooperation to keep moving towards proceeding with the application on January 16, 2020

Doris



Doris C.E. Bonora
Partner

D +1 780 423 7188
doris.bonora@dentons.com
Bio | Website

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2500 Stantec Tower, 10220 - 103 Avenue NW Edmonton, AB T5J 0K4 Canada

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From: CaseManagementCoordinator QBEdmonton <CaseManagementCoordinator.QBEdmonton@albertacourts.ca>
Sent: December 18, 2019 12:12 PM
To: Hagerman, Susan <susan.hagerman@dentons.com>
Cc: Elise Russell <Elise.Russell@albertacourts.ca>; Bonora, Doris <doris.bonora@dentons.com>; Sestito, Michael <michael.sestito@dentons.com>
Subject: RE: Sawridge Trust - Action 1103 14112

Hello Counsel.

We note that this matter has not been secured for December 20th at 8:45 a.m. Is this matter proceeding.

Sharon.

EDMONTON QUEEN'S BENCH - CASE MANAGEMENT COORDINATOR

>>> On Dec-13-2019 at 05:03 PM, in message

<cf9127adb86c4ef994d06eb7c97ce0f9@NDCEXCHANGE02.law.firm>, "Hagerman, Susan"

<susan.hagerman@dentons.com> wrote:

Ms. Hinz:

In our email of December 10, 2019 we had requested an appearance before Justice Henderson for next week and you provided us with 8:45 AM on December 20. We will require that time for an appearance but we have not yet heard from all counsel in order to submit the Justice confirmation letter. Would you be able to hold that date for us for a while longer. We will hopefully be able to submit the confirmation letter on Monday. Thank you for your assistance.



Susan Hagerman
Estates Paralegal

D +1 780 423 7318
susan.hagerman@dentons.com
Website

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From: CaseManagementCoordinator QBedmonton <CaseManagementCoordinator.QBedmonton@albertacourts.ca>

Sent: December 11, 2019 12:04 PM

To: Hagerman, Susan <susan.hagerman@dentons.com>

Cc: Bonora, Doris <doris.bonora@dentons.com>; Sestito, Michael <michael.sestito@dentons.com>

Subject: Re: Sawridge Trust - Action 1103 14112

Good Morning.

The only time Justice Henderson can hear this matter is December 20th at 8:45 a.m.

Sharon

EDMONTON QUEEN'S BENCH - CASE MANAGEMENT COORDINATOR

>>> On Dec-10-2019 at 12:23 PM, in message

<c2de046e34d943a1876e39c2b06972c0@NDCEXCHANGE02.law.firm>, "Hagerman, Susan"

<susan.hagerman@dentons.com> wrote:

Ms. Hinz:

Could you please advise if Justice Henderson has any time next week for an 8:45 am potential procedural application with respect to Sawridge matter.

 DENTONS

Susan Hagerman
Estates Paralegal

D +1 780 423 7318
susan.hagerman@dentons.com
Website

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2500 Stantec Tower, 10220 - 103 Avenue NW Edmonton, AB T5J 0K4 Canada

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Chantelle Monson

From: Crista Osualdini <cosualdini@mross.com>
Sent: Monday, December 16, 2019 4:38 PM
To: Janet Hutchison; jfaulds@fieldlaw.com; 'emolstad@parlee.com'
Cc: 'doris.bonora@dentons.com'; Sestito, Michael; David Risling
Subject: FW: 2nd Supplemental Affidavit of Records of Catherine Twinn

Further to our correspondence of today's date, please find attached the Supplemental Affidavit of Records with production.



Crista Osualdini | Partner | direct 780.482.9239 | toll free 1.800.567.9200 | fax 780.733.9723
McLennan Ross LLP | www.mross.com | BIOGRAPHY | Member of Meritas
600 McLennan Ross Building, 12220 Stony Plain Road, Edmonton, AB T5N 3Y4

This e-mail may contain confidential information and be subject to solicitor-client privilege. If received in error, please delete and advise sender. Thank you.

From: Rosalee Hayman (mailto:rhayman@mross.com)
Sent: Wednesday, December 11, 2019 12:43 PM
To: doris.bonora@dentons.com
Cc: Crista Osualdini <cosualdini@mross.com>; susan.hagerman@dentons.com; Danielle Pfeifle <dpfeifle@mross.com>
Subject: 2nd Supplemental Affidavit of Records of Catherine Twinn

Dear Ms. Bonora,

Please find below a Citrix Share File link for the producible records contained in the 2nd Supplemental Affidavit of Records of Catherine Twinn:

https://mclennanross.sharefile.eu/d_scd2b63230be4523b

Please be advised that this link contains the following: Images Folder (containing pdf copies of the producible records), Natives Folder (Movie Files) and the following Eclipse Load Files: .csv, .dat, .dii, .lfp and .opt.

Please note that you will have 90 days to download the documents from this link before it expires.

Please advise if you have any questions or any issues with downloading the documents.

Thank you,

Rosalee Hayman

This is Exhibit "K" referred to in the Affidavit (or statutory declaration) of

ROMAN BOMBAK

Sworn (or affirmed or declared)

before me this 19 day of

December A.D. 2019

[Signature]
A Commissioner for Oaths in and for Alberta

P. JONATHAN FAULDS Q.C.
Barrister & Solicitor

This is Exhibit "L" referred to in the Affidavit (or statutory declaration) of

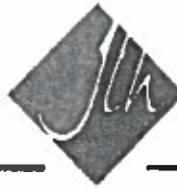
ROMAN BONDAK

Sworn / or affirmed or declared)

before me this 19 day of December AB. 20 19

A Commissioner for Oaths in and for Alberta

P. JON A. HAN FAYOS QC
Barnes & Solick



HUTCHISON LAW

Our File: 51433 JLH

SENT BY EMAIL ONLY

December 19, 2019

Dentons Canada LLP
2500 Stantec Tower
10220 - 103 Avenue NW
Edmonton, AB T5J 0K4

McLennan Ross LLP
600 McLennan Ross Building
12220 Stony Plain Road
Edmonton, Alberta T5N 3Y4

Attention: Doris Bonora and Michael Sestito

Attention: Crista Osualdini and Dave Risling

Parlee McLaws LLP
10175-101 Street NW,
1700 Enbridge Centre
Edmonton, AB T5J 0H3

Shelby Twinn
9918-115 Street
Edmonton, AB T5K 1S7

Attention: Edward Molstad, Q.C. and Ellery Sopko

Dear Mesdames and Sirs:

Re: In the Matter of the Sawridge Band Inter Vivos Settlement – Court of Q.B. Action No. 1103 14112

We are writing in relation to the ongoing exchanges of correspondence regarding a possible December appearance, Ms. Twinn's Supplementary Affidavit of Records, the OPGT's production application, the January 16, 2020 Court date and an overall schedule.

December 20, 2019 Appearance

In relation to the December 20, 2019 court date as the OPGT now expects to serve materials early tomorrow, the date can not realistically be used for the production application. Should any party

wish to propose using the date for other purposes, we will certainly consider any proposals. If not, we concur that the December 20, 2019 date should be released.

Additional Production and Questioning

Without prejudice to the OPGT's fundamental objections to the current Asset Transfer issue proceeding, the OPGT has taken the position that further production is required if that proceeding is to be based on a proper evidentiary record. The OPGT's position that this is required in a matter concerning both the rights of minors and the fiduciary duties of trustees, should not be controversial. The new evidence received confirms the OPGT's position that it is essential to the interests of the minor beneficiaries that further production be dealt with before supplementary submissions and oral argument on the Asset Transfer Issue, as most recently framed by the Court on November 22, 2019.

At the present time, the SFN has raised issues in connection with the Asset Transfer Issue that are based largely on assertions of counsel or other untested sources. SFN's stated positions put in issue matters that render, as a minimum, the following documents or evidence relevant and material to the Asset Transfer Issue:

- a.) Evidence regarding the continued existence of the 1982 Trust;
- b.) Evidence regarding the current value of the \$12 million dollar debenture transferred into the 1985 Trust;
- c.) Evidence regarding the manner of notice and information distributed when calling of the duly convened SFN Members' meeting on April 15, 1985;
- d.) Evidence regarding both the 1982 Trustees', and Chief and Council's, discussions, professional advice and decisions prior to April 15, 1985 relevant to the proposed asset transfer and the decision to put the proposed transfer to a vote of the SFN Members;

- e.) Correspondence between SFN and Canada that would establish all assets now held in the 1985 Trust were actually purchased with only capital and revenue funds (or prove otherwise).

The OPGT had begun preparing a production application when it was advised Ms. Twinn would be serving a Supplementary Affidavit of Records with records relevant to the Asset Transfer issue as it was clarified by the Court on November 22, 2019. We were awaiting receipt of a list of documents, or the documents themselves, prior to finalizing a position on further production. McLennan Ross sent an email after 4:30 PM on December 16, 2019 that contained a link to the produced documents. I was not in the office when it was received (Mr. Faulds was out of province) and I did not have an opportunity to look at the documents until December 17, 2019. We have now had an opportunity to conduct a general review of the documents. We have not had an opportunity to view the 25 hours of more of video produced although it is our understanding from McLennan Ross that the footage does contain evidence relevant and material to the issues raised in SFN's submissions regarding the origin of the funds used to purchase the assets now held by the 1985 Trust. Those matters are now clearly relevant and material to the issues SFN seeks to argue on the Asset Transfer Issue.

The OPGT is satisfied, even on a preliminary review, that additional questioning of Ms. Twinn, and likely Mr. Bujold, will be required in relation to the new documents and the above noted topics. We remain unclear as to the SFN's and Trustees' positions on the use of these documents in such questioning. We wish to book dates for questioning, but would ask that if the SFN or the Trustees intend to object to use of the documents or questioning thereon, they bring the necessary applications prior to questioning to avoid delaying the questioning process.

Although the OPGT Production application may need to be amended after questioning, in recognition that all counsel are concerned about timelines, the OPGT will proceed to serve its production application not later than December 20, 2019. The application will include a request to adjourn the Asset Transfer issue appearance to a date after questioning and production have occurred if necessary.

Proposed Scheduling

As discussed, given current timeframes, it is not possible to deal with the issues that may exist in relation use of the Supplemental Affidavit documents or the OPGT's production application before the new year. The Case Management Coordinator confirmed today that Justice Henderson's availability between December 23 and January 3 is on an emergency only basis and leave would be required to book an appearance in that time frame. She confirmed he a half day available on February 5, 2020 at 2:00pm. We have not received a response regarding additional half days available.

Although we have concerns that this schedule could be ambitious, we rely on past representations that suggest additional production of documents should result in a modest additional production. On that basis, a possible schedule is as follows:

- 1.) December 20, 2019: OPGT production application and submission filed;
- 2.) January 2, 2020: any applications and submissions by SFN or the Trustees regarding the new Twinn documents to be filed (failing which the OPGT will proceed on the basis that the Supplementary Affidavit of Records contain producible documents that may relied on in the normal course in this proceeding;
- 3.) January 8, 2020: replies on the December 20, 2019 application (*allows 7 business days to reply) or voluntary production of some or all the requested documents;
- 4.) January 10, 2020: replies on January 2, 2020 applications and submissions (*allows 6 business days to reply);
- 5.) January 16, 2020: appearance to argue issues over the Catherine Twinn Supplementary Affidavit of Documents and any contested aspects of the OPGT production application;

- 6.) End of the week of January 20, 2020: assuming production had occurred, a questioning of Catherine Twinn, and if necessary, Paul Bujold on the new documents;
- 7.) January 31, 2020: Supplementary submissions on the Asset Transfer Issue;
- 8.) February 5, 2020: Argue the Asset Transfer Issue for a half day (and secure a further half day to conclude argument).

The OPGT is requesting that the Trustees and SFN give serious consideration to voluntarily filing Affidavits to provide the requested documentation and to agreeing the Catherine Twinn Supplemental Affidavit of Records documents are producible. This would save the parties considerable time and expense. Should immediate voluntary production prove to be an option, we are willing to discuss booking questioning over the holidays in order to stay on course for filing reply submissions by January 10, 2020 and use of the January 16, 2020 to argue the Asset Transfer issue.

Thank you for your attention to this matter.

Yours truly,

HUTCHISON LAW

PER: JANET L. HUTCHISON
JLH/cm

cc: Client

cc: J. Faulds, Q.C., *Field Law*