

**IN THE MATTER OF A COMPLAINT MADE  
FEBRUARY 16, 1998, BY JANE GROENEWEGEN  
WITH RESPECT TO ALLEGED CONTRAVENTIONS OF  
PROVISIONS OF PART III OF THE  
LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT  
BY THE HONOURABLE MEMBER FOR TU NEDHE**

**REQUEST OF THE MEMBER FOR TU NEDHE FOR  
COMMISSIONER TO DISQUALIFY HERSELF**

**Mr. Morin's request**

On February 16, 1998, Jane Groenewegen, the Member of the Legislative Assembly for Flay River filed a written complaint with the Clerk of the Legislative Assembly pursuant to the Conflict of Interest provisions of the *Legislative Assembly and Executive Council Act* (the "Act").

The Commissioner commenced an Inquiry under the Act.

On March 10, 1998, Hustwick, Wetsch, Moffat & McCrac, Counsel for Mr. Morin, located in Edmonton, sent a letter to the Office of the Conflict of Interest Commissioner in Iqaluit, Northwest Territories. The letter was sent by Canada Post regular mail and arrived at the Iqaluit office late on March 17, 1998. No copy was sent by facsimile or through Commission Counsel Lucas, Bowker & White, located in Edmonton.

In that letter Mr. Morin's Counsel requested that the current Commissioner "temporarily step aside ... in relation to the Complaint made by MLA Jane Groenewegen. Our client has a reasonable apprehension that you will perform your duties in a [biased] manner."

The letter went on to state:

We emphasize that our client is not alleging that you are actually biased [against] him but that the following factors and circumstances could cause a reasonable person to determine that there was an apprehension that you may act in a biased manner.

On March 19, 1998, a copy of that letter was provided to Counsel for Mrs. Groenewegen.

Post-It™ Fax Note	7671E	Date	21/12/98	# of pages	6
To	J. Groenewegen		From	B. Chivers	
Co./Dept.			Co.		
Phone #			Phone #		
Fax #	867-873-0276		Fax #		



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WITH RESPECT TO ALLEGED CONTRAVENTIONS OF  
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**REQUEST OF THE MEMBER FOR TUNEDHE FOR  
COMMISSIONER TO DISQUALIFY HERSELF**

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**Anne Crawford, Conflict of Interest Commissioner  
Legislative Assembly of the Northwest Territories  
P.O. Box 747  
Iqaluit, NT  
X0A 0H0**

**March 20, 1998**



## Alleged Grounds

Three grounds for the bias application were asserted by Mr. Morin's counsel, who stated:

1. You previously sat as a member of a Commission of Inquiry that inquired into a conflict of interest complaint against Mr. Morin. That inquiry was held on the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> days of March, 1995. Following the conclusion of the hearing, at which our client was completely exonerated, you made comments to his sister wherein you suggested that Mr. Morin may have been cleared of any wrong doing but that he was not innocent.....
2. You have acted, and continue to act for Nunavut Tunngavik Incorporated, a politically active organization whose leader, Jose Kunigak has made numerous critical and politically directed statements against Mr. Morin.....
3. On the face of the document received from Jane Groenewegen, there has been no formal complaint lodged. In review of the documents submitted through the Clerk, we are unable to discern any specific allegation of a contravention of the *Legislative Assembly and Executive Council Act*.....You have sought out further documents, sought further clarification of the nature of the complaint, sought legal counsel for your position and for Ms. Groenewegen and insisted that our documents be issued through the Clerk of the Legislative Assembly without regard to the ongoing confidential nature of your inquiries.....

.....By allowing the process to continue, we submit, constitutes a reasonable apprehension that you are biased [against] Mr. Morin."

The full text of the letter is attached to this decision.

## Allegation re: Purported Comments

This allegation lacks any substantiating detail. Counsel is aware that it lacks detail and is also aware that the Commissioner has no independent memory of any such incident or comment.

This is because Mr. Morin personally wrote to the Commissioner one month earlier on February 18, 1998, in a letter identified as "Private and Confidential", and made the same allegation. At that time the Commission replied, "I can only consider [the] contents [of your letter] if I am able to share them with Ms. Groenewegen and with the public as required" and continued:

The minimal description you have given me of a conversation in which I divulge some form of bias rings absolutely no bells with me. You would need to provide some details of location, time, context and comment for me to assess your assertion.

This is Mr. Morin's application, and he is entitled to submit any grounds of bias which he feels appropriate and any supporting materials and detail he feels sufficient. He has chosen once again to submit an allegation which provides no name, no date, no place, no context and no actual quote.



I have no intention of spending yet more time pursuing details which could have been offered if they exist, which have been clearly requested, and which may or may not ever become available, or capable of substantiation.

The allegation is unfounded in any fact and is contradicted by Mr. Hustwick's assertion in the same letter that "our client is not alleging that you are actually biased..."

I will not agree to step aside on this basis.

### **Allegation re: Retainer with Nunavut Tunngavik Inc.**

This allegation correctly identifies that I have acted and continue to act as counsel to Nunavut Tunngavik Incorporated. Nunavut Tunngavik has no involvement in this complaint. I also act for many other businesses, individuals, government and aboriginal organizations. I represent them on a variety of legal issues and do not solicit or adhere to their political perspectives.

When the Assembly chose to appoint a lawyer in active practice in the Northwest Territories as Commissioner, they knew that the individual chosen would have multiple points of contact with the community. The Members knew that I had acted in the past for the Metis Nation, the Dene Nation, the Native Women's Association, and the Inuit Tapirisat. They knew I had worked in Dogrib communities, in the South Slave, in Yellowknife and in Nunavut, in the private and public sectors. They knew that I had acted for and was familiar with many Members, past and present. They viewed my many connections to an active community territory-wide as an asset, imparting a perspective of realism and a knowledge of Northern conditions.

The position of Commissioner is a four year term position, without retainer and paid on a modest hourly basis. There is no pension. I am not likely to quit my day job. The Commissioner is selected by the Members on the spot and with the knowledge that this is not a full time position and the Commissioner under these circumstances cannot be expected to be cloistered from all personal and professional contacts. I will also take it that the Assembly knew what it was doing when it made the appointment. I am not prepared to transform what was seen as an asset in the appointment process into a grounds of disqualification.

As part of his argument for my disqualification Mr. Morin suggests that I would be required to share all information I gather as Conflicts Commissioner with Nunavut Tunngavik, as an "ethical duty towards your client."

This suggestion is fundamentally flawed. No client is entitled to know the contents of another client's file. Each client is entitled to absolute confidentiality. Where the clients' interests being advanced clash, there can be a conflict, but this could rarely be found on purely political grounds. Every band council and mining company, every day care committee and development corporation has a political perspective. It is their right to do so in a democratic





society. It is equally a fundamental democratic principle that an independent bar is not taken to adopt the political or personal opinions of those it represents.

Mr. Morin chooses to present his allegation with absolutely no substantiating or supporting information. There are no references to press releases or newspaper articles, and no details of issues purportedly at the source of the conflict. I do not intend to engage in a paper chase to request Mr. Morin to substantiate what he has chosen to allege in only the broadest of terms.

I do not accept that my work for Nunavut Tungavik Incorporated is a source of bias.

### **Allegation re: Activities as Commissioner**

It is argued that the Groenewegen complaint lacks detail and requires additional specifics. This may well be the case, and is, in part, the reason why Mrs. Groenewegen was given eleven questions on February 17, 1998, in an attempt to define the scope of her complaint. A copy of those questions was provided to Mr. Morin at that time.

In a letter from the Commissioner dated March 10, 1998, and copied to all involved Mr. Morin's request that Mrs. Groenewegen be compelled to provide details of her complaint was dealt with. That correspondence stated::

It is not consistent with natural justice to require Mrs. Groenewegen to make decisions as to the details of her complaint and supporting documentation "on the eve" of a decision which might provide her with counsel. It is fair to set a clear time limit thereafter.

Notwithstanding this requirement to insure fairness to Mrs. Groenewegen and to allow her time to instruct her counsel, Mr. Morin's counsel appears to suggest that by taking these steps the Commissioner demonstrates bias.

Counsel suggests that failure to dismiss the complaint on the Commissioner's own motion constitutes bias. Counsel suggests that requesting "further clarification of the nature of the complaint" constitutes bias. Counsel suggests that retaining Commission Counsel constitutes bias.

It would appear that, in Mr. Morin's opinion, any activity other than dismissing the complaint out of hand will constitute bias.

There is little logic and no merit in this allegation. I do not intend to step aside on this basis.



## Decision

I find all three alleged grounds of bias to be without merit and refuse to disqualify myself.

I would suggest that there need to be grounds considerably more compelling or logical or well documented before I would put aside those duties that the Assembly, during a period of rational deliberation, asked me to undertake.

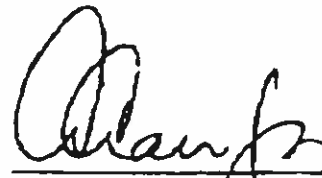
## Process

Having disposed of these matters, it once again appears possible to proceed with the substance of the Groenewegen complaint.

I look forward to meeting with Counsel on March 24, 1998, to develop a schedule to advance this process.

Any efforts which could be made by Mr. Morin's counsel to maintain and respond to contacts with Commission counsel would be appreciated. The Commissioner expects to receive all communications and to make all future procedural arrangements through her Counsel's offices.

THIS DECISION RENDERED this 20<sup>th</sup> day of March, 1998, at the Town of Iqaluit, in the Northwest Territories.



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Anne Crawford  
Conflict of Interest Commissioner

