

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF the *Legislative Assembly and Executive Council Act*, R.S.N.W.T.
1988, c. L-5

AND IN THE MATTER OF a decision of the Conflict of Interest Commissioner of the
Northwest Territories dated November 24th, 1998

BETWEEN:

DONALD MORIN

Applicant

-and-

ANNE CRAWFORD, CONFLICT OF INTEREST COMMISSIONER
FOR THE NORTHWEST TERRITORIES

Respondent

AFFIDAVIT OF DONALD MORIN

I, DONALD MORIN, of the Town of Fort Resolution, in the Northwest Territories,
Politician. MAKE OATH AND SAY AS FOLLOWS:

1. I am the Applicant in these proceedings, and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be based upon information in which case I verily believe same to be true.
2. I spoke out strongly in Caucus meetings against the appointment of Anne Crawford as the Conflict of Interest Commissioner ("Commissioner") for the Northwest Territories. At the time of her appointment I sought and received confirmation from the Law Clerk of the Legislative Assembly that if a complaint were laid against a member that they could successfully oppose Anne Crawford sitting as a Commissioner.
3. On or about February 16th, 1998 the Member of the Legislative Assembly of the Northwest Territories for Hay River, Jane Groenewegen ("Groenewegen"), filed with the Clerk of the Legislative Assembly a document purporting to be a complaint requesting investigation of possible breaches of the Conflict of Interest provisions of the *Legislative Assembly and Executive Council Act* ("the Act") by me. Attached hereto and marked as Exhibit "A" to this my Affidavit is a true copy of Groenewegen's complaint.

4. On or about February 17th, 1998 I wrote to the Commissioner requesting that she stand down from her position in respect of the Groenewegen complaint on the grounds that she could not conduct an investigation in good faith because:

- i) the Commissioner had previously sat on an inquiry into allegations about me. I was exonerated, but following the conclusion of the Inquiry the Commissioner made disparaging remarks about me to my sister;
- ii) the Commissioner acts as solicitor for Nunavut Tungavik Incorporated, a politically active organization whose leader, Jose Kusugak, has made several critical and politically directed statements against me and the Government;

Attached hereto and marked as Exhibit "B" to this my Affidavit is a true copy of the letter from me to the Commissioner undated but date stamped on the 18th day of February, 1998. During the Caucus meetings held to discuss the appointment of the Commissioner no one was made aware that Anne Crawford acted as a solicitor to Nunavut Tungavik Incorporated.

5. Now shown to me and marked as Exhibit "C" to this my Affidavit is a true copy of a letter dated March 3rd, 1998 from my solicitor, John A. Hustwick, Q.C., to the Commissioner setting out concerns that Groenewegen had not issued a proper complaint and that I could not properly answer allegations unless I was aware of the specific nature of the complaint.

6. Notwithstanding the letter attached as Exhibit "C", I am advised by John A. Hustwick, Q.C., that the Commissioner sought further clarifications and submissions from Groenewegen in respect of her complaint.

7. Now shown to me and marked as Exhibit "D" is a true copy of a request from my solicitor's office dated March 10, 1998 that the Commissioner remove herself from investigating the complaint against me on the basis that there was an appearance that she was biased. Notwithstanding this request, the Commissioner refused to remove herself as Commissioner for the Inquiry into whether I had breached the Conflict of Interest provisions of the Act.

8. I am advised by my solicitor that the Commissioner has confirmed to their office that she is solicitor to Nunavut Tungavik Incorporated.

9. Attached hereto and marked as Exhibit "E" to this my Affidavit is a true copy of the Notice of Change of Directors, Bylaws and Letters Patent of Nunavut Tungavik Incorporated.

10. Attached hereto and marked as Exhibit "F" are news releases, communique's, press reports and speech notes wherein the principal of Nunavut Tungavik Incorporated, Jose Kusugak, makes critical remarks of me and the Government of the Northwest Territories. Nunavut Tungavik Incorporated takes positions against the Government of the Northwest Territories in a plethora of areas from social policy and health care to the rightful owner of the "Polar Bear" license plate after division.

11. I am advised by my solicitor that on the 18th day of March, 1998 the Commissioner directed that the complainant receive legal funding to adequately present a complaint.

12. I am advised by my solicitor that on May 28th, 1998 the Commissioner held a hearing at which submissions on behalf of the Applicant and Groenewegen were presented to determine whether, under section 81(2) of the Act, the complaint was either frivolous, vexatious or not made in good faith, or that there were not sufficient grounds to proceed to an Inquiry. The Commissioner received the submissions and statements of fact from the complainant and the Applicant. The Commissioner, to my knowledge, did not interview any persons prior to the meeting who were in a position to exonerate me. The Commissioner listened to argument. She retained Robert Dunseith Esq. of Lucas Bowker & White in Edmonton, Alberta to assist her as counsel. Attached hereto and marked as Exhibit "G" is a true copy of the submissions prepared on my behalf by my solicitors.

13. I am advised by my solicitor that after submissions and argument were received on the determination under s.81(2) of the Act they were told to return after a lunch break to receive the Commissioner's ruling. Robert Dunseith remained with the Commissioner as other counsel departed. Upon the return from lunch, the Commissioner remained in a closed Boardroom for a further fifteen minutes. Upon reaching a decision she allowed other counsel to enter the Boardroom. Upon entrance, Robert Dunseith was noted by my solicitors to still be in the room with the Commissioner. The Commissioner immediately thereafter announced her decision and disposed of four allegations of conflict on the basis that there was not sufficient grounds to proceed. She ordered seven remaining allegations to proceed to Inquiry.

14. The Commissioner retained Mr. Dunseith, and three other lawyers from his firm, to prosecute the allegations against me at the Inquiry as Commission Counsel.

15. Leading up to the Conflict of Interest Inquiry, I instructed my counsel to make a request of the Commissioner that witness statements of all witnesses that Commission counsel interviewed be provided to me. While the Commissioner agreed that statements of evidence be provided for witnesses who were to be called at the Inquiry, the Commissioner did not require Commission counsel to produce written statements relating to the respective evidence of other individuals Commission Counsel had interviewed.

16. I am advised by my solicitor that on August 4th, 1998 the Commissioner directed that Groenewegen receive all of the disclosure documents that I was entitled to receive during the Inquiry. This direction was given without a specific application from the complainant. Upon request from my solicitors that the Commissioner revisit the issue of providing disclosure to the complainant on the grounds that she did not have jurisdiction, the Commissioner confirmed her direction that such disclosure be made available to Groenewegen. At the time, I am advised by my solicitor, Roderick Payne, that the Commissioner was presented with a Supreme Court of Canada decision which suggested that she did not have jurisdiction to make such a direction. Despite this the Commissioner ordered full disclosure to the complainant without distinguishing or referring to the Supreme Court decision.

17. Shortly after the commencement of the Inquiry - which sat from October 13th to November 17th, 1998 - my solicitors attempted to interview a witness adverse in interest during a break in his Examination in Chief. The Commissioner directed that no communications take place with any



witness while they were under oath. I am advised by Roderick Payne that shortly thereafter, and after obtaining consent from Commission Counsel to speak with the Commissioner, an article by John Sopinka and a judicial authority from Ontario was presented to the Commissioner verifying that such interviews were entirely appropriate. Despite this presentation, my solicitors advise me that the Commissioner would not change her direction that no one was to speak to a witness under oath. Notwithstanding this ruling, the Commissioner made exceptions to this direction for the benefit of Commission counsel.

18. During the Cross-Examination of Groenewegen information was sought by John A. Hustwick as to who it was that complained to the complainant about my alleged activities. In response, Groenewegen indicated a certain constituent complained about two of the items of the Terms of Reference and that other individuals had complained about other items. When asked who the other individuals were, the Commissioner interjected and directed that such information should not be provided. I have never discovered who my true accusers were.

19. I am advised by my solicitors that throughout the course of the Inquiry the Commissioner held private meetings with Commission counsel. Rarely were indications given to any of the participants of the Inquiry - at that time or subsequent thereto - as to what the content of the conversations were.

20. The Commissioner allowed the proceedings to be aired on television and to have the transcripts of the proceedings released on the Internet. No notice was given to my solicitors that such steps would be taken, and no request was made of my solicitors to make submissions about the propriety or appropriateness of this decision.

21. I am advised by Roderick Payne that on at least one occasion during the Inquiry the Commissioner met privately with the complainant Groenewegen. Mr. Payne complained to Commission counsel, Robert Dunseath, about this practice. The Commissioner sought clarification of his concerns. After he reiterated that it was inappropriate for a Commissioner to be having private meetings with the complainant the Commissioner indicated that she wished to beg the indulgence of the complainant and to continue listening to her concerns. Roderick Payne advises me that Groenewegen expressed dissatisfaction with the inability of Commission counsel to ask certain questions, her inability to meet on a daily basis with Commission counsel, and the fact that Commission counsel were unsuccessful in using certain of their tactics. When this matter was subsequently raised on the record I am advised by Roderick Payne that the Commissioner presented an inaccurate account of what occurred.

22. I am advised by my solicitors that on October 15th, 1998, after repeated objections on the record by my counsel and participant's counsel, the Commissioner made a direction that Commission counsel not ask leading questions in Examination in Chief. The Commissioner thereafter began to ask the very type of questions she had directed were inappropriate for Commission counsel to ask. I am advised by my solicitors that the nature of the Commissioner's questions were not to seek clarification but tended to be accusatory and prosecutorial in nature. Few of the questions seemed designed to provide the opportunity for the witnesses to exonerate me.



23. On November 3rd, 1998 my solicitor, John Hustwick Q.C., and Charles McGee, counsel to Roland Bailey, expressed a concern on the record about the nature and extent of the questioning carried on by the Commissioner.

24. Throughout the process, from the lodging of the complaint until shortly before the commencement of the proceedings, the Commissioner appeared in media interviews to discuss the proceedings. I am advised by Roderick Payne that during the course of the Inquiry he observed the Commissioner meeting with the media.

25. Notwithstanding a decision of the Commissioner on August 4th, 1998 not to allow participation of counsel for the complainant in the proceedings, I am advised by my solicitors that she changed her mind during the Inquiry and allowed counsel for Groenewegen to make final submissions.

26. On Tuesday November 24th, 1998, the Respondent, the Conflict of Interest Commissioner for the Northwest Territories issued a decision respecting the matter of an Inquiry held before her relating to alleged misconduct by the Applicant under Part III of the *Legislative Assembly and Executive Council Act*.


27. On the basis of the information set out herein I am concerned with the fairness of the Inquiry and of an appearance of or actual bias by the Commissioner against me. I verily believe that unless the Commissioner is enjoined and restrained from forwarding her decision to the Speaker of the Legislative Assembly, and unless the decision is returned to this Court in a sealed form with an Order that its contents not be published, I as a democratically elected politician and Premier of the Northwest Territories will suffer irreparable harm. I verily believe that no prejudice will be suffered by the Commissioner or the public if this Honourable Court imposes such conditions.

28. I make this Affidavit in support of an application to set aside the decision of the Commissioner, and other incidental steps thereto, and for no improper purpose.

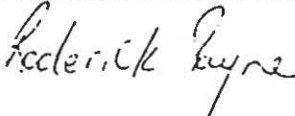
SWORN BEFORE ME)
at the City of Yellowknife, NWT)
on the 24th day of)
November, A.D., 1998)
)



DONALD MORIN



A COMMISSIONER FOR OATHS
IN AND FOR THE NORTHWEST TERRITORIES






Northwest
Territories Legislative Assembly
Member for Hay River

Mr. David Hamilton
Clerk of the Legislative Assembly
Legislative Assembly Building
P.O. Box 1320
Yellowknife, NT X1A 2L9

February 16th, 1998

Conflict of Interest Complaint

Dear Mr. Hamilton,

I have been publicly confronted recently by a number of my constituents with regard to the veil of suspicion and rumor which hangs over the 13th Assembly.

When previously approached, people have not been forthcoming with evidence or substantiation for what they thought or had heard, so it was fairly easy to dismiss.

However, lately, the actions of certain members of this government appear to have exceeded or crossed over the line of what could be arguably dismissed as coincidental or as a result of the north being a relatively small community.

I am primarily concerned with the actions, associations and posture of the Premier. I believe that much of the lack of confidence in the integrity of this government originates in the Premier's office.

During the past few days, I have attempted to verify by way of substantive evidence or lack thereof, whether there is a pattern of behavior on the part of the Premier which bears further investigation.

I have also attempted to familiarize myself with the provisions of the *Legislative Assembly and Executive Council Act*, the Act governing conflict of interest. I note two sections of the Act, section 67 (a) "Each member shall perform his or her duties of office and arrange his or her private affairs in such a manner as to maintain public confidence and trust in the integrity, objectivity and impartiality of

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..... DONALD MORIN
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..... THE NORTHWEST TERRITORIES
..... RODRICK BYRNE
..... BARRISTER & SOLICITOR
.....

CLERK OF THE CLERK
LEGISLATIVE ASSEMBLY
OF THE N.W.T.
RECEIVED ON
FEB 16 1998
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the member, (b) "refrain from accepting any remunerations, gifts or benefit the acceptance of which might erode public confidence and trust in the integrity, objectivity or impartiality of the member, and in all other respects act in a manner that will bear the closest scrutiny;"

It is my belief that Mr. Morin may have contravened the spirit and intent of section 67. The single events, contracts and incidents on their own may not create a very conclusive argument to support the public's lack of confidence, but rather, the individuals, the connections, and the events presented together, create a picture which causes me concern.


I am loath to take the step of filing a formal complaint against a political colleague, but there has been an apparent reluctance on the part of the Premier and Cabinet to be forthcoming on requests for documents and information which could possibly set the record straight. Considering their access to resources such as public relations and office staff, they have chosen not to respond to well known concerns in a proactive or timely manner, thus leaving much to speculation.

Specifically, I am concerned about Mr. Morin's relationship with Mr. Mike Merjenovich and Mr. Roland Bailey. After reviewing all of the documents attached herein, it appears to me that the relationship between Mr. Morin, Mr. Merjenovich, and Mr. Bailey in light of direct or indirect contracts with the GNWT, could be perceived to be more than coincidence. At a minimum, I believe that these relationships bear further investigation to ensure that all transactions have been at arm's length and could bear the closest scrutiny.

Therefore, I request your assistance by way of an investigation of the events, transactions, contract awards, and relationships which are more specifically outlined in the attached documentation.

Thank you.

Yours truly,


Jane Groenewegen
MLA for Hay River

JG/gcl



The following items in relationship to Mr. Bailey, Mr. Mrdjenovich, friends and relatives

- 1995 Election Campaign Contributions >
- Election Expense Disclosure >
- Non-transparent contract awards, RFP, negotiated .
- Direct Appointments .
- Yellowknife Residence
- Bison Projects >
- Capital Works Construction Contracts in his riding ~
(associated funding)
- Lahm Ridge Tower .
- Housing Units Leases .
- Aurora Fund
- Delivery of Housing Programs .

