

Federal Court



Cour fédérale

**Date: 20140923**

**Dockets: T-2224-12  
T-262-13**

**Citation: 2014 FC 908**

**Ottawa, Ontario, September 23, 2014**

**PRESENT: The Honourable Madam Justice McVeigh**

**Docket: T-2224-12**

**BETWEEN:**

**CHIEF GAYLE STRIKES WITH A GUN**

**Applicant**

**and**

**PIKANI FIRST NATION COUNCIL,  
COUNCILOR DOANE CROW SHOE,  
COUNCILOR FABIAN NORTH PEIGAN,  
COUNCILOR ANGELA GRIER, COUNCILOR  
WESLEY PROVOST, COUNCILOR  
WILLARD YELLOW FACE, COUNCILOR  
ANGELA GRIER, COUNCILOR ANDREW  
PROVOST JR, COUNCILOR CLAYTON  
SMALL LEGS, COUNCILOR KYLE DAVID  
GRIER, COUNCILOR REBECCA WEASEL  
TRAVELER, COUNCILOR MAURICE  
LITTLE WOLF, COUNCILOR ELOISE  
PROVOST, COUNCILOR CASEY SCOTT**

**Respondents**

**Docket: T-262-13**

**AND BETWEEN:**

**CHIEF GAYLE STRIKES WITH A GUN**

**Applicant**

**and**

**DOANE CROW SHOE, FABIAN NORTH  
PEIGAN, ANGELA GRIER, ANDREW  
PROVOST JR, CLAYTON SMALL LEGS,  
KYLE DAVID GRIER, SERENE WEASEL  
TRAVELLER, MAURICE LITTLE WOLF,  
ELOISE PROVOST, PURPORTING TO ACT  
AS COUNCIL OF THE PIIKANI NATION**

**Respondents**

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I. Preamble

[1] Chief Gayle Strikes With A Gun is the Applicant and was elected Chief of the Piikani First Nation on January 5, 2011. She was removed as Chief of the Piikani First Nation on December 11, 2013 in a decision of the Piikani Nation Removal Appeals Board (“the Board”). Her term as Chief was to expire on January 4, 2015.

[2] In this decision I will refer to her as the Chief to avoid confusion as she is named both the Applicant and the Respondent in some of the matters before me.

[3] The Chief says that since September 2012, there have been three attempts to remove her as Chief of the Piikani First Nation. The Chief argues her conduct was such that she should not have been removed. Further, she argues that even if her conduct was enough to remove her that the Board was biased, unfair and had no jurisdiction as it was wrongly constituted.

[4] In the Notices of Application (T-2224-12 and T-262-13), the Chief sought judicial review of five decisions of Council that suspended her as Chief of the Piikani First Nation between September 2012 and May 2013.

[5] In the Amended Amended Notice of Application dated January 8, 2014, the Chief seeks judicial review of:

- a) decisions of the Board dated November 20, 2013, and December 11, 2013. In those decisions the Board declared the Chief ineligible to hold office;
- b) the November 14, 2013 decision of the Piikani First Nation Council by Band Council Resolution that refused payment of the Chief's legal fees by the Piikani First Nation;

[6] The Respondents are Councillors of the Piikani First Nation who suspended the Chief and sent the matter to the hearing before the Board.

[7] The Respondents' position is:

- a. That the Board had jurisdiction under the *Piikani Election Bylaw and Regulations* to act;
- b. That the Board was not biased or unfair and there was no reasonable apprehension of bias; and
- c. That decisions made by the Piikani First Nation Council and the Board were reasonable.

[8] The parties were given considerable time by the Court to resolve this matter after the day-long hearing. The parties were urged to do so by the Court so that this proud Blackfoot nation could begin the healing process and practice *piikanissini*, however, they have indicated to the Court that they have not been able to resolve it, so I will render a decision.



[9] I find it regrettable the amount of money and judicial resources spent on the multitude of litigation surrounding these issues and more importantly the resulting toxic feelings amongst a communal people that will not heal in the near future because of this litigation. I am saddened when considering that the First Nation is experiencing financial difficulty already.

[10] Terms are spelled in this decision as they are in the parties materials and is the customary spelling.

## II. Glossary (alphabetically and definitions from the evidence)

[11] *Bridget Kenna*: Chief Financial Officer (CFO) and acting Chief Executive Officer (CEO) of the Piikani First Nation.

[12] *Chief Gayle Strikes With A Gun* (Chief): The Applicant and the first woman chief elected in the Piikani First Nation. Her common law partner is Larry Provost and her sister is Pam Wolf Tail. The Chief has a Bachelor of Education degree from the University of Lethbridge and a Master of Education from the University of British Columbia. The Chief was employed as:

- Assistant Superintendent for the Beaufort-Delta Education Council (2007-2011), in Inuvik, North Western Territories (NT);
- Teacher/Counsellor with the Mackenzie Mountain School (2004-2007), in Norman Wells, NT;
- Director of Education of Peigan Board of Education in Brocket (2002-2004), in Alberta;
- Principal of Chief T'Selehye School-in Fort Good Hope (2000-2002), in NT; and

- Principal and teaching positions in elementary schools after her graduation.

[13] *Chief of Piikani First Nation*: The Chief is in a position of high moral authority and influence but with little power. The role of Chief is to call, chair and preside over Council meetings and act as spokesperson for the First Nation. The Chief can be overruled by Council at any time and is only given a vote when there is a tie. The Chief can but does not always set the agenda for the meetings. Council has to approve the agenda and can add business to the agenda. The Chief recommends appointments of Councillors to committees, portfolios and to act as Chief in his or her absence and after discussion with Council, the recommendations are voted on.

[14] *Fabian North Peigan* (Mr. North Peigan): He is the Petitioner for removal of the Chief and named as a Respondent in these applications. Mr. North Peigan was first elected to Council in 1986 and is in his fifth non-consecutive term as Councillor with his term ending January 5, 2015.

[15] *Pam Wolf Tail*: Sister of the Chief and an owner of Peigan Taxi also referred to in evidence as Pam Strikes With A Gun.

[16] *Piikani Nation Removal Appeals Board* (the Board): The Piikani Nation Removal Appeals Board is governed by the *Piikani Nation Election Regulation* section 21.01-23.01. The Board is composed of members of Blackfoot origin, who are not a member of the Piikani First Nation and at least the age of 21. To be eligible the individual must be from the other Blackfoot people as they have the ability to interpret and apply *piikanissini*, due to integration as Blackfoot

people through language, culture and history. This Board is governed by statutory law and Piikanissini. The members appointed were:

- a) Roy Fox a member of the blood tribe (Kainai);
- b) Jack Royal a member of the Siksika Nation;
- c) Carol Murray a member of the Amsskapipiikani;
- d) (alternative member) Gilbert Eagle Bear Sr. a member of the Blood tribe (Kainai)

[17] *Honoraria*: The honoraria is a traditional concept related to traditional exchanges creating a moral obligation without legal obligation. The honoraria is not wages or pay and is not treated as income as no unemployment insurance is deducted. The First Nation feels it is a public service to be a Chief to their people, and even though that is enough, the First Nation still gives a discretionary honoraria. The Piikani Nation Council decided that the Board should review if the honoraria was allowed. I would equate it with what is described an honorarium but in this decision the term used by the first nation is used which is honoraria.

[18] *Mary Ann McDougall Elders Centre*: An Elders center on the Piikani First Nation.

[19] *Peigan Taxi*: Peigan Taxi provided medical taxi service for 23 years to the Piikani Nation. The Peigan Taxi is owned by Pam Wolf Tail who is the Chief's sister. Peigan Taxi had a contract with Health Canada until 2011. In 2011, Health Canada did not renew the contract with Peigan Taxi and instead provided the Piikani Nation Health Department with a fixed amount for medical transportation.

[20] *Piikanissini*: *piikanissini* is a set of guiding principles by which the Nation governs itself. The document *Piikanissini* is a declaration of intent to continue to govern the Nation in accordance with *piikanissini* without defining it. Created in 2002, this is not a statement of principles but rather a statement of continuation of oral customs and traditions of *piikanissini*. The word *piikanissini* is distinguished from the document *Piikanissini*. The word *piikanissini* refers to a way of life of the people of the Piikani Nation. The Piikani Nation has always had an oral tradition and they have described it like a living thing that has adapted over time to changing circumstances, similar to the common law. The Piikani law interacts with the *Indian Act* which is the general law of Canada (Appendix A).

[21] *Piikani First Nation*: member of the Blackfoot Confederacy Treaty 7 and is located in southern Alberta with mailing address Brocket, Alberta.

[22] *Piikani Investment Trust (PIT) and its subsidiary Piikani Energy Corporation (PEC)*: Since 2002 the Piikani First Nation has a \$64.3 million trust structure. PIT approves loans from the Piikani Trust. The Piikani Nation brought insolvency proceedings against PIT and PEC because they borrowed \$14.25 million from Piikani Trust and the loans have not been repaid. The Piikani Nation has been negotiating with the Trustee in Bankruptcy and CIBC Trust Corporation to make a proposal to Creditors under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 in order to address PIT's debt situation.

[23] *Piikani Nation Council (Council)*: a Council of the band pursuant to s. 2(1) of the *Indian Act*.

[24] *Piikani Nation Councillors (Councillors) and Respondents*: Maurice Little Wolf, Eloise Provost, Doane Crow Shoe, Angela Grier, Andrew Provost Jr. Clayton Small Legs (Acting Chief after last suspension), Kyle David Grier, Serene Weasel Traveler, Wesley Provost, Willard Yellow Face, Casey Scott, Fabian North Peigan (Petitioner).

[25] *Piikani Nation In-House Counsel*: Michael Pflueger who was also a defendant in the Alberta Queen's Bench Action, dated December 21, 2012, brought by the Chief.

[26] *Piikani Nation Election Bylaw, 2002 and Regulations* (Election Bylaw or Election Regulation): The bylaws and regulations were passed on June 21, 2002 by three readings of Council without a referendum. The bylaws and regulations were used in three elections, are generally accepted by the community and they are recognized by the Court as a custom election bylaw. The bylaws and regulations provide for the election, removal and suspension of members of Council. The bylaws and regulations incorporate both Piikanissini and *piikanissini*. The Piikani Nation Election bylaw sections 10.04, 10.04.02, 10.05 and 10.08 (Appendix B).

[27] *"Roles and Responsibilities of Chief and Council"*: Though few of the Piikani Nation's laws are written, this document was adopted by Council in September 1985. Included in the document is how to deal with suspension or removal of member of Council. It is a policy document and not a custom election bylaw and was reaffirmed in 1999. As practices evolve, it is not strictly followed as some parts are altered by custom or other documents. When there are gaps, Roberts Rules of Order are followed to supplement this document (Appendix C).

[28] *Tanya Potts*: Finance Controller of Piikani First Nation.

### III. Preliminary Issues

#### A. *Proper parties*

[29] The Piikani Nation Council argued that they should not be a party to this application. Rule 303 of the *Federal Courts Rules* states that the tribunal whose decision is being reviewed should not be named as a party.

[30] The decisions not to pay the Chief's legal fees and honoraria are the Council's decisions. But as there was no motion at any stage, including at case management, to have the Attorney General added, the Court found it very helpful to have the Council involved. This approach was supported by the Federal Court of Appeal in *Genex Communications Inc v Canada (Attorney General)*, 2005 FCA 283. I treated the Council in the role as an intervener and used them to provide assistance to the Court regarding the Council's jurisdiction, procedures and how it all unfolded.

#### B. *Decisions-Rule 302*

[31] More of a concern to me is that the Chief in the Amended Amended Application has at least 8 separate decisions to be reviewed. Some of those decisions are regarding her now expired suspensions and other decisions are ones that the Board or the Alberta Court of Queen's Bench have already considered to some extent.

[32] The Federal Courts Rule 302 allows for a single decision to be reviewed. In cases where there are decisions below that are then reviewed by an appeal tribunal the Court will only deal with the decision of the appeal tribunal. In this case, the Board is a type of appeals tribunal that looked at all of the decisions made concerning the Chief's removal as Chief. Consequently, I will only deal with the Board's decision (*Pieters v Canada (Attorney General)*, [2004] FCJ No 435; *Unrau v Canada (Attorney General)*, [2000] FCJ No 1434).

[33] Further support of my decision is that the Board took all the information and all the previous decisions and heard the evidence of the parties. The Board has a lengthy detailed decision of 21 pages with several appendixes that discusses all of the decisions that factually led to the Board's decision.

[34] This renders the underlying decisions moot as the live controversy over the suspensions is extinguished as they are expired and were part of the subject matter before the Board. I will not exercise my right to review the other decisions (*Borowski v Canada (Attorney General)*, [1989] 1 SCR 342; *Spidel v Canada (Attorney General)*, 2011 FC 999).

[35] That being said, I will exercise my discretion as an exception to Rule 302 and will review the decisions not to fund the Chief for legal fees or to pay the honoraria from January 8, 2013 onwards.

#### IV. Issues

A. Did the Board have jurisdiction?

B. Was the Board biased or was there a reasonable apprehension of bias?

- C. Does issue estoppel apply in this application?
- D. Was the Board's decision reasonable?
- E. Was it reasonable that the Chief's legal fees and honoraria were not paid by the First Nation?
  - 1. Legal Costs
  - 2. Honoraria

V. Relief Sought

[36] The Chief seeks 21 different remedies as well as solicitor client costs in the Amended Amended Application. In the memorandum of fact and law, the Chief seeks 12 remedies plus solicitor client costs:

- Declaration that the Applicant is the Chief;
- Order that the First Nation is to pay the Chief honoraria from January 8, 2013 onwards and expenses claims dating back to April 1, 2012 onwards;
- Order that the Chief's legal fees for the Petition and the Federal Court matter be paid by the Piikani First nation;
- Quash three motions;
- Quash four Band Council Resolutions (BCR's);
- An injunction preventing anyone from failing to recognize the Authority of the Applicant as a Chief and to cease and desist from undermining her authority, and then ask that a number of powers be given back to the Chief;
- A writ of *quo warranto* requiring the Respondents to prove what authority they had to decide the Applicant was ineligible to hold office as Chief;



- A writ of *certiorari* setting aside the decisions to suspend or remove her as Chief;
- A declaration the Board does not have jurisdiction due to the invalid grant of authority;
- An Order quashing the pre-hearing decision of the Board dated November 20, 2013;
- Order quashing the pre-hearing decision of the Board dated December 11, 2013;
- An order that pursuant to Rule 302 that the decisions are a continuous course of conduct;
- Solicitor Client costs.

VI. Factual Circumstances

[37] The following is a chronological summary of the material facts that I found were relied upon by the Board in its decision to remove the Chief.

[38] Chief Gayle Strikes With A Gun was elected Chief of the Piikani First Nation on January 5, 2011.

[39] Peigan Taxi provided medical taxi for 23 years and was owned by Pam Wolf Tail, the Chief's sister. Peigan Taxi had a contract with Health Canada until 2011 when Health Canada did not renew the contract and instead provided the Piikani Nation Health Department with a fixed amount for medical transportation. This amount turned out to be less than what was paid to Peigan Taxi in 2011 with the contract. The Piikani First Nation attempted to negotiate a contract with Peigan Taxi to continue the service but a formal contract could not be agreed on.

[40] The Chief argues that on August 2, 2012, an agreement (from July 31, 2012 until March 31, 2013) was reached with Peigan Taxi for medical transport. The Chief says she was not interfering with the award of the medical health transport contract, she was just enforcing the agreement.

[41] The evidence was that on August 23, 2012, Bridget Kenna (CFO and acting CEO) called a meeting with the Health Director of Piikani Nation and Pam Wolf Tail to discuss Peigan Taxi. At the meeting Pam Wolf Tail and her husband attended and they asked that her sister the Chief be teleconferenced in. Bridget Kenna said that this would be a conflict. Despite Bridget Kenna's concern, the meeting was moved into Council chambers and the Chief was teleconferenced in to participate in the meeting. Bridget Kenna told the Chief, Council, Pam Wolf Tail and her husband that she believed it was a conflict of interest for the Chief to be involved in the discussion. The Chief spoke to the Council members and then hung up.

[42] Later that day Bridget Kenna received this email from the Chief:

On 23.08.2012 16:38, Gayle wrote:

Bridgett, you did not take my directions seriously today and I am very disappointed with regard to my phone call today. I am the Chief of the Nation and you do not have the right to tell me that I cannot sit in on this or any meeting. You need to know your place and I will not allow this to happen. If it happens again, I will dismiss you. So, I am reiterating, I am instructing you to pay Peigan Taxi next week at \$9367.00 The taxi contract is NOT going out for bids. I am instructing you to work on a contract with Peigan Taxi immediately. You will also begin to work on releasing Acting Director at the time Lorlei North Peigan immediately due to insubordination. There will be no further discussion on this.

[43] The Council passed a motion on August 28, 2012, that suspended the Chief for the actions that occurred at the August 23, 2012 meeting. A second motion was passed that the Chief “can no longer provide direction to any manager, she requires a quorum of seven to make any Administrative and/or financial decisions.”

[44] The Piikani Health department issued a cheque to Peigan Taxi at the end of the month and sent it for the proper signatures. At that time, the signing authorities needed for cheques were the co-manager of Piikani Nation (MNP LLP) and one designated Councillor. Bridget Kenna obtained the signature of the co-manager but there were not sufficient funds to cover the cheque, so the CFO was going to hold onto the cheque until there were sufficient funds. When Bridget Kenna asked the designated Councillor to sign the cheque, he would not sign because there were not sufficient funds even though the CEO said she would hold on to the cheque until there were funds.

[45] On August 29, 2012, the Chief asked Bridget Kenna to immediately terminate or suspend the Health Director, however, she refused because she said the Chief needed a quorum of seven Councillors to do so. The next day, on August 30, 2012, Bridget Kenna was meeting with the Health Director when the Chief asked if she had drafted the letter to terminate the Health Director. Bridget Kenna replied again that she did not terminate the Health Director because policy required that the Chief needed seven Councillors to tell her to. The Chief then suspended the Health Director herself and told Bridget Kenna she had to leave. The Chief said Bridget Kenna and the Health Director could gather their things and then leave the building immediately

or she would call the police. Bridget Kenna went to the Council chambers and announced that the Chief told her to leave or the police would be called, then left for the day.

[46] The following day, on August 31, 2012, Pam Wolf Tail telephoned the Piikani Health department finance clerk. Pam Wolf Tail says that the clerk told her that there was money to cover the cheque but that the cheque had been sent to the band office for signatures. At 12:00 pm, Pam Wolf Tail was referred to the band office. When Pam Wolf Tail went to the band office she was told by the band secretary that she would have to come back because they had to call Bridget Kenna, the CFO to release the cheque. At 1:00 pm when Pam Wolf Tail returned she was told the clerks at the band office were instructed not to release the cheque until Tuesday September 4, 2012.

[47] Pam Wolf Tail and her husband then drove to where Councillor Mr. North Peigan was living to ask him when the cheque would be released. Pam Wolf Tail's evidence is that she talked to Mr. North Peigan, who called the CFO, and told her she could pick up the cheque.

[48] Mr. North Peigan's evidence is that when he spoke to the CFO she indicated that she did not think there were sufficient funds but she would double check. Mr. North Peigan says he told Pam Wolf Tail and her husband that the CFO was going to check if there were funds and that Pam and her husband could go to the band office and speak to the CFO. He said he told the Wolf Tails that if there were funds, the CFO would release the cheque.

[49] Bridget Kenna did not attend the Piikani Nation on Fridays, so on Friday August 31, 2012, the finance controller telephoned her to tell her that the Chief was demanding the cheque. When the finance controller did not produce the cheque, the Chief told her to leave the building. Before the finance controller left the building, she locked the cheque in the safe.

[50] Bridget Kenna then received a call from the co-manager of Piikani First Nation, MNP LLP, saying that the Chief had a new cheque and wanted him to sign it but he was unavailable to do so. The Health department finance clerk informed Bridget Kenna that the Chief had gone to the Health department and told the Health department finance clerk to write out a new cheque payable to Peigan Taxi.

[51] The Board found that where there was an inconsistency between the testimony of Pam Wolf Tail and other evidence, particularly when surrounding the picking up of the cheque, they would rely and accept the other evidence. Consequently, the Board accepted the evidence of Mr North Peigan regarding what was said to whom regarding the funds that day.

[52] Bridget Kenna was fearful of her safety and worked from home from September 4 to September 6, 2012.

[53] The Council met on September 5, 2012 to discuss the incident and as a result suspended the Chief for 30 days with pay. At the meeting, Council gave a power point presentation showing where Council thought the Chief had a conflict regarding the Peigan Taxi service and that it was

nepotism and that she had exceeded her authority. The BCR for the suspension was signed on September 6, 2012.

[54] On September 6, 2012, Council held a meeting in Council chambers where the Chief attended and was disruptive and refused to leave. Council adjourned the meeting and continued the meeting in Lethbridge.

[55] The Chief and her supporters attended the First Nation's Administration office on September 12, 2012, and disrupted the staff and her supporters and verbally said inappropriate things to the staff. The Chief, her supporters and media came through the back offices which disrupted business.

[56] On September 13, 2012, the Chief told the CFO she was suspended and had to leave the building.

[57] On that same day when an elder entered the Administration office he heard people discussing the Chief's suspension. As an elder, he told them it was an internal matter that Council needed to settle it in the Council chambers and not in public. The elder was invited by the Chief to attend the Council chambers to help them settle it. When the elder was in the chambers he spoke of the traditions and the need to settle this matter. The elder said a prayer and then left Chief and Council in the chambers to settle the dispute.

[58] The Council and the Chief met for four hours to try to resolve the matter. The Chief's evidence is that she thought it was resolved but learned it was not. When the elder came back at 6:00 pm and found it not settled, he told the Council that they needed to go on a retreat to work on healing. Before he left he said another prayer.

[59] On September 14, 2012, the Chief and Council went to Head Smashed In Buffalo Jump to reintegrate the Chief. Reintegration meetings were the practice when someone was returning after a suspension. At that meeting the Chief ignored her suspension issues and attempted to do other First Nation business. Given that the Chief would not cooperate, the Council decided to uphold the Chief's suspension.

[60] On September 17, 2012, the Chief and her supporters came to the Administration office again and instructed the CFO to leave the building and further disrupted staff.

[61] The Chief wrote to the Council on September 20, 2012 to tell Council that they had no lawful basis for her suspension because she removed herself from the vote of whether or not to renew the contract of Peigan Taxi that her sister was affiliated with.

[62] The Council drafted reasons for the suspension. The Chief was told by a letter dated September 26, 2012 that the reasons had been circulated at Council but her evidence is that she was not given them for weeks after.

[63] On September 27, 2012, Justice MacLeod of the Alberta Queen's Bench Court granted a mandatory injunction prohibiting the Chief from attending at the Piikani government premises until her suspension ended on October 5, 2012. This order dated September 27, 2012 upheld the Chief's 30 day suspension.

[64] The Chief testified she did not attend the Administration office but continued to conduct Piikani business by seeing people at her home because she felt she could not tell people she could not talk to them.

[65] The Chief did not attend the office on October 5, 2012 when her suspension ended. Then a family member passed away so she did not work on Monday October 9, 2012. The acting Chief wrote to her telling her they had set aside October 12 or 15, 2012 for her reconciliation meeting. The Administration office received a Doctor's note on October 10, 2012 that the Chief was ill and would not be able to work until November 5, 2012. The Chief took medical leave of absence from October 5, 2012 to November 5, 2012.

[66] The acting Chief asked the Chief if she wished to adjourn the reconciliation meeting until November 6, 2012 and Council received no response.

[67] By October 29, 2012, November 6, 2012 was no longer available for the reconciliation meeting because Council had scheduled another meeting in Calgary. Because of this, Council wrote the Chief and asked if they could have the reconciliation meeting on November 2 or 16, 2012. The letter was not delivered to the Chief until November 5, 2012.



[68] The Chief returned to work on November 5, 2012. The Piikani First Nation had been involved for a year in negotiations with the Trustees in Bankruptcy of PIC, PEC and CIBC Trust Corporation to make a proposal to Creditors. The day the Chief returned she was briefed on the Piikani Investment Corporation's insolvency proceedings by the in-house legal counsel Michael Pfuenger. As part of the briefing, the Chief was given a copy of the proposal that was confidential and watermarked as such with her name.

[69] On November 5, 2012, the Chief instructed in-house counsel Michael Pfuenger to adjourn the Court application. In-house counsel refused because the Chief's instructions were contrary to the instructions he had received from Council regarding the court appearance.

[70] Later on November 5, 2012, members of Council gave the Chief a letter regarding the reconciliation meeting scheduled in Calgary the next day.

[71] On November 6, 2012, the Chief requested that the reconciliation meeting be adjourned and Council agreed. The reintegration meeting was to take place on November 8, 2012 in Calgary, and they emailed the Chief and told her that they would authorize payment of her travel expenses. The Chief emailed Council and requested that the meeting be held on November 16, 2012 instead, and again Council agreed.

[72] On November 15, 2012, the Chief attended the Alberta Queen's Bench Court application to appoint a liquidator. Acting as Chief she sought an adjournment of the application from the court which was contrary to instructions of Council.

[73] On November 16, 2012, the Chief attended the reintegration meeting. At the meeting the Chief was told that the Council had developed fifteen (15) questions that they would ask her that she would answer consecutively. The Chief said that being asked these questions and having to answer them consecutively and not being given a copy of the questions was a departure from the previous reintegration meetings. The Chief says oral discussions occurred at reintegration meetings in four previous suspensions of Councillors.

[74] The Chief wrote the questions down but refused to answer them until she had heard them all. The Chief's evidence is that even after she heard the questions she felt pressured and felt that the meeting was unfair. The Chief requested an adjournment without answering the questions.

[75] On November 19, 2012, Mr. North Peigan informed the Chief by letter that the Council had passed a motion suspending the Chief for the second time from her position as Chief for a period of 30 days with honoraria.

[76] Included with the letter was a copy of the two motions that were passed that stated the suspension followed a duly convened meeting of the Council but there was no BCR with the letter.

[77] On November 20, 2012, the Chief, her partner Larry Provost, her sister Pam Wolf Tail and her father attended an elder's birthday party that they were not invited to at the Mary Ann McDougall Elders Center. The Chief says she is as *ex officio* member and can attend if she wishes.

[78] The Chief tried to talk to the elders about her suspension and Council business. Her common law partner yelled and was abusive, traumatizing the elders. The Chief and her family were asked to leave and reluctantly did. Complaints were filed by the elders. By all accounts the Chief herself was not abusive but she did try and discuss Piikani First Nation business when she was suspended and did not stop her family from being abusive to the elders.

[79] In a letter dated December 7, 2012, Council advised the Chief that absent the permission of the Council, the Chief could not run in the by-election or general election if she was removed by the Board. She was given permission to resign and if she choose not to then the process to remove her would proceed before the Board.

[80] The Chief wrote a letter dated December 7, 2012 to Council that told them the suspensions were unlawful. She said that other chiefs that were in the process of being removed had their legal counsel funded and that pursuant to sections 11.03 and 11.04 of the *Piikani Nation Election Bylaw 2012* (Election bylaw) that she has a right to legal counsel. The Chief says she is indemnified and has a right to funding for her legal counsel.

[81] On December 13, 2012, the Chief commenced Alberta Queen's Bench action No. 1201-15897, in her own name and in the name of the Piikani Nation. The same day she filed an affidavit in the insolvency proceedings opposing the Proposal and attached what has been characterized as solicitor-client privileged documents (correspondence between legal counsel to the Chief and Council).

[82] On December 13, 2012, the Chief filed a Notice of Application for judicial review in respect of the September 5, 2012 and November 19, 2012 suspension decisions (Notice of Application, T-2224-12).

[83] The Chief on December 14, 2012 sent a letter to Council saying she would not resign. The Chief submitted a Petition to have Councillor Mr. North Peigan and Doane Crow Shoe removed as Councillors. The Petition was rejected pursuant to the Piikani Election bylaw section 10.02, as it did not comply with section 101.01.01 of the Election bylaw because the Petition did not have evidence attached and did not have the required signatures of one third of the electorate. Nor did it comply with section 10.01.02 as the Chief was ineligible while under suspension.

[84] The Chief said she resumed her duties as Chief on December 19, 2012.

[85] Councillor North Peigan on December 18, 2012 sent a Petition to the CEO for removal of the Chief pursuant to sections 10.01 through 11.08 of the Election bylaw. The Petition was placed on the Council's agenda for December 20, 2012.

[86] On December 20, 2012, the Chief produced the answers to the questions asked of her at the reconciliation meeting that she previously refused to answer. She was further questioned on the questions and her answers. At the meeting the Chief asked that Council move on to Council business and deal with her answers later. Council refused and asked her to leave the meeting so they could review her answers. The Petition was to be heard but was adjourned.

[87] On December 21, 2012, the Chief unilaterally brought an action in Alberta Court of Queen's Bench to sue a number of lawyers and law firms on her own behalf, and on behalf of the Piikani First Nation.

[88] On January 8, 2013, the Chief went to work and was asked why she was there as she was suspended.

[89] On January 8, 2013, Mr. North Peigan's Petition for the Chief's removal was heard at Council. As the Petitioner, Mr. North Peigan did not participate in the deliberations or decision to recommend referral to the Board and did not vote or sign the BCR.

[90] At the January 8, 2013 Council meeting, three Councillors were absent because of illness. The Chief was present and made submissions on her own behalf. After deliberation, the Councillors signed and passed a BCR recommending that they forward the matter to the Board to determine whether the Chief should be declared ineligible to hold office. The Council also suspended her as Chief without honoraria until a decision was rendered by the Board.

[91] The BCR was not signed by a unanimous Council as some members were ill, the Petitioner chose not to, and of course the Chief herself did not sign.

[92] On January 30, 2013 by BCR, the members of the Board were appointed in accordance with section 21.03 of the Election Regulation after confirming that all members were over 21

years old and of Blackfoot origin. The Petitioner did not participate in the deliberations or appointment of the Board or the vote that formalized the appointment of the Board.

[93] On February 5, 2013, a hearing was held for #1201-15897 before the Associate Chief Justice J. D. Rooke of the Alberta Court of Queen's Bench, for which he later issued an order.

[94] On February 8, 2013, the Chief, through her legal counsel, filed a Notice of Application for judicial review in respect of the January 8, 2013 Council decision that suspended her and that forwarded the matter to the Board (Notice of Application, T-282-13).

[95] On February 11, 2013, a BCR confirmed the Board after their January 30, 2013 appointment.

[96] On February 15, 2013, the Chief obtained privileged Piikani Nation documents relating to the Insolvency Proceedings. A party adverse to the First Nation filed a Court Action after being given these privileged documents by the Chief.

[97] In March 2013, there was an attempt by the Board to hold a traditional Healing Circle with the Chief and Council that would be facilitated by the Board. The Chief wished to partake in this Blackfoot tradition to resolve the issues.

[98] On April 19, 2013 the Chief says she was told by her legal counsel that the Council did not wish to do the Healing Circle. The Petitioner Mr. North Peigan's evidence is that on May 10,

2013 he confirmed he was not prepared to engage in the Healing Circle as the Chief had not participated in good faith in the previous reconciliation and reintegration meetings.

[99] On April 26, 2013, the Chief was provided with reasons for the January 8, 2013 decision to remove her as Chief.

[100] The Board wrote a letter to Council on May 1, 2013 saying that the January 8, 2013 BCR seeking her removal was not unanimous according to the Piikani Nation Custom Election bylaw and Regulation. The Board suggested ways that Council could comply with the bylaw.

[101] On May 8, 2013, a BCR was passed and signed by all Council members (except the Chief) including the Petitioner in his role as Councilor, to ratify retroactively and to reaffirm the recommendation of the decision to suspend the Chief without honoraria and to have the Board determine if the Chief should be removed.

[102] The Chief was not notified of the May 8, 2013 meeting or given an opportunity to respond. The Chief does not believe that all twelve (12) Councillors were present and a full meeting was held; she believes that the BCR first was written and then signatures were obtained.

[103] The Chief states that she did not appoint an acting Chief and the BCR's were not passed at duly-convened Chief and Council meetings as required by Piikani customary law. The Chief says that without her as the elected Chief being present, the Council does not exist separate from

her and this is supported by the Roles and Responsibilities of Chief and Council document (Appendix B).

[104] On May 28, 2013, by order, Prothonotary Roger Lafrenière consolidated files T-2224-12 and T-262-13 and gave the Chief until May 31, 2013 to file an Amended Notice of Application in the form attached, and scheduled a hearing for a proposed motion for injunctive relief for June 17, 2013.

[105] On June 14, 2013, on the consent of the parties, Justice Sean Harrington ordered the motion scheduled for June 17, 2013 to be adjourned to a date fixed by the judicial administrator.

[106] The Chief brought an Application in file T-2224-12 for an injunction preventing the Piikani First Nation from holding a hearing by the Board. On September 19, 2013, Justice Harrington adjourned *sine die* the motion so that the Board hearing could proceed as he found that all adequate alternative remedies had not been exhausted.

[107] The hearing by the Board was set for November 29, 2013. The Board produced a hearing Rules of Conduct (Appendix D) on October 17, 2013 and provide it to the Chief.

[108] The pre-hearing application was heard by telephone on November 20, 2013 and the Chief's legal counsel asked that the issues of jurisdiction, bias and legal fees be heard as soon as possible.



[109] On November 22, 2013, the Board decided the pre-hearing application and determined that there was no bias, that the Board was properly constituted and it did not order the Chief's fees to be paid. A BCR dated November 14, 2013 was sent to the Chief's counsel two hours before the hearing that denied her legal fees.

[110] The hearing was held in Lethbridge with two police officers present on November 29, 2013 and was set for one day. The hearing Rules of Conduct stipulated that only the parties and one witness at a time were to be in the room. The Chief requested that it be a public hearing and translated into Blackfoot but these requests were denied and the hearing was not transcribed.

[111] The Chief said the time allocated for the parties felt rushed. The only witness allowed was the Chief's sister Pam Wolf Tail.

[112] On December 11, 2013, following the November 29, 2013 hearing, the Board ordered the Applicant removed as Chief of the Piikani First Nation, effective immediately.

[113] On December 19, 2013, the Chief requested a case management conference to take place during the week of January 6, 2014 to set the timetable for judicial review, including filing an Amended Amended Notice of Application.

[114] On January 6, 2014, the Chief submitted to Prothonotary Lafrenière a draft Amended Amended Notice of Application, in advance of the scheduled case management conference scheduled for January 8, 2014.

[115] On January 8, 2014, the Chief filed with the Court her Amended Amended Notice of Application including the following additional decisions:

- The pre-hearing application decision of the Board issued November 20, 2013, and the December 11, 2013 decision declaring the Chief ineligible to hold office, and
- The November 14, 2013 decision of the Piikani Nation Council refusing to allow payment of the Chief's legal fees.

[116] On January 9, 2014, Prothonotary Lafrenière granted leave to the Chief to serve and file the Amended Amended Notice of Application "forthwith", along with an amended timetable for judicial review.

[117] Other matters before the Alberta Court of Appeal and Alberta Queen's Bench:

- An injunction application (#1201-11755) was brought by Piikani Nation Council before Justice MacLeod of the Court of Queen's Bench of Alberta on September 27, 2012 to prevent the Chief from attending the office. The court granted the injunction;
- An application in the Court of Queen's Bench of Alberta on November 15, 2012 by the Piikani Nation to have a Liquidator appointed to a Nation owned corporation which was opposed by the Chief at court;
- On December 13, 2012, the Chief commenced an application in the Court of Queen's Bench of Alberta on behalf of herself and the Piikani Nation against Council and the court appointed Liquidator and others. The proceedings were struck against the Liquidator, and the Piikani Nation was removed as an

Applicant. The Chief filed privileged Piikani Nation documents with the court and continued opposition to all insolvency proceedings;

- On December 21, 2012, the Chief filed proceedings in the Court of Queen's Bench of Alberta (#1201-16383) on her own behalf and the Piikani Nation's behalf against a number of Piikani nation's current and former lawyers, and a Provincial Court Judge for \$86 million in damages and dismissal of the Piikani Nation's external counsel and termination of their in house counsel;
- On January 4, 2013, Associate Chief Justice J.D. Rooke ordered that the claim (#1201-16383) be struck as it purported to be in the name of the Piikani First Nation and she had no authority to bring it in their name and then the balance being stayed as an abuse of process and subject to case management;
- On January 29, 2013 the Chief filed an application (#1201-15897) in the Court of Queen's Bench of Alberta. In that application the Chief asked that all her legal fees be paid and that no legal fees be paid for any other member or the Board to remove her from office. She sought relief of her honoraria to be paid from January 8, 2013 onwards;
- On February 5, 2013, the Associate Chief Justice J.D. Rooke ordered that all matters be stayed until the release of a decision of the Court of Appeal of Alberta #1201-0072AC or April 13, 2013. Paraphrasing without the detail, the actions stayed were: Actions 0801-07171; 0501-17326; 0901-07214; 0801-09301; 0801-04735; 0901-15268; 0901-42591; 0901-03549; 0901-15396; 0601-13081; 0901-05220; 0601-14313; 0901-15297; 0901-18791; 0801-06768; 1001-10326; 1201-16383; 1201-15897. Exempted from the stay were the matters scheduled for

February 19, 2013, any matters that leave is granted to proceed by either Justice Graesser or Justice Park and the #0801-05039 & 0601-13081; 0901-15297 ; 0901-18791 ; 25-1436014 and Appeal #1201-0072AC; 1001-10326. The Judge ordered that no action could be commenced against the Piikani Nation, Council etc without leave of the Alberta Queens' Bench or the Provincial Court of Alberta without leave of the Alberta Queen's Bench or if the action was one exempted to continue.

## VII. Standard of Review

[118] The Supreme Court of Canada in *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 62 said as part of a two-part test, to first determine whether the jurisprudence had already determined what the standard of review is. The first step being determining if the analysis had already been done on the decision maker in question. If it has already been done, then it is not necessary to proceed and that analysis can be adopted.

[119] The Federal Court of Appeal has determined that the standard of review is reasonableness in determining this mixed fact and law question regarding removal or suspension of Chief or Councillor of an Indian Band. However, when procedural fairness is at issue the standard will be correctness (*Martselos v Salt River Nation #195*, 2008 FCA 221 [*Martselos*] at para 28; *Orr v Fort McKay First Nation*, 2012 FCA 269 at para 11; *York v Lower Nicola Indian Band*, 2013 FCA 26 at para 6).

VIII. Analysis

[120] I am dismissing this application for the reasons that follow.

[121] I find the Board had jurisdiction to make the decision under review. The Board was correct that it did not have jurisdiction to order payment of legal costs for the Chief and did not have jurisdiction to order that the honoraria be paid to the Chief.

[122] I find the Board's decision to be reasonable.

[123] I find the decision not to pay the legal fees was already determined by the Alberta Court of Queen's Bench, but if I am wrong then I find the Council's decision to be reasonable.

A. *Did the Piikani Nation Removal Appeals Board have Jurisdiction?*

[124] The Chief argued that the Board erred when they found they had jurisdiction for two reasons.

[125] The first reason the Chief argues is that the Board did not have jurisdiction as there are very strict bylaw requirements in the Election bylaw (see Appendix B) that were not followed to the letter. With these errors, the Chief submits that the Board does not have jurisdiction.

[126] The argument that was before the Board and before me is that when Council passed the BCR all members of Council were not present and did not sign the BCR, which is contrary to the

Election bylaw section 10.04, 10.04.02 and 10.05. She argues that the Council subsequently ratifying, reconfirming and unanimously signing a BCR did not give the Board jurisdiction.

[127] The Chief says section 10.05 and section 10.04.02 were not followed for the January 8, 2013- BCR because it must be by unanimous acceptance of Council. This BCR was signed by the eight Councillors who were present and not signed by all twelve Councillors and the Chief. The Chief's argument is that the Election bylaw requires strict compliance and section 10.05 says that the BCR should be unanimous:

Section 10.05 The Piikani Nation Council may, by unanimous consent as evidence by a Band Council Resolution and in accordance with subsection 10:04.02, recommend that a person be declared ineligible to continue to hold the office of Chief or councillor it...

[128] The Respondents argue that the section is permissive as it says "may" and the Chief argues it is not discretionary as the comma is after "may" and that means it is not discretionary.

[129] The Chief says that, for example, section 9.02 says "a majority" so the wording is intentional. So it follows that "unanimous" was intended for section 10.05 just as section 9.02 and others say exactly what is required.

[130] The Chief argues that "unanimous" decisions are required so that factions of Councillors cannot remove a Chief or other Councillors. The Chief submits that the referral to the Board and the suspension are invalid so the Board had no jurisdiction. She argues that strict compliance with the bylaw is a mandatory process and that this issue was even raised by the Board. She says

non-compliance renders the Board null and a new appointment of a Board does not rectify its decision.

[131] The Chief further argues that section 10.05 and section 10.08, say “the remaining Councillors and Chief” thus creating an issue because on January 8, 2013, the Chief was suspended, so the BCR was a non compliant to section 10.08 as no chief signed.

[132] The Chief submitted that it is custom for her to appoint someone as acting Chief when she is away and unable to act. She argues that because the Chief did not appoint an acting Chief, everything was done outside the jurisdiction of the Board.

[133] The Respondents argue that this possible jurisdictional issue was brought to the Council’s attention by the Board and out of an abundance of caution they fixed it. Because three Councillors were ill and did not attend the Council meeting, they did not sign the January 8, 2013 BCR. However, the fix was that Council ratified and reaffirmed the January BCR in the May 8, 2013 BCR signed by all twelve Councillors. In addition, an appeal was filed pursuant to section 10.07 of the Election bylaw.

[134] Another error of the Board the Chief submitted is that the Board’s decisions to suspend and remove her were not made pursuant to Piikani customary law, procedural fairness and natural justice, so they are unfair.

[135] I find the Board had jurisdiction for the following reasons.

- (1) Legislative Background- *Piikani Election Bylaws, 2002 and Regulations* (Appendix B)

[136] The parties contest how these Election bylaws and regulations should be interpreted

[137] The Board addressed jurisdiction in the pre-hearing application decision dated November 22, 2013 and was incorporated at paragraphs 6 and 71 of the decision.

[138] At paragraph 6 of the decision the Board held:

At the commencement of the Formal Proceedings, the Respondent [in that application the respondent is the Chief] took the position on record that the Appeals Board did not have jurisdiction to hear the matter and invited the Appeals Board to decline jurisdiction and refer the matter to the Federal Court. The matter of jurisdiction was argued at the pre-hearing application held on November 20, 2013 and the Appeals Board rendered its decision on November 22, 2013 stating, *inter alia*, that the Appeals Board had jurisdiction to hear this matter. A copy of the pre-hearing decision of November 22, 2013 is attached as Schedule A to this decision.

[139] The Board found that there are two ways that they can receive a Petition. The first way is by a recommendation from a Band Council by a BCR (section 10.04.02). The second way is by an appeal by a Petitioner, if the Petition has been turned down (section 10.07).

[140] The Board found they had jurisdiction for several reasons. Firstly, the Board correctly noted in its pre-hearing decision that the Board's jurisdiction did not extend to the two temporary suspensions and was only in relation to the petition to permanently remove the Chief. Secondly, the Board found no merit in the Chief's interpretation of "unanimous" meaning that her signature was also required on the BCR to remove her. The Board wrote that this interpretation would lead



to a legal absurdity because the Chief would have to sign the BCR recommending that she herself would be declared ineligible to continue to hold office. The Board rightly held that such an interpretation would render the section meaningless.

[141] I find the Board to be correct and that the Chief's argument fails. If the bylaw is interpreted in this way, one would never be able to remove a Chief because the Chief would simply not appoint an acting Chief, not sign a BCR for their removal and completely insulate themselves from ever being removed. That cannot be what was intended when the Election bylaw was passed.

[142] In the pre-hearing application decision at page 5, the Board relied on *Knight v Indian Head School Division No 19*, [1990] 1 SCR 653 and held that:

technical errors in procedural administrative matters will not invalidate the process if they would do no more than to impose a purely procedural requirement which is at odds with the principles of flexibility of administrative procedure. Accepting the argument of the Chief for the board to decline to take jurisdiction would serve no purpose other than to cause further delay and added costs to the entire process, thereby creating prejudice to both parties, which is contrary to the proper administration of the administrative process.

[143] The Board relied on the Supreme Court of Canada in *Canadian Pacific Ltd v Matsqui Indian Band*, [1995] 1 SCR 3 when it determined its own jurisdiction regarding this Petition.

[144] I find that the Board was correct. At best this was a technical error that was "fixed" by a new BCR that ratified and reaffirmed the original BCR. The Board said that though the appeal

and the second BCR were late, the “practical effect of them was to put the matter before the Board in accordance with the spirit and intent of the Election Bylaw.”

[145] The Board did, however, recommend that the Election bylaw should be clarified; that “unanimous” in this section does not include the Chief or Councillor that is the subject of the removal process.

B. *Was the Piikani Nation Removal Appeals Board biased or was there a reasonable apprehension of bias?*

[146] The Chief alleges errors of bias, reasonable apprehension of bias and unfairness.

[147] The Chief argues that the pre-hearing and final decision of the Board dated November 20, 2013 and December 11, 2013 respectively, are reviewable because the Board was biased.

[148] The Chief says the Board was biased because:

- The January BCR was invalid as it was not passed unanimously and on May 1, 2013 the Board sent a letter to the Council telling them of their concern and suggested methods of how to fix it;
- Evidence from the Respondents Mr. Crow Shoe and Mr. North Peigan was that the May 1, 2013 letter from the Board influenced them in signing another BCR on May 8, 2013;
- Council met on May 8, 2013 to rectify the January 2013 BCR;

- The Board raised the concern themselves about the lack of unanimity of the January 8, 2013 BCR when it rendered its pre-hearing decision, if found it had the jurisdiction to proceed;
- The Chief was not consulted with respect to the Board's constitution and did not take part in the constitution of the Board;
- The Board set a hearing date of April 9 and 10, 2013 and was adjourned to facilitate the Healing Circle and when that was abandoned they set another date of June 6, 2013 and then was adjourned pending the Federal Court injunction motion;
- The Board then on its own initiative indicated "...the matter cannot be allowed to drag on any longer" and set a new date of July 23 and 24 but was adjourned again for the Federal Court injunction;
- Did not allow the public to attend the hearing;
- The Board hired two City of Lethbridge Police Officers to stand and watch all day outside the hearing room doors;
- Relied extensively on affidavits and seemingly relied on them to the exclusion of other evidence before the Board which they knew was not subject to cross examination and it amounted to hearsay evidence.

[149] The legal test for bias and reasonable apprehension of bias was first articulated by the Supreme Court of Canada in *Committee for Justice and Liberty v Canada (National Energy Board)*, [1978] 1 SCR 369:

The proper test to be applied in a matter of this type was correctly expressed by the Court of one held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information. In the words of the Court of Appeal, that

test is "what would a informed person, viewing the matter realistically and practically--and having thought the matter through--conclude. Would he think that it is more likely than not that Mr. Crowe, whether consciously or unconsciously, would not decide fairly. I can see no real difference between the expressions found in the decided cases, be they 'reasonable apprehension of bias', 'reasonable suspicion of bias, or 'real likelihood of bias'. The grounds for this apprehension must, however, be substantial and I entirely agree with the Federal Court of Appeal which refused to accept the suggestion that the test be related to the "very sensitive or scrupulous conscience"

[150] The test above was further endorsed in *R v RDS*, [1997] 3 SCR 484 where it was added that the threshold for establishing real or perceived bias is high and that alleging bias is a serious step that must not be undertaken lightly.

[151] The Chief's arguments on bias have elements of procedural unfairness but the "unfairness" is characterized as being evidence of bias. On the evidence I have before me, I would find that the Board's actions do not give rise to a reasonable apprehension of bias.

[152] The hearing was formal and had a set of rules and conduct that applied to pre-hearings as well. The Board has control over its own processes. The Board is constituted and composed as directed by the Election regulations of members of other Blackfoot Nations and does not have a member of the Piikani First Nation on it.

[153] The Council's role in the Petition begins when the CEO places the Petition on the agenda. Then Council determines if there is enough evidence to send the Petition to the Board. Council can compel evidence to help them in their deliberations. The Petitioner has the absolute right of appeal to the Board, whether the petition is accepted or not. If a Petition is not accepted, then the

Petitioner can appeal the decision to the Board by filing a Notice of Appeal with the Piikani Nation Chief Executive Officer. The Board is a sophisticated board that understands procedural fairness and ensured that there were no breaches of procedural fairness. The parties all received notice and the opportunity to present evidence to an unbiased tribunal (*Sparvier v Cowessess Indian Band*, [1993] 3 FC 142).

[154] I find the letter sent by the Board to the Council was a use of good practical judgment to give possible solutions to what the Board saw as a concern, and then provide solutions. It does not give rise to bias nor do I find it is a breach of procedural fairness. The letter gave multiple possible choices and left it to Council to ultimately decide what course to choose. In my reading, the letter did not favour either party's position and it was a fair presentation of the options available to cure the problem. There were options also available in the event that either party did not choose to attend a formal hearing, and there was a legal basis presented for the options. The fact that Councillors relied on the suggestions does not give rise to bias as I see this as the Board doing its job and I find that it was part of its pre-hearing management.

[155] The Board set out Hearing Rules of Conduct dated July 5, 2013 (Appendix C) and provided it to the parties. The Hearing Rules of Conduct document contains detailed instructions and in addition, the Board conducted a pre-hearing. As the document states, there were a number of matters before various courts and the Board wanted to "engage in preliminary investigations" of what judicial pronouncements would have an effect on the hearing.

[156] The Board made full disclosure and the parties had the opportunity to address all the evidence. The Chief and her legal counsel were well aware of how the hearing would proceed.

[157] I do not agree with the Chief that the Board was biased because the Chief was not involved in the constitution of the Board. The Election Regulations at section 21.02 says “the Piikani Nation Removal Appeals Board shall consist of persons appointed by the Piikani Nation Council who shall be appointed....” That is exactly what happened as the evidence was that the Council on January 30, 2013 appointed the Board and then on February 11, 2013 they issued a BCR confirming the Board decision. I confirmed at the hearing that BCR’s can act retroactively and can ratify decisions already made by Council.

[158] The matter has been contentious as evidenced by the number of Alberta Queen’s Bench Actions (see above para 117) and applications so the fact that police officers were present outside the meeting would seem to be reasonable and thankfully in the end unnecessary.

[159] At the hearing, the Chief argued that it was a problem that the matter was not heard in the Blackfoot language. The Board said that the Applicant and the Respondents did give evidence in Blackfoot but the parties were told in advance that they had to translate what they said to English. I do not see how having the parties when they spoke in Blackfoot having to then translate it to English immediately being biased. The parties were told that was how the hearing would proceed and the obligation to translate was imposed on both parties. It seems like a fair and reasonable approach to have the hearing proceed like that.

[160] The fact that the Board used affidavits that were not cross-examined but used in the injunction application does not give rise to bias as both parties were well represented by counsel and in this situation neither party's affidavits were cross-examined. The Board, in the Hearing Rules of Conduct (see above para 155) of the hearing, addressed this issue by allowing oral evidence with respect to "rebuttal evidence that addresses the written evidence presented by the other parties." The Board did not make any specific credibility findings though they did prefer some testimony over others when in conflict. It is not for this court to reweigh the evidence. I do not see that a reasonable and right-minded person, applying themselves to the question would perceive that the Board was biased when creating and fulfilling the procedures of the hearing.

[161] The Board did not allow the public, but they are in control of their own processes. It appears from the material that was filed concerning other removals that the Board did not open the hearing to the public. It would seem that when the issues are already causing huge conflicts within the community that allowing two camps of supporters and media would do nothing to the healing that the Board wished to do and what the Blackfoot tradition and Piikanissini strives for in harmony amongst its communal people. The Hearings Rules of Conduct (see above para 155) were known well before the hearing, so the parties were aware of the procedure that the Board was going to follow.

[162] I find that applying the tests articulated by the Supreme Court of Canada, above, that it is unlikely that an informed person, viewing the matter realistically and practically--and having thought the matter through, would conclude that it is more likely than not that the Board, whether consciously or unconsciously, would not decide fairly.

[163] The Chief also argues that the process leading up to the Board's hearing was not according to Piikani Customary law and thus was not procedurally fair. I do not find this argument persuasive as my reading of the Board's decision is that the spirit of *piikanissini* is infused throughout the decision and takes into account many of the principles that guide the Piikani way of life. Further, the Board recognized at paragraph 56 of its decision that the November 2012 reconciliation meetings were not the same as previous reconciliation meetings for suspended Councillors but at paragraph 108 also recognized that the Chief participated in all the reintegration, reconciliation and healing circle efforts pursuant to *Piikanissini*. I interpret these findings to mean that the process incorporated Piikani customary law but that it was unsuccessful so the Board had to resort to using the Election bylaws to decide the petition. Even if the November reintegration meetings were different from other ones, they still occurred. Whether there was an oral discussion or an exchange of written questions, the spirit of the reconciliation was intact. I do not find any breach of procedural fairness.

C. *Does Issue Estoppel Apply in this Application?*

[164] A further argument made by the Chief is that the allegations at the removal hearing were the same as used at the suspensions and that the principles of issue estoppel, *res judicata* or pursuant to *R v Kienapple*, [1975] 1 SCR 729, she should be protected from being punished three times.

[165] I find that the Board addressed these arguments and applied the correct legal test to the facts. The test for issue estoppel is a) that the same question has been decided in earlier proceedings; b) that the earlier judicial decision was final; and c) that the parties to that decision



or their privies are the same in both proceedings (*Danyluk v Ainsworth Technologies Inc*, 2001 SCC 44, confirmed in *Penner v Niagara (Regional Police Services Board)*, 2013 SCC 19). The Board, even if it found these pre-conditions, has discretion to not apply issue estoppel.

[166] I am in agreement with the Board's finding that the suspensions were of a temporary nature and as these earlier decisions were not final and that issue estoppel does not apply to the Board on these facts. In any event, the conduct of the Chief was not the same for each of the suspensions; the second suspension was administered because the Chief disregarded the first suspension by continuing to conduct Council business while under suspension. The two suspensions and the Board's decision are distinct issues and the allegations are certainly not the same. Finally it was reasonable of the Board to find that they would exercise their discretion to hear the evidence of the suspension hearings or reintegration steps.

D. *Was the Piikani Nation Removal Appeals Board decision reasonable?*

[167] The Chief argues that this decision is not reasonable as there was not sufficient evidence to support the allegations in the Petition or that her conduct warranted her removal as Chief. In addition, she argues that the Board "erred in the finding of and weight or reliance it placed on the alleged conduct".

[168] The Board's role was to determine if the Chief was ineligible to hold the office of Chief. They determined this pursuant to section 11.06 of the Election bylaw and section 21.05 of the Election regulations.

[169] The Petition alleged that the Chief was not eligible pursuant to sections 10.05.02 (a), (c), (d), (e) of the Election bylaw (see Appendix B). The standard is that the Petitioner must meet the test of 10.05.02 and the list is not an exhaustive list.

The person has failed to maintain a standard of conduct expected of a member of the Piikani Nation Council and without limiting the generality of the foregoing, does any of the following:

(a) accepted or offered a bribe, forged a Piikani Nation document or was otherwise dishonest in his official role;

.....

(c) conducted a corrupt practice as determined by the principles of *PIIKANISSINI*;

(d) abused his office such that the conduct negatively affected the dignity and integrity of the Piikani Nation or the Piikani Nation Council ; and

(e) such other conduct as shall be determined by the Piikani Nation council to be of such a serious nature that removal from office is necessary and appropriate.

[170] The Board, in a 21 page detailed decision, had evidence to support each of those findings.

They summarized the evidence and made findings that had evidence to support the findings.

They did not ignore any material evidence. I summarize below the findings of the Board:

- A finding of conflict of interest with regards to first the Chief's involvement in the meeting regarding Peigan Taxi on August 23, 2012 and second when she tried to obtain a cheque on August 31, 2012. The Chief treated the staff in a fashion that is contrary to that expected of a member of the Council including her treatment of Bridget Kenna, Tanya Potts, the Health Director and Health Finance Clerk. They found it inappropriate to direct Bridget Kenna to fire another staff member without a seven Councillor quorum. The Chief's actions were contrary to the policies required

to fire or discipline an employee. It was inappropriate to direct Tanya Potts to produce a cheque and then make her leave because she did not produce it. The Chief ordering the finance clerk to produce a new cheque was inappropriate. The Board found these actions together were a failure of the standard of conduct expected of a member of Council;

- The Board dismissed the charge of nepotism;
- The Chief continued to conduct Piikani Nation business while she was suspended in September contrary to the injunction order of the Alberta Queen's Bench Court and the Council suspension. The Board found that the disregard of the Court order "negatively affect the dignity and integrity of the Piikani Nation. *Piikanissini* requires that the Piikani Nation strive to maintain a stable relationship with the other orders of government. Disregarding an order of injunction issued by the judiciary of one of the other orders of government is not in keeping with the Respondent's duty to comply with *piikanissini*:"

**The testimony of the Respondent that she did not recognise the jurisdiction of the Alberta Court of Queen's Bench over her is a further aggravating factor. However, as the leader of the Piikani Nation, to refuse to recognise the jurisdiction of the judiciary over her personal matters, other than through the normal judicial steps, sets a precedent which is in keeping with the Respondent's position as Chief. If the Chief of the Piikani Nation refuses to recognise the jurisdiction of the courts, the example being set for the membership of the Piikani nation is contrary to the obligations pursuant to *piikanissini* of the Respondent as chief.**

Emphasis added

- On September 17, 2012 she interrupted Administration and business by coming in and bringing the media through the back offices;

- The Chief failed to stop her supporters in September 2012 from verbally abusing and intimidating administration and Council and thus did not uphold the values and principles of *Piikanissini*. The Board was clear that it understands that no one has control over others behaviour, but it was her role as Chief as all members of the Band become her children;
- The Board found the evidence was not clear of who was involved with the inappropriate behaviour on November 20, 2012, at the elders center but acknowledged that the Chief herself did not intimidate or disrespect any elders and that the inappropriate behaviour was by her family who attended with her. *Piikanissini* should have had her maintain social relationships and she failed to;
- The Chief did agree to participate in reconciliation and reintegration meeting and further she agreed to the Healing Circle when it was suggested. She also provided written answer on December 20, 2012 to Council's questions asked at the November 16, 2012 reconciliation meeting. They found her behaviour was not supportive of the Petition;
- That the Chief gave unilateral instructions to lawyer to adjourn a court proceeding without a quorum of Council in Action No 0901-15297;
- The Peigan Nation Financial Administration Code states that the Finance committee is responsible for the control of Peigan Nation Funds. The Chief is an *ex officio* member of the committee but her presence does not count towards the quorum of 5 members required for a meeting. The Board found that this means the Chief cannot make unilateral decisions about disbursement of Peigan Nation funds. The Financial Code should not communicate financial information unless mandated by the

Committee or directed by the Chairman. There is no evidence that the Chief had authority regarding the payment of Peigan Taxi. This conduct on August 31, 2012 was a breach but the Board did not rely on this conduct in isolation but found it added to the overall conduct.

[171] The Board then analysed the conduct and found that each incident on its own is not enough to warrant removal as Chief but when viewed as a whole was a breach of *piikanissini* and would warrant removal as Chief. The board found that in the alternative, the conduct was an abuse of authority and conflict of interest pursuant to common law.

[172] The Board found an abuse of authority when the Chief commenced Alberta Queen's Bench actions on December 13, 2012 against CIBC Trust and the action of December 21, 2012 against several lawyers, law firms and a Provincial Judge. These were a breach of her obligations pursuant to *piikanissini* and Piikanissini:

Unilaterally bringing a court action in the name of the Piikani First Nation that is later struck as not being properly authorized and the rest of it being stayed as being an abuse of process degrades the values, principles and integrity of the Piikani Nation.

[173] This lack of trying to maintain a stable relationship with Provincial and Federal governments and acting unilaterally is again a failure to follow *piikanissini*.

[174] In the alternative, pursuant to common law, the Board found the actions of the Chief bringing the two unauthorized actions to be an abuse of authority as she misused her position as Chief. The Board found that to condone unilateral actions would be to allow anarchy to rule the

day. This detail was set out in hope of giving direction to future Chiefs and Council of how they must work together and not act unilaterally purportedly in the Piikani First Nation's name.

[175] The Board found that commencing the legal proceeding disrupted business due to delay and expenditure of resources caused by the unilateral actions of the Chief. The action against the lawyers and law firms caused a conflict and affected on-going litigation commenced by the Piikani First Nation, some before she was Chief and some while she was. By way of *piikanissini*, the board found that the Chief had acted unilaterally and failed to ensure that internal governance, policies and procedure were followed.

[176] By disclosing solicitor-client privileged documents, the Board found that the Chief failed in her obligations pursuant to *Piikanissini*; in common law her unilateral action was an abuse of office that negatively affected the Piikani Nation.

[177] The Board reasoned in great detail why it came to the determination it did.

[178] The Board had evidence to support these findings above and weighted the evidence in an appropriate matter as they heard the *viva voce* evidence and read the affidavits filed.

[179] The Board concluded that the actions of the Chief were serious enough that removal from the office of Chief of the Piikani nation was necessary and appropriate and ordered her removal from office immediately.

[180] I find that the decision to remove her as Chief was a decision that was within the range of acceptability and defensibility on the facts and the law (*Dunsmuir*, above; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12). The Board has the benefit of hearing the parties in person and of assessing demeanour and manner. At the start of their reasons at paragraph 14 and 22, the Board stated that it had concerns regarding the Chief's hesitation and manner when giving evidence. The Board is entitled to deference from this Court on this issue.

[181] The Board reasonably set out the facts upon which it relied and also set out the portions of the Chief's testimony that was accepted. The Board outlined which parts of the testimony it preferred and why. The findings and decision were transparent and allowed this reader to understand the Board's reasoning.

E. *Was it reasonable that the Chief's legal costs and honoraria not be paid by the First Nation?*

(1) Legal fees

[182] The Chief says that she requested in correspondence that her legal fees be paid. She says that she did not have a ruling until November 14, 2013. The November 14, 2013 decision was made by the Piikani Nation and they refused to allow payment of the Chief's legal fees.

[183] The Chief argues it is not fair that some people have their fees paid but she does not. As Chief she should have her legal expenses paid.

[184] The Council refused for a number of reasons one of which was because the Chief had not paid for the indemnity agreement as had all the other Councillors. In addition, in a removal matter they do not pay legal fees for both parties when they do not feel the person was acting with the best interest of the Piikani First Nation.

[185] In the pre-hearing, the Chief requested that the Board make a determination that her legal fees should be paid by the Piikani Nation.

[186] In the November 22, 2013 pre-hearing decision, the Board ruled that they do not have authority to grant solicitor client costs as requested by the Chief. The Board cited that the Election bylaw does not give statutory authority to grant legal fees being paid by the Piikani First Nation. Further the Rules of Conduct state that each party is responsible for their own legal fees.

[187] In the Chief's 40 page Statement of Claim in Alberta Queen's Bench application No. 1201-16383, the relief sought was "costs on a full indemnity basis." Some of the same facts are pled as in this case including a section in the claim titled Suspension from Office. As part of the relief she sought her legal costs be paid for the removal hearings and for her other actions and applications.

[188] The Associate Chief Justice of Alberta struck some of the claim as the Chief had no authority to bring the action in the name of the Piikani First Nation and stayed the balance of the action. The Alberta Court of Queen's Bench effectively ruled on the request based on the suspension facts to have her costs paid on an indemnity basis.



[189] In Alberta Court of Queen's Bench No. 1201-15897, the Chief sought the remedy of the Chief's "legal fees with respect to Rath & Company's retainer as of January 18th, 2012 be paid from the trusts on a solicitor and own client basis for the limited purpose of allowing Chief Strikes with a Gun to address her defined concerns as Chief..."

[190] The Chief now asks that I review the decisions not to pay her legal costs. As this same request was made to the Alberta Court of Queen's Bench essentially the same facts I will not sit in appeal of that determination. As well, Associate Chief Justice John D. Rooke stayed a number of the matters or allowing them to proceed only with leave and case management (see para 117 above). Even if the Alberta Queen's Bench orders did not rule on all of the legal fees the chief seeks to be paid, I find the decision to not fund her made by the Council on November 14, 2013 to be reasonable.

[191] The decision dated November 14, 2013 by the Council was reasonable in the circumstances regarding the indemnity agreement. The Indemnity agreements replaced the general statement in section E in the Roles and Responsibilities document when the indemnity agreements were put in place starting in 2007 and continued in this chief and counsel's term of office.

[192] In December 2011, BCR's were executed that Council wished the Councillors and Chief to enter indemnity agreements for protection in carrying out their duties and obligations of the Piikani First Nation.

[193] All of the individuals that entered into the indemnity agreements were required to pay \$500.00 consideration. The Chief as of March 7, 2014 had not paid the \$500.00 to enter into an indemnity agreement. All other Council members have paid the \$500.00 consideration.

[194] She attempted to enter a five hundred dollar cheque dated February 18, 2014 as an exhibit during the cross-examination on her affidavit. The Chief was told if it was an exhibit, it could not be cashed and that the contracts had been entered into 2 years ago and they could not accept it now.

[195] The Chief argued that she did not see a time period requirement so when she gave the band a cheque on February 18, 2014, they should have accepted it. She believes that her consideration for the indemnity agreement should have then applied retroactively and permitted payment of all her legal fees for all her actions including the Board hearing that had already taken place.

[196] The indemnity agreement has conditions and it is the Piikani Council's position that even if she had paid she would not have met the requirements of acting with approval or authority of Council. They also say she did not act with honesty or with a view to the best interests of the First Nation. The Council's position is that she did not qualify for the indemnity even if she had paid.

[197] The Chief says that Mr. North Peigan's legal fees are being paid and it is unfair that hers are not. She says legal fees should be paid by custom and precedent and that there is a fairness element.

[198] The Council heard all of the arguments of why her legal fees should be paid and the Piikani Nations evidence not to pay and found the legal fees would not be paid. There was evidence that on other occasions in 2008 and 2010, the legal fees of Councillors had been paid when there were petitions to remove them. But both of those decisions are factually distinguishable from the one at present. At no time have the legal fees of both the Petitioner and the Respondent in a removal proceeding been paid by the First Nation. Council has developed the practise of providing funding to the party that Council determinates is acting in the best interests of the Piikani First Nation.

[199] I find it reasonable that, at that time the First Nation was having financial issues, and that it was a consideration when they decided not to fund her. Her many applications and actions before the courts were not successful and the Piikani Nations Council's application to the Alberta Queen's Bench Court for an injunction was successful so it would seem that it was reasonable not to continue in austere times to fund litigation against yourself.

[200] Further I find that the Board was correct that they did not have the statutory authority to grant solicitor client fees.

(2) Honoraria

[201] The Chief asks the Court to review that her honoraria was no longer paid after the January 8, 2013 decision of the Council. An honoraria is paid as a set amount and the Chief was paid for the first two suspensions and not for the third. She says her case is like *Balfour v Norway House Cree Nation*, 2006 FC 616 and she is clear of influence peddling so should be paid.

[202] The Chief asked the Board to order Council to pay her honoraria. The Board declined to as they did not have jurisdiction to do so.

[203] I find the Board was correct that they do not have jurisdiction to order.

[204] The decision by Council not to pay honorarium is reasonable given the Chief was suspended and the Board found she should be removed. I find that the decision was reasonable based on the evidence.

[205] The Chief in No. 1201-15897 Alberta Court of Queen's Bench sought at para 6:

An order that the Piikani Nation pay Chief Gail Strikes with a Gun her honoraria (from January 8, 2013 onwards) as well as expense claims dating back to April 1, 2012 or in the alternative, pay Chief Gail Strikes with a Gun \$100.00 per hour for 37.5 hours a week plus expenses pursuant to section 44 of the Trustee Act, RSA 2000, cT-8.

[206] As well the Chief sought other remedies that were not granted.

[207] The facts and argument to support this application before the Alberta Court of Queen's Bench were identical to what was argued before me in this application. This application was subject to the Order of Associate Chief Justice John D. Rooke dated February 5, 2013 where it and a number of other matters were stayed. I have no evidence of what if anything further was determined with this application but it appears she has requested some of the same relief as she did before the Alberta Courts. The application before me will not be successful on the issue of her legal costs or her honoraria.

[208] The parties argued a number of other issues or presented other argument that I do not and will not deal with in this decision as they are unsupportable.

#### IX. Costs

[209] The Chief seeks costs on a solicitor client basis. I will not award costs on that scale as that is the exception and not the rule (*Martselos*, above, at para 54). The Respondent, Fabian North Peigan sought costs against the Chief personally and that the costs not be paid from funds of the Piikani First Nation. The Piikani First Nation requests that there be no award of costs against or for the Piikani Nation Council.

[210] Considering that there was evidence that the Respondents in their personal capacity all had indemnity agreements and that the Piikani First Nation Council was of great assistance to the Court, I will exercise my discretion and award the Piikani First Nation Council costs to be paid personally by the Chief forthwith.

[211] In summary I dismiss all the applications and order costs against the Applicant in the amount of \$1,000.00 to be paid forthright to the Council of the Piikani First Nation by the Applicant in her personal capacity.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The Applications are dismissed;
2. Costs in the amount of \$1,000.00 payable forthright by the applicant in her personal capacity to the Respondent, Council of the Piikani Nation.

“Glennys L. McVeigh”

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Judge

## APPENDIX A

### **PIIKANISSINI**

Piikanissini, the way of life of the Piikani, sets out the inherent values and principles of the Akaa Piikani, the ancient Piikani people.

The Akaa Piikani were a member of the Siksikatsiitapiwa, the Blackfoot People, comprised of Kainaiwa, Siksikawa, and Piikaniwa; the Siksikatsiitapiwa marked their Blackfoot territory since time immemorial by significant Blackfoot landmarks, in the north by the North Saskatchewan River, on the east beyond the Great Sand Hills, on the south by the Yellowstone River, on the west by the Continental Divide; the said territory given to the Siksikatsiitapiwa by Istipatahyopi, the Source of Life, to coexist with all his creation; the Siksikatsiitapiwa integrated with the said territory through stories, songs and ceremonies; and as a people, collaborated to maintain a distinct language, spirituality and culture, as well as familial, economic, social and governmental relationships. The Piikani were originally located in the Siksikatsiitapiwa territory in one geographic area, nevertheless, since the imposition of the international boundary, the Piikani have been geographically divided into two groups. The Aapatohsiipiikani (North Piikani), located in Canada, and the Amsskapipiikani (South Piikani), located in the United States.

The Aapatohsiipiikani, also referred to as the Piikani for the purposes of this document, wish to maintain their unique language, spirituality and culture as a people, while sustaining their family and social relationships, and traditional governmental systems.

The Aapatohsiipiikani further strive to enhance their lives as a people by advancing the political interests of the Piikani, which includes protecting the treaty and aboriginal rights of the people, and promoting education programs and economic interest that benefit the people. The Piikani, in their pursuit to complete such endeavors, will further strive to ensure that the values, principles and integrity of the Piikani is preserved in the process.

**The Aapatohsiipiikani or Piikani, in respect of the foregoing, make the following declaration:**

**WHEREAS the Piikani, originally utilized specific areas within the territory of the Siksikatsiitapiwa, namely,**



those areas marked on the north by the North High River, on the south east by the Little Bow River, on the south by the Kootney River, on the west by the Great Divide;  
AND WHEREAS the Piikani currently occupy lands on the Peigan Indian Reserve, in particular, those lands identified by Sits Behind the Eagle Tail at Treaty No. 7 as significant areas of the Piikani as marked by Crowlodge Creek, the Old Man River and the Porcupine Trails (Hills).  
AND WHEREAS Piikani, although faced with many challenges as a people, have continually strived to maintain their language, spirituality and culture distinct to Piikani, including their family and social relationships, and traditional governmental systems, while promoting political interests, economic interests and education programs that will enhance the lives of the Piikani People;  
AND WHEREAS Piikani, in pursuit of all their endeavours, aspire to always uphold and incorporate the values, principles and integrity of the Piikani;  
AND WHEREAS Piikani also continue to endeavour to maintain economic, social and governmental relationships with the members of the Siksikatsitapiwa;  
AND WHEREAS Piikani, recognizing that First Nation governments are one of the three orders of government within Canada, will strive to maintain a stable relationship with the other orders of government that is based on principles of mutual respect, coexistence, and information sharing, and where applicable, one that is based on principles of collaboration and cooperation.

### PILKANISSINI

Pilkanissini, the way of life of the Pitkan, sets out the inherent values and principles of the Akas Pitkan, the ancient Pitkan people.

The Akas Pitkan were a member of the Siksikatsitapiwa, the Blackfoot People, composed of Kainaiwa, Siksikava, and Piikani. The Siksikatsitapiwa entered their Blackfoot territory since this territory is situated between the mountains in the north by the North Saskatchewan River, on the east beyond the Great Sand Hills, on the south by the Yellowstone River, on the west by the Continental Divide. The said territory given to the Siksikatsitapiwa by the Creator, the Source of Life, at the time with all its creation, the Siksikatsitapiwa integrated with the said territory through songs, songs and ceremonies, and as a people, collaborated to maintain a distinct language, spirituality and culture, as well as familial, economic, social and governmental relationships.

The Pitkan were originally located in the Siksikatsitapiwa territory in one geographic area, nevertheless, since the imposition of the international boundary, the Pitkan have been geographically divided into two groups. The Anapitsipikari (North Pitkan), located in Canada, and the Anasikatsitapiwa (South Pitkan), located in the United States.

The Anasikatsitapiwa, also referred to as the Pitkan for the purposes of this document, will maintain their unique language, spirituality and culture as a people, will sustain their family and social relationships, and traditional governmental systems.

The Anapitsipikari further strive to enhance their lives as a people by advancing the political interests of the Pitkan, which includes protecting the treaty and Aboriginal rights of the people, and promoting education programs and economic interests that benefit the people. The Pitkan, in their pursuit to complete such endeavours, will further strive to ensure that the values, principles and integrity of the Pitkan are preserved in the process.

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The Applicant Pikani, in respect of the foregoing, make the following declaration:

WHEREAS the Pikani, descendants of the Blue Pikani, were a member of the Six Nations Treaty;

AND WHEREAS the Pikani, originally utilized specific areas within the territory of the Six Nations Treaty, namely those areas marked on the map by the North High River, on the south east by the Little Bow River, on the south by the Kootenay River and the west by the Great Divide;

AND WHEREAS the Pikani currently occupy lands on the Peigan Indian Reserve, in particular, those lands identified by the British Columbia Treaty No. 7 as significant areas of the Pikani as marked by Crowfoot Creek, the Oldman River and the Porcupine Falls (1914);

AND WHEREAS the Pikani, although faced with many challenges as a people have consistently tried to maintain their language, culture, traditions, history, family and social relationships and traditional governmental systems while attempting political, economic, social and educational programs that will enhance the lives of the Pikani people;

AND WHEREAS the Pikani, in pursuit of all their endeavours, aspire to always uphold and incorporate the values, principles and identity of the Pikani;

AND WHEREAS the Pikani also continue to endeavor to maintain economic, social and governmental relationships with the members of the Six Nations Treaty;

AND WHEREAS the Pikani, recognizing that First Nations governments are a part of the three orders of government within Canada, will strive to maintain a stable relationship with the other orders of government that is based on principles of mutual respect, coexistence, and information sharing, and where applicable, one that is based on principles of equality and mutual cooperation.

NOW THEREFORE THE COUNCIL OF THE PIKANI NATION, and known as the Piqna Nation, DO HEREBY DECLARE THE FOLLOWING:

1. That the Piqna Nation will ensure the values, principles and integrity of the Piqna are upheld in the governance of the Piqna, including a commitment by the Council of the Piqna Nation that the members of the Council of the Piqna Nation will uphold the principles expressed in the declaration titled "Piqnaism" for the betterment of the Piqna Nation and all members of the Piqna Nation.
2. That the Piqna Nation will continue to maintain the language, spiritually and culture distinct to the Piqna, including the family, social relationships, and economic governmental systems.
3. That the Piqna Nation will continually strive to enhance the lives of the Piqna by promoting cultural and economic interests, as well as education programs, that will enhance the lives of the Piqna people.
4. That the Piqna Nation will continue to protect and improve the interests of the Piqna in those lands and territory which are integral to the Piqna people.
5. That the Piqna Nation will continue to exercise jurisdiction within the geographic boundaries of the Piqna Indian Reserves established by treaty, and any such lands deemed to be Piqna Indian Reserves, and to continue to exercise extra-jurisdictional jurisdiction for the purposes of promoting the Aboriginal and treaty rights of the Piqna Nation as guaranteed by treaty with His Majesty the Queen in Right of Canada, including any rights inherent to the Piqna Nation.
6. That the Piqna Nation will continue to endeavor to maintain, develop, and improve governmental relationships with the members of the Siksikaitsipova.
7. That the Piqna Nation affirms that First Nation governments are not one of the three orders of government within Canada, and in that respect, the

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Peace will be maintained in this relationship with the other orders of government that is based on principles of mutual respect, confidence, and information sharing and where applicable, one that is based on principles of collaboration and cooperation.

The Pitkan Nation, Pitkan Nation, is represented by the Council of the Pitkan Nation, we hereby declare and say the document area Pitkan Nation, this day of 2012.

PITKAN NATION CHIEF AND COUNCIL

Chief Peter Sikes with a Gun

Councillor Lionel Brewster

Councillor Edwin Small Legs

Councillor Brian H. Jackson

Councillor David (Woody) Chapman

Councillor Paul Yellow Horn

Councillor Martin Nana Pagan

Councillor Albert Grouse

Councillor Ray W. Chapman

Councillor Robert J. Yellow Horn

Councillor Robert Baker

Councillor Gordon Forest

Councillor Neil Sharp Aka

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APPENDIX B

PIIKANI NATION ELECTION BYLAW, 2002

WHEREAS the Piikani Nation governs itself in accordance with its customs and traditions evolved over time as expressed in its declaration titled "PIIKANISSINI"; and

WHEREAS PIIKANISSINI affirms the authority of the Piikani Nation to select its Chief and Council in accordance with its present customs and traditions; and

WHEREAS an Order made under section 74(1) of the *Indian Act*, Revised Statutes of Canada, Chapter I-6, that Piikani Nation Elections be held under the *Act* was revoked thereby recognizing the rights of the Piikani Nation to make laws to select its Chief and Council in accordance with its customs and traditions; and

WHEREAS the Piikani Nation Council, in accordance with its power to provide for the conduct of elections on the Piikani Indian Reserve in accordance with the principles of PIIKANISSINI, does hereby repeal the Peigan Nation Custom Election Bylaw and the Peigan Nation Custom Election Bylaw Regulations and does hereby enact and declare the Piikani Nation Election Bylaw, 2002 (the "Bylaw") and the Piikani Nation Election Regulations, 2002 (the "Regulations") as its current custom to govern the election for office and the removal from office of its Chief and Councillors.

**CITATION**

1.01 This Bylaw may be cited as the "Piikani Nation Election Bylaw, 2002".

**COMPOSITION OF COUNCIL**

2.01 The Band Council of the Piikani Nation (hereinafter called the "Piikani Nation Council") shall consist of one Chief and Twelve Councillors.

**CHIEF**

3.01 The Chief of the Piikani Nation shall be the candidate who receives the highest number of votes cast for the office of Chief at a Piikani Nation Election.

**COUNCILLORS**

4.01 The Councillors of the Piikani Nation Council shall be the candidates who receive the highest number of votes cast for the office of Councillor at a Piikani Nation Election.

**ELECTORAL DISTRICT**

5.01 The Piikani Indian Reserve Number 147 and 147B in the Province of Alberta (hereinafter called the "Reserve"), shall consist of one electoral district.

**ELIGIBILITY FOR OFFICE**

6.01 All members of the Piikani Nation who are Twenty-One (21) years of age or over and are not otherwise disqualified by this Bylaw, are eligible to hold office as a Chief or Councillor of the Piikani Nation Council.

6.02 A Piikani Nation member shall be ineligible to be nominated for or hold the office of Chief or Councillor if

- 6.02.01 that person has been convicted of an indictable offence under the Criminal Code of Canada during a three year period prior to the date of a Piikani Nation Election in which he might otherwise be a candidate;
- 6.02.02 that person is subject to an order for parole which states that such person cannot hold public office;
- 6.02.03 that person has resigned from office as a Chief or Councillor without the consent of the Piikani Nation Council during the term immediately prior to the election; or
- 6.02.04 that person has been removed from office as a Chief or Councillor by virtue of Section 11.01 to 11.08.

6.03 A person who has become ineligible to be nominated for or hold the office of Chief or Councillor for a term pursuant to Section 6.02.03 or 6.02.04 shall be eligible to be nominated for or hold the office of Chief or Councillor after four (4) years from the Piikani Nation Election for which he was found to be ineligible.

#### ELIGIBILITY TO VOTE

7.01 Any registered member of the Piikani Nation twenty-one (21) years of age or over on the Piikani Nation Election date may vote at a Piikani Nation Election, provided his name has been added to the list of voters prepared by the Chief Electoral Officer.

7.02 Notwithstanding Section 7.01, the Chief Electoral Officer, as appointed pursuant to the Regulations, shall not be entitled to vote at a Piikani Nation Election unless there is an equal number of votes for two or more candidates for the office of Chief or if there is an equal number of votes for two or more candidates for the final position of Councillor of the Piikani Nation Council, in which case the Chief Electoral Officer shall

- 7.02.01 conduct a re-count of the vote, and if the result is still an equal number of votes for each candidate;
- 7.02.02 in front of as many witnesses entitled to be at the counting of the ballots and in the exercise of his sole discretion cast a deciding vote to break the tie.

#### TENURE

8.01 Commencing with the Piikani Nation Election in the year 2003, the Chief and Councillors elected to the Piikani Nation Council shall hold office for a term of approximately four (4) years commencing at 8:00 a.m. local time the day following the Piikani Nation Election date on which they are elected and terminating at midnight of the next Piikani Nation Election date.

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**VACANCIES**

9.01 The office of Chief or Councillor shall become vacant when the person who holds that office

9.01.01 is convicted of an indictable offence under the Criminal Code of Canada during his term of office;

9.01.02 dies or resigns from office;

9.01.03 is removed from office or otherwise becomes ineligible to hold office pursuant to this Bylaw.

9.02 The majority of the Piikani Nation Council shall acknowledge and declare by Band Council Resolution that a person is ineligible to continue to hold the office of Chief or Councillor if that person has been convicted of an indictable offence during the present term of office.

**PETITION**

10.01 Proceedings to declare a person ineligible to continue to hold the office of Chief or Councillor may be initiated by

10.01.01 any eligible voter filing with the Piikani Nation Chief Executive Officer a petition on which shall appear:

- (a) the grounds pursuant to Section 10.05 on which removal of a designated Chief or Councillor is sought;
- (b) the evidence in support of the petition;
- (c) the signature of the originator of the petition (the "Petitioner");
- (d) the signatures of not less than one third (1/3) of the eligible voters of the Piikani Nation in support of the petition; or

10.01.02 the Chief or a Councillor filing with the Piikani Nation Chief Executive Officer a petition on which shall appear:

- (a) the grounds pursuant to Section 10.05 on which removal of a Chief or Councillor is sought;
- (b) the evidence in support of the petition;
- (c) the signature of the originator of the petition (the "Petitioner").

10.02 On receipt of such petition, the Piikani Nation Chief Executive Officer shall verify that the petition complies with Section 10.01. If the Petition does not so comply, the Piikani Nation Chief Executive Officer shall reject the petition and shall so notify the Petitioner.

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10.03 If the petition complies, the Piikani Nation Chief Executive Officer shall place the matter on an agenda for a regular general meeting of the Piikani Nation Council not more than twenty-one (21) days from the date of receipt of the petition and shall serve the said petition on the Chief and Councillors of the Piikani Nation Council.

10.04 The Piikani Nation Council shall review the petition and shall

10.04.01 by Band Council Resolution declare that they have found insufficient evidence to support a recommendation that the person be declared ineligible to continue to hold the office of Chief or Councillor; or

10.04.02 by Band Council Resolution make a recommendation to the Piikani Nation Removal Appeals Board that proceedings be conducted to determine whether the person should be declared ineligible to continue to hold the office of Chief or Councillor and to remove that person from office.

10.05 The Piikani Nation Council may, by unanimous consent as evidenced by a Band Council Resolution and in accordance with subsection 10.04.02, recommend that a person be declared ineligible to continue to hold the office of Chief or Councillor if

10.05.01 the person has been absent from four (4) consecutive regular general meetings of the Piikani Nation Council without proper notice to the Piikani Nation Council in respect of such meetings;

10.05.02 the person has failed to maintain a standard of conduct expected of a member of the Piikani Nation Council and without limiting the generality of the foregoing, does any of the following:

- (a) accepted or offered a bribe, forged a Piikani Nation document or was otherwise dishonest in his official role;
- (b) attended a Piikani Nation Council meeting in an intoxicated state;
- (c) conducted a corrupt practice as determined by the principles of PIIKANISSINI;
- (d) abused his office such that the conduct negatively affected the dignity and integrity of the Piikani Nation or the Piikani Nation Council; and
- (e) such other conduct as shall be determined by the Piikani Nation Council to be of such a serious nature that removal from office is necessary and appropriate.

10.06 The Piikani Nation Council shall have the power to require the production of any evidence including the production of any documents and the attendance of any witnesses in its deliberations. The decision of the Piikani Nation Council shall be rendered within ten (10) days of the date of the

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11.07 The decision of the Piikani Nation Removal Appeals Board shall be rendered within thirty (30) days of the hearing and shall be final and binding upon all parties, with no further appeal to the Piikani Nation Council, the Piikani Nation Removal Appeals Board or to any Court of Law.

11.08 The decision of the Piikani Nation Removal Appeals Board shall be in writing and the Piikani Nation Chief Executive Officer shall ensure that the decision is served on all interested parties, including the Piikani Nation Council, the Chief or Councillor who is subject to the recommendation or appeal, and to the Petitioner within five (5) days of the Piikani Nation Chief Executive Officer receiving such decision.

#### **ELECTIONS**

12.01 The Piikani Nation Council may make orders and regulations with respect to Piikani Nation Elections and, without restricting the generality of the foregoing, may make regulations with respect to:

- 12.01.01 scheduling of election dates,
- 12.01.02 the appointment and duties of election officers,
- 12.01.03 procedures and meetings for nomination of candidates,
- 12.01.04 the manner in which voting shall be carried out,
- 12.01.05 the counting of ballots and the announcement of the result of the election.

#### **ELECTION APPEALS**

13.01 The Piikani Nation Council may enact regulations governing election appeals.

13.02 Any eligible voter may appeal an election or the election of any candidate on the grounds that

- 13.02.01 there was corrupt practice as determined by the principles of PIIKANESSINI in connection with the election; or
- 13.02.02 there was a violation of this Bylaw or the Regulations in such a way as to affect the outcome of the election as a whole or that of any candidate.

#### **BI-ELECTIONS**

14.01 If a vacancy shall exist in the office of Chief or Councillor of the Piikani Nation Council at a time when there is greater than twelve (12) months remaining in the unexpired term of the office which is vacant, a bi-election shall be held pursuant to this Bylaw to fill the vacancy.

14.02 If the said unexpired term is less than twelve (12) months,

- 14.02.01 if the vacancy occurs in the office of Councillor, the office of Councillor shall remain vacant for the remainder of the term.

14.02.02 if the vacancy occurs in the office of Chief, then the Piikani Nation Council shall elect from among themselves a person to fill the office of Chief for the remainder of the said term.

**AMENDMENTS**

15.01 Except as expressly provided for in subsection 15.02, the Piikani Nation Council by Band Council Resolution may amend this Bylaw and the Regulations providing any such amendment is enacted not less than three (3) months prior to the date set for the Piikani Nation Election.

15.02 Sections 2.01, 5.01, 6.01, 7.01, 8.01 and 15.01 shall only be amended by the approval of a majority of the eligible voters by petition or referendum.

**REGULATIONS EFFECT**

16.01 Regulations passed pursuant to this Bylaw shall take effect upon enactment.

**PENALTIES**

17.01 Any person who is in violation of the Bylaw or Regulations, in addition to any remedy or penalty that may be available, is guilty of an offence and liable to a fine of \$100.00 or imprisonment for thirty (30) days, or both.

**INTERPRETATION**

18.01 Where in this Bylaw or the Regulations the masculine gender is used, the feminine may be read in substitution as required, and wherever the singular is used, such expression shall also include the plural.

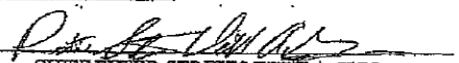
**SEVERABILITY**

19.01 If any section or subsection hereof or the application thereof to any circumstance is, in any jurisdiction and to any extent, invalid or unenforceable, such section or subsection shall be ineffective as to such jurisdiction to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining sections or subsections hereof or the application of such section or subsection to circumstances other than those as to which it is held invalid or unenforceable.

**REPEAL AND ENACTMENT**

20.01 In accordance with its power to provide for the conduct of elections on the Piikani Reserve in accordance with the principles of PIIKANISSINI, the Piikani Nation does hereby repeal the Peigan Nation Custom Election Bylaw and the Peigan Nation Custom Election Regulations and does hereby declare and enact the Piikani Nation Election Bylaw, 2002 and the Piikani Nation Election Regulations, 2002 as its current custom to govern the selection for office and the removal from office of its Chief and Councillors until further amended as provided for herein.

READ A FIRST TIME THE 27<sup>th</sup> DAY OF June, 2002 10:30 a.m. to 2:40 p.m.

  
CHIEF PETER STRIKES WITH A GUN

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READ A SECOND TIME THE 27<sup>th</sup> DAY OF June, 2002

*Peter Strikes*  
CHIEF PETER STRIKES WITH A GUN

DONE AND PASSED by Band Council Resolution No. 7324/2002-03 this 27<sup>th</sup> day of June, 2002 at a duly convened meeting of the Piikani Nation Council, a quorum existing

*Peter Strikes*  
CHIEF PETER STRIKES WITH A GUN

COUNCILLOR NEIL SHARP ADZE

COUNCILLOR TROY KNOWLTON

*Albertine Crow Shob*  
COUNCILLOR ALBERTINE CROW SHOB

COUNCILLOR ROBERTAJ, YELLOW HORN

COUNCILLOR EDWIN SMALL LEGS

*Lionel Crow Shob*  
COUNCILLOR LIONEL CROW SHOB

*Harriet North Peigan*  
COUNCILLOR HARRIET NORTH PEIGAN

*Erwin Bastien*  
COUNCILLOR ERWIN BASTIEN

*Brian Jackson*  
COUNCILLOR BRIAN JACKSON

*Corbin Provost*  
COUNCILLOR CORBIN PROVOST

*Terry Yellow Horn*  
COUNCILLOR TERRY YELLOW HORN

COUNCILLOR DANIEL NORTHMAN

### PIIKANI NATION ELECTION REGULATIONS, 2002

The Piikani Nation Council in the exercise of its power to enact regulations pursuant to the Piikani Nation Election Bylaw, 2002 and in accordance the principles of PIKANISSINI does hereby enact the Piikani Nation Election Regulations, 2002.

#### CITATION

- 1.01 These Regulations may be cited as the "Piikani Nation Election Regulations, 2002" and are referred to as the Regulations herein. The Definitions in the Piikani Nation Election Bylaw, 2002 (hereinafter referred to as the "Bylaw") shall have the same meaning in the Regulations as they do in the Bylaw.

#### ELECTION NOTICE

- 2.01 On or before the 5<sup>th</sup> day of December in every fourth (4<sup>th</sup>) year commencing in 2002, the Piikani Nation Council shall issue a notice of Piikani Nation Election. The election shall be held no later than thirty-five (35) days from the date of the election notice. The notice shall contain:

- 2.01.01 the date of the Piikani Nation Election,
- 2.01.02 the name of the Chief Electoral Officer,
- 2.01.03 the date of the nominating meeting,
- 2.01.04 the designation of the Polling Places,
- 2.01.05 any other matters with respect to the election.

- 2.02 The said notice shall be posted in at least three prominent locations on or about the Reserve and shall be published in news media having circulation on the Reserve at the discretion of the Piikani Nation Council.

#### CHIEF ELECTORAL OFFICER

- 3.01 The Chief Electoral Officer shall be appointed by the Piikani Nation Council prior to the issue of the election notice.

- 3.02 The Chief Electoral Officer shall

- 3.02.01 be a member of the Piikani Nation,
- 3.02.02 be twenty-one (21) years of age or over,
- 3.02.03 be neither a Chief nor a Councillor nor shall he become a candidate in the Piikani Nation Election for which he is appointed or favour, promote, or be associated with the campaign of any candidate, and

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- 3.02.04 not be an employee of the Piikani Nation Administration or the Department of Indian Affairs and Northern Development or any Successor Department of the Government of Canada.
- 3.03 The duties of the Chief Electoral Officer are to act as the returning officer of the election, to appoint the Interpreters, Scrutineers and other persons required to conduct the election and shall provide all necessary means and do all acts that may be required for the purpose of holding the election or taking the votes. Such duties shall include but are not limited to the following:
- 3.03.01 to appoint Interpreters, Scrutineers and all other persons required in order that the election be held,
  - 3.03.02 to prepare the list of eligible voters,
  - 3.03.03 to prepare, post and announce the notice of the Piikani Nation Election,
  - 3.03.04 to publicize the date, time and place of the nomination meeting,
  - 3.03.05 to act as the chairman of the nomination meeting,
  - 3.03.06 to prepare lists of eligible and ineligible nominees, from among those nominated,
  - 3.03.07 to collect on behalf of the Piikani Nation Election Account the fees to be assessed pursuant to this Bylaw,
  - 3.03.08 to procure the necessary materials and establish polling places,
  - 3.03.09 to establish regulations and accreditation procedures for agents employed by candidates at the polling places,
  - 3.03.10 to establish and conduct any advance poll,
  - 3.03.11 to establish and conduct the poll and to be responsible for all matters during polling,
  - 3.03.12 to close the poll and gather ballots,
  - 3.03.13 to supervise the count of the votes,

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- 3.03.14 to declare the successful candidates,
- 3.03.15 to deal with the ballots in accordance with the Bylaw and these Regulations,
- 3.03.16 subject to the provisions of the Bylaw, to generally oversee and supervise the conduct of the election and to act with respect to appeals as required by the Bylaw and these Regulations.

3.04 The Chief Electoral Officer shall be provided with a budget, sufficient support staff, space, and other resources by the Piikani Nation Council in order to fulfil his duties pursuant to the Bylaw and Regulations.

**DEPUTY  
ELECTORAL  
OFFICER**

4.01 The Deputy Electoral Officers as required in order to assist in the conduct of the election shall be appointed by the Piikani Nation Council prior in the issue of the election notice,

4.02 The Deputy Electoral Officer shall be

- 4.02.01 a member of the Piikani Nation,
- 4.02.02 twenty-one (21) years of age or over,
- 4.02.03 neither a Chief nor a Councilor nor shall he become a candidate in the Piikani Nation Election for which he is appointed or favour, promote, or be associated with the campaign of any candidate,
- 4.02.04 not be an employee of the Piikani Nation Administration or the Department of Indian Affairs and Northern Development or any Successor Department of the Government of Canada.

4.03 The Deputy Electoral Officer shall perform all duties as assigned and delegated by the Chief Electoral Officer and the expression "Chief Electoral Officer" appearing in these Regulations shall include the Deputy Electoral Officers where such duties have been delegated to him.

**INTERPRETERS**

5.01 Interpreters shall be appointed as required for the conduct of the election by the Chief Electoral Officer not less than twenty-one (21) days prior to the Piikani Nation Election.

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5.02 An Interpreter shall

- 5.02.01 be an Indian within the meaning of the *Indian Act*,
- 5.02.02 be twenty-one (21) years of age or over,
- 5.02.03 be fluent in the Blackfoot language,
- 5.02.04 be able to read and write English,
- 5.02.05 have a knowledge of Blackfoot names and families on the Reserve,
- 5.02.06 have a knowledge of the sign language of the Blackfoot people,
- 5.02.07 be neither a Chief nor a Councillor nor shall he become a candidate in the Piikani Nation Election for which he is appointed or favour, promote, or be associated with the campaign of any candidate.

SCRUTINEERS

6.01 Scrutineers shall be appointed by the Chief Electoral Officer as required for the conduct of the election not less than twenty-one (21) days prior to the Piikani Nation Election.

6.02 A Scrutineer shall

- 6.02.01 be a Treaty Indian other than a Piikani Nation Member,
- 6.02.02 not be a member of the Piikani Nation,
- 6.02.03 be twenty-one (21) years of age or over,
- 6.02.04 be fluent in the Blackfoot language,
- 6.02.05 be able to read, write and speak English, and
- 6.02.06 not favour, promote, or be associated with the campaign of any candidate.

6.03 A Scrutineer shall

- 6.03.01 act as a witness as to the conduct of the election, including attendance at the nomination meeting, and

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PART 5

6.03.02 report to the Chief Electoral Officer any breach of the Bylaw or these Regulations which may affect the outcome of the election.

**AGENTS**

7.01 Agents may be appointed by candidates for office not less than fourteen (14) days prior to the conduct of the election by filing with the Chief Electoral Officer an appointment in the form stipulated by the Chief Electoral Officer.

7.02 Agents must be

7.02.01 members of the Piikani Nation,

7.02.02 twenty-one (21) years of age or over,

7.02.03 able to read, speak and write English.

7.03 Agents shall be entitled to observe the conduct of the election and the counting of the ballots but shall not

7.03.01 speak or influence or interfere with any voter in the polling place, or

7.03.02 obstruct or interfere with the Chief Electoral Officer in completing his duties in accordance with the Bylaw or Regulations.

7.04 No more than one Agent for each candidate may be appointed with respect to each polling place and no more than one Agent per candidate may be present at the counting of votes but the non-attendance of any Agent does not invalidate any act taken pursuant to the Bylaws or these Regulations.

**VOTERS LIST**

8.01 Not later than twenty-one (21) days prior to the Piikani Nation Election date, a preliminary list of eligible voters prepared from the list of Piikani Nation Members maintained pursuant to the Piikani Nation Membership Code shall be posted at conspicuous places throughout the Reserve.

8.02 Any Piikani Nation member who is twenty-one (21) years of age or over may apply to the Chief Electoral Officer to have

8.02.01 his name or that of any other person added to the list of eligible voters,

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8.02.02 his name or the name of any other person deleted from the list of eligible voters.

8.03 The Chief Electoral Officer shall cause an investigation to be made into the eligibility of the person to be added or deleted and, as a result of his investigation, may add or delete as appropriate a person or persons who are the subject of any such application.

8.04 The Chief Electoral Officer shall furnish a copy of his findings to the person causing the investigation upon written request of such person.

8.05 The Chief Electoral Officer shall be entitled to request any proof, affidavit or statutory declaration of any application or person subject to an investigation under this section.

8.06 The Chief Electoral Officer shall post the Final Voters List seven (7) days prior to the Pikanai Nation Election date.

**NOMINATIONS**

9.01 Not later than twenty-one (21) days prior to the Pikanai Nation Election date, a nominating meeting shall be convened at the time, date and place described in the Notice of Pikanai Nation Election.

9.02 The Chief Electoral Officer shall cause notices of the nomination meeting to be posted in conspicuous places throughout the Reserve and in local news media having circulation on the Reserve not less than seven (7) days prior to the date of the nomination meeting.

9.03 At the time, date and place scheduled for the nomination meeting the Chief Electoral Officer shall

9.03.01 declare the meeting open for the purpose of receiving nominations for the offices of Chief and Councillor,

9.03.02 act as chairman of the nomination meeting which shall be open for the period commencing at 4:00 o'clock in the afternoon and concluding at 7:00 o'clock in the evening, local time,

9.03.03 declare nominations closed at the end of the said time period,

9.03.04 if only one person shall have been nominated for the office of Chief, declare that person as duly elected by acclamation,

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- 9.03.05 if twelve or fewer persons have been nominated as Councillor, declare those persons as duly elected by acclamation,
- 9.03.06 If the number of persons nominated for the office of Chief exceeds one, or the number of persons nominated for Councillor exceeds twelve, then declare that a poll will be held at the time, date and place specified in the notice of Piikani Nation Election to elect the said Chief and/or Councillors as required.
- 9.04 Any person eligible to vote may nominate any other person eligible to stand for office pursuant to the Bylaw or Regulations for either the office of Chief or Councillor provided
- 9.04.01 each nomination shall be seconded by another eligible voter,
- 9.04.02 the person being nominated shall be present when nominated,
- 9.04.03 each nomination for the office of Chief shall be accompanied by the appropriate fee of Five Hundred (\$500.00) Dollars and for the office of Councillor Three Hundred (\$300.00) Dollars payable at the time of nomination by the nominator, either by cash, certified cheque or money order payable to the Piikani Nation and to be handed over to the Chief Electoral Officer. The Piikani Nation Chief Executive Officer shall appoint a person to collect all such fees,
- 9.04.04 each nominator provides sworn evidence in the form stipulated by the Chief Electoral Officer that he believes the nominee is eligible to be nominated and hold office pursuant to the Bylaw and Regulations.
- 9.05 A person cannot be a candidate for both Chief and Councillor at the same election.
- 9.06 Following the nomination meeting, the Chief Electoral Officer shall cause to be posted a preliminary list of candidates. If within seven (7) days of posting, no notices are received under this section, the list shall be the final list of candidates for office.

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9.07 An elector may give the Chief Electoral Officer notice that one or more of the candidates is ineligible to hold office pursuant to the Bylaw and Regulations.

9.07.01 In respect of such notice received within the seven day limit, the Chief Electoral Officer shall convene a hearing to which he shall summon the said elector, the candidate and any other person in his sole discretion.

9.07.02 The Chief Electoral Officer shall resolve the matter at the hearing in a summary manner and may resort to any information or evidence he may receive or which may be brought before him and he shall not be bound by the rules of the evidence or procedure in so doing.

9.07.03 Forthwith after any such hearing, the Chief Electoral Officer shall post the final list of candidates in accordance with his decision reached at the hearing.

9.08 Every candidate shall provide the Chief Electoral Officer with a signed consent or release authorizing the Chief Electoral Officer to complete a criminal record inquiry of the candidate to determine his eligibility.

**WITHDRAWAL  
FROM  
CANDIDACY**

10.01 Any candidate who has been nominated may withdraw his nomination no later than seven (7) days after the nomination date by filing with the Chief Electoral Officer a written withdrawal of his nomination signed by himself in the presence of the Chief Electoral Officer, a justice of the peace, a notary public, or a commissioner for oaths, and his name shall not appear on the list of candidates for the office of Chief or Councillor. In such event, only fifty (50%) percent of the nomination fee for such candidate shall be refunded to the nominator by the Chief Electoral Officer.

**LIST OF  
CANDIDATES**

11.01 Not later than fourteen (14) days prior to the conduct of the Piiikani Nation Election the Chief Electoral Officer shall cause to be posted in conspicuous places throughout the Reserve notices of the final list of candidates for the office of Chief and Councillor.

**ESTABLISHMENT  
OF POLLING  
PLACES**

12.01 The Chief Electoral Officer shall designate the location of the polling station for the Piiikani Nation Election. At the polling place, the Chief Electoral Officer shall provide polling booths for eligible voters to mark their ballots in secret and free from observation.

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- BALLOT BOXES**
- 13.01 At the polling place, the Chief Electoral Officer shall cause to be procured as many ballot boxes as are required for the purposes of the election.
- 13.02 The Chief Electoral Officer at the polling place shall, immediately before commencement of any poll, open the ballot boxes and call the Scrutineers and Agents and such other persons as may be present to view that the ballot boxes are empty. He shall then lock and seal the boxes to prevent them from being opened without breaking the seal and shall place them in public view for the reception of ballots and the seal shall not be broken until the poll is officially terminated and the ballots are to be counted.
- MATERIALS**
- 14.01 At each polling place, the Chief Electoral Officer shall cause to be provided sufficient ballot papers in the form prescribed by the Chief Electoral Officer containing the list of candidates for Chief and for Councillor listed in alphabetical order. Such ballot papers shall be retained after preparation by the Chief Electoral Officer under lock and key and shall be delivered by him to a Deputy Electoral Officer at the polling place immediately prior to opening the poll.
- 14.02 In each compartment, the Chief Electoral Officer shall cause to be provided sufficient materials for marking the ballot papers and a sufficient number of explanatory directions for voting.
- VOTING PROCEDURE**
- 15.01 Every polling place shall be kept open on the Pikani Nation Election date from 9:00 o'clock in the forenoon until 8:00 o'clock in the evening of the said day, local time.
- 15.02 All voting shall be by secret ballot.
- 15.03 An elector may vote once only for Chief and for the number of Councillor he chooses, not exceeding the number of Councillors to be elected. A ballot containing votes for more than the number of Councillors to be elected is void.
- 15.04 When a person whose name is on the list of eligible voters presents himself for voting purposes, the Chief Electoral Officer or Deputy Electoral Officer, as the case may be, shall
- 15.04.01 satisfy himself that the name of the person is registered on the list of eligible voters,
- 15.04.02 initial a ballot to indicate valid issuance of same,

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- 15.04.03 provide the ballot to the elector on which to register his vote,
- 15.04.04 cause to be placed in the proper column of the eligible voter's list a mark opposite the name of the person receiving the ballot to indicate the issuance of a ballot to that person.
- 15.05 The Chief Electoral Officer shall not issue a ballot to any person whose name does not appear in the eligible voters list, unless the voter is sworn in for voting purposes.
- 15.06 If the Chief Electoral Officer is satisfied that such person is eligible to be added to the voters list he shall require such person to be sworn in and shall add his name to the voters list.
- 15.07 The Chief Electoral Officer shall when requested to do so explain the mode of voting to any eligible voter.
- 15.08 On receiving a ballot, each voter shall
- 15.08.01 forthwith proceed to the compartment provided for marking ballots and shall mark his ballot by placing his mark (+, x and/or check mark) opposite the name of the candidate or candidates for whom he desires to vote,
  - 15.08.02 fold the ballot so as to conceal the name of the candidates and the marks on the face of the ballot but so as to expose the initials of the Chief Electoral Officer,
  - 15.08.03 on leaving the compartment, forthwith deliver the ballot to the Chief Electoral Officer.
- 15.09 On receiving a ballot the Chief Electoral Officer or Deputy Electoral Officer shall, without unfolding the ballot, verify his initials and at once deposit in the ballot box in the presence of the voter and of all other persons entitled to be present.
- 15.10 While any voter is in the compartment for the purpose of marking his ballot, no other person shall be allowed in the same compartment or be in any position from which he can see the manner in which such voter marks his ballot, except as otherwise specifically provided in the Bylaw or these Regulations.

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- 15.11 On the request of any voter who is unable to read or write English or is incapacitated by blindness, deafness or otherwise from voting in the manner prescribed by these Regulations, an Interpreter or Scrutineer shall assist the voter as follows:
- 15.11.01 In the case of a person who cannot read, write or speak English, the Interpreter shall:
    - 15.11.01.01 explain the mode of voting to the voter,
    - 15.11.01.02 identify the candidates,
    - 15.11.01.03 call the Blackfoot and English names of the candidates on the ballot,
    - 15.11.01.04 allow the voter to mark his own ballot.
  - 15.11.02 In the case of a person who is deaf, the Interpreter shall through sign language:
    - 15.11.02.01 explain the mode of voting,
    - 15.11.02.02 identify the candidates,
    - 15.11.02.03 allow the voter to mark his own ballot.
  - 15.11.03 In the case of a person who is blind, the Interpreter shall:
    - 15.11.03.01 explain the mode of voting to the voter,
    - 15.11.03.02 call out the name of the candidates in English or Blackfoot as requested.
  - 15.11.04 In the case of a person who is blind or physically incapable of marking his ballot due to physical handicap, a Scrutineer shall mark the said ballot as instructed by the voter and shall initial on the face of the ballot in a conspicuous place at the bottom to indicate that the ballot was marked by him pursuant to instructions from the voter.
  - 15.11.05 An Interpreter or Scrutineer shall not in any way influence a voter to cast a vote for any particular candidate.

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- 15.12 The Chief Electoral Officer shall mark on the voter's list opposite the name of any elector so assisted, the fact that such elector was so assisted by an interpreter or scrutineer and the reasons therefor.
- 15.13 A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used shall return it to the Chief Electoral Officer who shall thereupon write the word cancelled upon the spoiled ballot and cause the said spoiled ballot to be preserved separate and apart from the ballot box. The Chief Electoral Officer shall then issue another unmarked ballot to the voter.
- 15.14 Any voter who has received a ballot paper and who leaves the polling booth without delivering same to the Chief Electoral Officer in the manner provided by Regulations or who refuses to vote shall forfeit his right to vote at the election and the Chief Electoral Officer shall make an entry in the voter's list in the column for remarks opposite the name of such person to show that such person received the ballot paper and declined to vote, in which case the Chief Electoral Officer shall mark upon the face of the ballot paper the word "declined" and all ballot papers so marked shall be preserved separate and apart from the ballot box.
- 15.15 Promptly at 8:00 o'clock in the evening of election day, the Chief Electoral Officer shall publicly declare that the poll is closed, however, all eligible voters who are inside the polling place at such time but who have not yet voted shall be allowed to vote.
- ELECTRONIC VOTING**
- 16.01 Notwithstanding the procedure prescribed for manual voting and counting of ballots in the Regulations, the procedure for automatic or electronic voting and ballot counting of Pitkani Nation elections shall be conducted in accordance with sections 16.02 to 16.09.
- 16.02 The ballot shall be a mark-sense ballot which can be scanned by optical scan read head technology in order to electronically read and tabulate ballots.
- 16.03 The ballot shall be marked with a special marking pen to be provided by the Chief Electoral Officer that leaves a high density mark on the ballot which can be read with high reliability by the electronic ballot tabulator.
- 16.04 The ballots shall be tabulated using a portable precinct ballot tabulator that uses optical scan read head technology to electronically read and tabulate mark-sense ballots.

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- 16.05 The voter shall be handed a mark-sense ballot when a voting booth is empty. If a ballot contains any imperfection, the Chief Electoral Officer shall stamp it "VOID" and shall place the "VOID" ballot in the special envelope for that purpose.
- 16.06 The Chief Electoral Officer shall furnish each voting booth with appropriate voting instructions designed to prevent the voter from spoiling his ballot and instructing the voter what to do if he does spoil a ballot.
- 16.07 The voter shall vote for his selected candidate in the manner prescribed. The voter shall mark one candidate for the position of Chief and shall mark no more than twelve candidates for the position of Councillor. All marks shall be made with the ballot marking pen.
- 16.08 When a voter mistakenly marks a wrong box, or when the mark is improperly completed, smudged or erased, it will be considered as a spoiled ballot. In such a case, the voter may request another ballot, and the Chief Electoral Officer must note by the voter's name on the Voting List that the voter was provided with another ballot. The spoiled ballot shall be carefully handled to ensure that any votes marked on the ballot cannot be seen. The spoiled ballot shall then be stamped "VOID", placed in the special envelope for that purpose in the presence of the voter, and kept by the Chief Electoral Officer. The Chief Electoral Officer shall stamp "VOID" in the Voting List where the Voter's name appears. The Chief Electoral Officer shall keep a running tally of the number of spoiled ballots so that an accurate count may be made, comparing the number of voters with the number of ballots used.
- 16.09 The voter shall insert the voted ballot into the secrecy sleeve and deposit in the Ballot Box. If the voter wishes, the voter may hand the ballot to the Chief Electoral Officer who shall deposit it in the Ballot Box in the presence of the Voter.

**CLOSING THE POLL**

- 17.01 Immediately after the close of the poll, the Chief Electoral Officer shall in the presence of such of the Scrutineers, the candidates or their Agents, and all other persons who may be present open the ballot boxes to count the votes.
- 17.02 The Chief Electoral Officer shall not permit more than one Agent of any candidate or that candidate to be present at the same time in any polling place during the counting of the votes.

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- 17.03 In the course of counting the votes, the Chief Electoral Officer shall only open one ballot box at a time.
- 17.04 The Chief Electoral Officer shall examine all the ballots and shall reject ballots on the following grounds:
- 17.04.01 ballots which have not been supplied by him,
  - 17.04.02 ballots upon which votes have been given for more candidates than are to be elected.
- 17.05 The Chief Electoral Officer shall:
- 17.05.01 endorse "rejected" if he rejects a ballot as void, and
  - 17.05.02 endorse "reason objected to" if any objection is made to his decision, and shall initial each endorsement.
- 17.06 The Chief Electoral Officer shall make a note of any objection made by a candidate or his Agent to any ballot paper found in the ballot box and shall decide any question arising out of the objection in his sole discretion.
- 17.07 Every objection shall be numbered and the corresponding number shall be placed on the back of the ballot paper and initialled by the Chief Electoral Officer.
- 17.08 The Chief Electoral Officer shall then count the votes given for such candidate on the ballots not rejected, and shall prepare a written statement in words and as well in figures under the following heads:
- 17.08.01 Date of election,
  - 17.08.02 Number of persons who voted at the polling place,
  - 17.08.03 Number of votes for each candidate,
  - 17.08.04 Number of ballots supplied to him,
  - 17.08.05 Number of rejected ballots,
  - 17.08.06 Number of unused and cancelled ballots.

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- 17.09 The written statement shall then be signed by the Chief Electoral Officer, the Scrutineer, and those of the candidates or their Agents who are present and desire to sign it.
- 17.10 At the completion of the counting of the votes and in the presence of the candidates or Agents of the candidates and the Scrutineers, the Chief Electoral Officer or the Deputy Electoral Officer shall make up and seal separate packets containing:
- 17.10.01 the used ballots that have not been objected to and have been counted,
  - 17.10.02 the used ballots that have been objected to but have been counted,
  - 17.10.03 the rejected ballots,
  - 17.10.04 the spoiled ballots,
  - 17.10.05 the unused ballots,
  - 17.10.06 the notes taken of objections made to ballots found in the ballot box,
  - 17.10.07 the list of eligible electors,

and such packets shall be verified on the face thereof by a description and the signature of the said Chief Electoral Officer.

- 17.11 The said materials shall be retained by the Chief Electoral Officer under lock and key until the time for all appeals shall have passed without an appeal or the conclusion of any appeal shall have been reached, at the end of which time, such materials may be destroyed by the Chief Electoral Officer in the presence of a Scrutineer.

**SECRECY OF VOTING**

- 18.01 Every person in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting.
- 18.02 No person shall interfere or attempt to interfere with a voter when marking his ballot paper or obtain or attempt to obtain at the polling place, information as to how a voter is about to vote or has voted.

**DECLARATION OF RESULT**

- 19.01 Immediately after completion of the counting of the votes, the Chief Electoral Officer or the Deputy Electoral Officer shall publicly declare to be elected the candidate or candidates having the highest

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number of votes for Chief and Councilor in accordance with the Bylaw and these Regulations and he shall also post a notice in conspicuous places about the Reserve a statement signed by him showing the number of votes cast for each candidate.

**ELECTION  
APPEALS**

- 20.01 For the purpose of hearing any appeals resulting from the conduct of the election, an Appeals Board is hereby established. Such Appeals Board shall be referred to as the Piikani Nation Election Appeals Board.
- 20.02 The Piikani Nation Election Appeals Board shall consist of persons appointed by the Piikani Nation Council not less than thirty (30) days prior to a Piikani Nation Election date.
- 20.03 A person appointed pursuant to section 20.02 to the Piikani Nation Election Appeals Board shall
- 20.03.01 be twenty-one (21) years of age or over,
  - 20.03.02 not be a member of the Piikani Nation,
  - 20.03.03 be of Blackfoot origin,
  - 20.03.04 abstain from active involvement in the campaign or promotion of any candidate.
- 20.04 The Piikani Nation Election Appeals Board shall be appointed for a term commencing on appointment and terminating after the time for taking appeals from an election has passed in accordance with the Bylaw and these Regulations or all appeals have concluded from the Piikani Nation Election for which they were appointed. Members of the Piikani Nation Election Appeals Board may be reappointed after the end of their term for future Piikani Nation Elections.
- 20.05 The Piikani Nation Election Appeals Board shall be responsible to conduct, hear and determine in accordance with the Bylaw and these Regulations any appeal from a Piikani Nation Election.
- 20.06 Any eligible voter may lodge an appeal against a Piikani Nation Election by
- 20.06.01 filing within thirty (30) days of the Piikani Nation Election a written document on which shall appear:

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20.06.01.01 the grounds pursuant to the Bylaw on which the election is appealed,

20.06.01.02 the evidence in support of the appeal,

20.06.01.03 the signature of a person initiating the appeal.

20.07 Any notice of appeal shall

20.07.01 be accompanied by a certified cheque or money order payable to the Piikani Nation Election Account in the sum of One Hundred Dollars (\$100.00) which shall be non-refundable,

20.07.02 be served either personally on the Chairman or by forwarding the appeal to the Piikani Nation Election Appeals Board via registered mail, mailed within such period, addressed to:

Chairman  
Piikani Nation Election Appeals Board  
Piikani Nation Administration Office  
Brocket, Alberta T0K 0H0

20.08 The Piikani Nation Election Appeals Board shall not receive or consider any appeals with respect to the eligibility of candidates.

20.09 If no appeals are lodged within the time prescribed, the Chairman shall notify the Chief Electoral Officer and the Piikani Nation Council that the results of the Piikani Nation Election are conclusive.

20.10 Upon receipt of an Appeal, the Piikani Nation Election Appeals Board shall cause a copy of the Appeal to be served on all candidates for the office of Chief or Councillor.

20.11 Any such candidate may reply in writing to the Appeal by

20.11.01 setting out in the reply

20.11.01.01 their response to the grounds of appeal set out in the appeal, or

20.11.01.02 any evidence in support of their position.

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- 20.12 Any such reply shall be served within fourteen (14) days of the date of service of the Appeal on the candidates.
- 20.13 Such replies shall be served by personal service on the chairman of the Pitkani Nation Election Appeals Board, or by forwarding the reply by registered mail, mailed within such period, addressed to:
- Chairman  
Pitkani Nation Election Appeals Board  
Pitkani Nation Administration Office  
Brocket, Alberta T0K 0E0
- 20.14 The appeal and the replies to the appeal, if any, and the evidence supplied in connection with each shall constitute the record for purposes of the appeal.
- 20.15 Upon expiry of the time for filing replies, the Board shall meet to hear and determine the appeal.
- 20.16 In their deliberations, the Pitkani Nation Election Appeals Board may, in their sole discretion,
- 20.16.01 examine the record,
- 20.16.02 conduct hearings of the Appellant, the Respondent and any witnesses which either may call and the Board permit to be heard,
- 20.16.03 cause the appearance as witness of the Appellant or Respondent or any witnesses who may, in the Board's opinion, assist the Board in deciding the appeal,
- 20.16.04 generally conduct the proceedings in any way which the Board, in its sole discretion, deems appropriate in order to decide the appeal and the Board may make or establish procedures, regulations, and orders governing the conduct of any such hearings or any proceedings of the Board as the Board determines to be necessary and appropriate in the circumstances,
- 20.17 The Board shall give reasonable notice of the hearing to the Appellant and the Respondent and give each party full opportunity to present his evidence and submissions at the hearing.

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- 20.18 The decision of the Board must be rendered within twenty-one (21) days of the filing of the Appeal and shall be final and binding on all parties and not subject to further review by the Piiikani Nation Council, the Board, or any Court of Law. Copies of the decision shall be provided to the Appellant, the Respondent, and to the Piiikani Nation Council.
- 20.19 The decision of the Piiikani Nation Election Appeals Board shall either
- 20.19.01 uphold the appeal and, in the sole discretion of the Piiikani Nation Election Appeals Board:
- 20.19.01.01 if the circumstances warrant, declare that the entire election be set aside and that a new election be conducted forthwith for all of the positions for Councillor, or for the position of Chief, or for both; or
- 20.19.01.02 if the circumstances warrant, declare that only one or some of the positions for Councillor be declared vacant and that a new election for the one or more positions shall be held forthwith; or
- 20.19.01.03 if the circumstances warrant, declare that a candidate or candidates for office of Chief or Councillor is in breach of the Bylaw and/or Regulations and thereby disqualified from holding office and to declare the candidate with the next highest number of votes to be elected as Chief or Councillor, or
- 20.19.02 dismiss the Appeal.
- 20.20 Any person lodging an appeal may at any time before a final decision has been rendered by the Piiikani Nation Election Appeals Board withdraw his appeal and such Appeal is thereupon deemed to have been dismissed.
- 21.01 For the purpose of hearing an appeal resulting from a petition to remove the Chief or a Councillor from office, an Appeals Board is hereby established. Such Appeals Board shall be referred to as the Piiikani Nation Removal Appeals Board.

**APPEALS  
RESPECTING THE  
REMOVAL OF  
THE CHIEF OR A  
COUNCILLOR**

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- 21.02 The Piikani Nation Removal Appeals Board shall consist of persons appointed by the Piikani Nation Council who shall be appointed not less than seven (7) days after the Piikani Nation Council has received an Appeal resulting from a petition calling for the removal of the Chief or a Councillor.
- 21.03 A person appointed pursuant to section 21.02 to Piikani Nation Removal Appeals Board shall
- 21.03.01 be twenty-one (21) years of age or over,
  - 21.03.02 not be a member of the Piikani Nation,
  - 21.03.03 be of Blackfoot origin.
- 21.04 The Piikani Nation Removal Appeals Board shall be appointed for a term commencing on appointment and terminating after the time the Piikani Nation Removal Appeals Board has rendered a decision. Members of the Piikani Nation Removal Appeals Board may be reappointed after the end of their term for future appeals resulting from a petition calling for the removal of the Chief or a Councillor.
- 21.05 The Piikani Nation Removal Appeals Board shall be responsible to conduct, hear and determine in accordance with the Bylaw and these Regulations any appeal resulting from a petition calling for the removal of the Chief or a Councillor.
- 21.06 Any person lodging an appeal resulting from a petition calling for the removal of the Chief or a Councillor may at any time before a final decision has been rendered by the Piikani Nation Removal Appeals Board withdraw his appeal and such Appeal is thereupon deemed to have been dismissed.

**FORMS**

- 22.01 Such forms as are required for the purpose of these Regulations shall be prescribed from time to time by the Piikani Nation Council.

**VIOLATION**

- 23.01 Any person who is in violation of the Bylaw or these Regulations is guilty of an offence and liable to a fine of \$100.00 or imprisonment for thirty days or both.

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APPENDIX C

ROLES & RESPONSIBILITIES  
OF  
CHIEF AND COUNCIL

Notes

- A) Chief and Council shall determine policy. Pitkanai Nation Administration Staff Members carry out Chief and Council's policy within the scope of these regulations and the provisions of the Indian Act and regulations made pursuant to the Indian Act. It is general Manager in clear concise terms all matters governing the actions of the Pitkanai Nation.
- B) Council is the Governing body in all matters concerning the hiring and firing of Senior Pitkanai Nation Administration employees.
- C) Chief and Council should at all times avoid involving themselves in the Administration of the policy matters once the job has been delegated Pitkanai Nation Administration staff or delegated Pitkanai Authority.
- D) The Chief and/or Councilors should make sure that if at any time a staff member wants to see chief and council concern administration problems that the proper channels must be used before coming to Chief and Council.
- E) At any time a legal proceeding is commenced:
  - a) against the Peigan Nation, and/or
  - b) the Peigan Chief and Council, and/or
  - c) an individual member of the Peigan Council, and/or
  - e) an administrative body, agency, committee, or department of the Peigan Nation ("Peigan Administration"), and/or
  - d) an individual employed by or contracted to the Peigan Administration,

## ROLES & RESPONSIBILITIES OF CHIEF AND COUNCIL

The Peigan Nation shall be responsible for the legal fees and court costs incurred in responding, answering, defending or in any other way attending to conclusion and finalization of the legal proceeding, provided that in the case of an individual member of the Peigan Council or an individual employed by or contracted to the Peigan Administration, the legal proceeding has arisen and the individual is named as a consequence of or in relation to the individual's position on Council or employment by or contract with the Peigan Administration.

- B) In the event there is a question whether the legal proceeding against an individual member of the Peigan Council or an individual employed by or contracted to the Peigan Administration has arisen as a consequence of or in relation to the individual's position on Council or employment by or contract with the Peigan Administration, the legal opinion of competent legal counsel retained by the Peigan Nation shall first be obtained to assist in the determination of such question.

### TRAVEL AND BUSINESS EXPENSES

- A) Chief and Council shall establish from time to time policies and procedures on travel allowances for business conducted for the Peigan Nation.
  - 1) Business trips of 60 km and 60 - 120 km shall be at the flat rate of 100.00/per day, plus kilometers.
  - 2) Business trips within the Province of Alberta shall be at the rate of \$200.00/per day covering meals, lodging, and personal incidentals inclusive of one (1) expense paid travel day.
  - 3) Business outside the Province of Alberta shall be at the rate of \$250.00/per day covering meals, lodging, personal incidentals including two (2) days expense travel day and car rental for delegation of four (4).
  - 4) Transportation; the following methods of transportation will be paid per business trips:
    - a. Public Transportation, e.g. buses, trains, planes, and car rentals.
    - b. Private transportation @ .48 cents per kilometer.
  - 5) Business travel to foreign countries honorarium will be based on out of Province rates with the appropriate foreign exchange rates.
  - 6) Car rentals will be at the discretion of the supervisor approving the delegated trip.

### 8. COMMISSIONS

## ROLES & RESPONSIBILITIES OF CHIEF AND COUNCIL

Committees shall be set by Chief and Council, to investigate special circumstances prevalent on the Reserve. Committee members are to devote sufficient time to their duties to enable them to report comprehensively to Chief and Council on their findings, meetings and to recommend to Chief and Council a prescribed course of action to follow as a result of their findings.

A) Methods of establishing committees and boards

1) There shall be five (5) standing committees established consisting of three (3) members in each committee.

2) The Chief shall be an Ex-officio member of all standing committees and boards established.

3) Standing Committees of the Pitkan Chief and Council:

A) Housing Public Works

B) Health Centre, Community Health Services, Alcohol Services, Protection Services, Social Services (Day Care and Child Welfare) Vital Statistics.

C) Lands, Ranch, Water, Resource Development, Employment, Pitkan Outreach.

D) Education, Culture Centre, Elders, Public Relations

E) Research, Economic Development, Peigan Crafts, etc..

5) Representatives from each standing committee will be jointly responsible for:

Administration

Personnel

Purchasing Department

Grants and Contracts

Inter-governmental Affairs

Accounting

6) Each Standing committee is responsible to oversee and Regulations are followed by each department under their jurisdiction ensuring budget, planning and monthly reports are prepared for presentation to regular Chief and Council Meetings.

ROLES & RESPONSIBILITIES  
OF  
CHIEF AND COUNCIL

On September 26, 1985, at the Glenmore Inn, Calgary, Alberta, a motion was passed to adopt,  
"The powers, Duties and Responsibility of Chief and Council of the Peigan Nation # 147.

The following is that excerpt:  
"Nehert Little Mustache moved that Chief and Council adopt the Peigan Nation Chief and  
Councils Roles, Standing Committees, Administrative Functions, Powers, Duties,  
Responsibilities and regulations effective October 1, 1985"  
Seconded by Baron Stokes With a Gun  
12 Boe -0 Absent - "MOTION CARRIES"

## APPENDIX D

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## PIKANI NATION REMOVAL APPEALS BOARD

## HEARING RULES OF CONDUCT (the "Rules")

Dated: July 5, 2013

WHEREAS Councilor Fabian North Peigan (the "Petitioner") submitted a petition (the "Petition") to remove from office Gayle Strikes With A Gun (the "Respondent"), dated December 18, 2012, which Petition was considered by the Pikani Nation Council which determined that there was sufficient evidence to support a recommendation that the Respondent be declared ineligible to continue to hold office as the Chief of the Pikani Nation;

AND WHEREAS, by Band Council Resolutions 2013-0108-01 and 2013-0508-01 the Pikani Nation Council made a recommendation to the Pikani Nation Removal Appeals Board (the "Board") that proceedings be conducted to determine whether the Respondent should be declared ineligible to continue to hold the office of Chief and to remove the Respondent from the office of Chief of the Pikani Nation;

AND WHEREAS the members of the Pikani Nation Removal Appeals Board were appointed by Band Council Resolution 2013-0211-01;

AND WHEREAS the recommendation to remove the Respondent as Chief of the Pikani Nation has now been submitted to the Board for determination;

AND WHEREAS the Board became aware of numerous court actions in both the Alberta Court of Queen's Bench and the Federal Court so it was necessary and appropriate in the circumstances for the Board to engage in preliminary investigations to determine what judicial pronouncements may have existed which would have had a material affect on the Hearing;

AND WHEREAS in this preliminary investigation, the Board obtained various documents which were potentially relevant to this Hearing;

AND WHEREAS in compliance with section 11.03 of the Bylaws the Board has made full disclosure to the parties by providing copies of these various documents to the parties before the Hearing;

AND WHEREAS the Board has determined that the Petition should be heard and determined on July 25 and July 26, 2013;

NOW THEREFORE pursuant to the provisions of the Pikani Nation Election Bylaw, 2002, and the Pikani Nation Election Regulations, 2002, as amended, and in particular Election Bylaw sections 11.02 through 11.05, the Pikani Removal Appeals Board hereby establishes the following Rules for the conduct of the hearing, including the preliminary proceedings:

1. The hearing in this matter (the "Hearing") shall be an oral hearing conducted in accordance with the following.
2. The parties shall submit all of the evidence that they intend to call and an outline of their position to the Board in writing. The parties shall be permitted to call oral evidence only with

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respect to true rebuttal evidence that addresses the written evidence presented by other parties. The evidence that the Board will consider shall include only:

- a. written statements from witnesses who have sworn or affirmed the statement to be true. Such statements may include hearsay, provided the source of the hearsay information is identified and the witness confirms they believe such information to be true;
  - b. such documentary evidence as may be identified in the witness statements or attached to the Petition;
  - c. such oral and documentary evidence as may be presented at the oral hearing which is of a true rebuttal nature; and
  - d. such further and other evidence as the Board may agree to accept after considering all of the circumstances, including the parties' efforts to comply with these Rules and the reliability, necessity and fairness of considering the further and other evidence, provided that all evidence is presented in accordance with these Rules and schedule set out herein.
3. The parties at the Hearing will be given the opportunity at the appropriate stage of the Hearing as determined by the Board to, through their counsel, make an opening statement, call rebuttal evidence and to present a closing argument, all subject to the following schedule and limitations.

#### Pre-hearing

4. The schedule to be followed prior to the Hearing will be as follows:
- a. any documents attached to the original Petition are deemed to be evidence already before the Board and need not be resubmitted by any party;
  - b. the Petitioner shall present all witness statements and documents to the Board and counsel for the Respondent not later than July 10, 2013;
  - c. the Respondent shall present all witness statements and documents to the Board and counsel for the Petitioner not later than July 11, 2013;
  - d. the Petitioner may submit any written rebuttal witness statements or documents that he may wish to submit not later than July 12, 2013;
  - e. if the parties intend to call any oral witnesses to offer evidence in the nature of true rebuttal evidence, they shall provide a list of such witnesses to the Board not later than July 15, 2013. Once such lists are provided to the Board, the Board shall:
    - i. consider what restrictions, if any, to be placed on the number of witnesses and the time allowed for witness testimony or cross-examination, and will advise the parties accordingly; and

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- ii. once the Board has been advised of the witnesses, if any, both parties intend to call, advise all parties of the proposed witness lists.
  - f. the Petitioner will present a brief written outline of their position to the Board and counsel for the Petitioner not later than July 15, 2013;
  - g. the Respondent will present a brief written outline of their position to the Board and counsel for the Petitioner not later than July 17, 2013;
  - h. any pre-hearing applications the parties wish to make shall be made by teleconference to be heard on July 19, 2013 at 2:00 p.m. (Lethbridge time);
5. Any evidence circulated to the parties by the Board or submitted to the Board prior to the Hearing will be evidence before the Board and subject to the Board's assessment will *prima facie* be treated as some evidence of the facts to which it applies, subject to rebuttal by either party to these proceedings.

#### Conduct of the Hearing

6. The Hearing shall be divided into 2 sections, the first being the Blackfoot traditional reconciliation and reintegration circle (the "Healing Circle"), and the second being the formal proceedings (the "Formal Proceedings"). Attendance at the Healing Circle portion of the Hearing shall be voluntary.
7. Since there was not unanimous agreement to voluntarily attend the Healing Circle portion of the Hearing, the Formal Proceedings will now proceed as set out herein. The Formal Proceedings will be held at the Lethbridge Lodge hotel, 320 Scotch Drive South, Lethbridge, commencing at 9:00 a.m. on July 23 and 24, 2013. The Formal Proceedings shall be conducted in accordance with the following procedures:
- a. The Formal Proceedings will commence with a traditional prayer ceremony;
  - b. The Board will advise all present of the standard of conduct that is expected of them during the course of the Formal Proceedings;
  - c. After any preliminary matters that may arise to be dealt with at the commencement at the hearing, the Petitioner or counsel, will present an opening statement limited to 10 minutes;
  - d. At the conclusion of the Petitioner's opening statement, the Respondent, or counsel, will present her opening statement, limited to 10 minutes;
  - e. Oral evidence, if any, will be presented as follows:
    - i. prior to testifying all witnesses will confirm to the satisfaction of the Board that all evidence provided by the witness will be true;
    - ii. the Petitioner shall call witnesses, if any, and the Petitioner's counsel will lead Evidence in Chief. Any witnesses so called may be cross-examined by counsel for the Respondent;

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iii. the Respondent shall call witnesses, if any, and the Respondent's counsel will lead Evidence in Chief. Any witnesses so called may be cross-examined by counsel for the Petitioner;

iv. the Board may ask questions of the witnesses at any point in the proceedings;

v. at the conclusion of the final cross-examination of the Respondent's witnesses, if any, the evidence portion of the hearing shall be closed, subject to any applications to be brought at that time before the Board for the admission of further evidence.

f. at the conclusion of the evidence, the Petitioner or counsel may present a closing argument, limited to 10 minutes;

g. at the conclusion of the Petitioner's closing argument, the Respondent or counsel may present a closing argument, limited to 10 minutes; at the conclusion of the Respondent's closing arguments, the Board will adjourn and render a decision in accordance with the requirements of the Plikeni Nation Election By-Law, 2002.

8. Subject to the Board's earlier and further direction:

a. only Board members, legal counsel to the Board and parties, the Petitioner, the Respondent and the witness who is giving evidence at any point in time, will be allowed into the hearing room.

b. all parties shall bear their own costs of these proceedings and the Board will not entertain submissions with respect to costs.

c. the Board may make such interim orders as it determines are necessary to ensure that these proceedings are conducted in a manner which is both fair to all parties and efficient.

9. These Rules are subject to revision, restriction or addition by the Board at any time in the event the Board determines such changes are necessary and appropriate to ensure that these proceedings are conducted in a manner which is both fair to all parties and efficient.

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**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-2224-12

**STYLE OF CAUSE:** CHIEF GAYLE STRIKES WITH A GUN v PIIKANI  
FIRST NATION COUNCIL ET AL

**AND DOCKET:** T-262-13

**STYLE OF CAUSE:** CHIEF GAYLE STRIKES WITH A GUN v DOANE  
CROW SHOE ET AL

**PLACE OF HEARING:** EDMONTON, ALBERTA

**DATE OF HEARING:** APRIL 2, 2014

**JUDGMENT AND REASONS  
BY:** JUSTICE MCVEIGH

**DATED:** SEPTEMBER 23, 2014

**APPEARANCES:**

Ms. Nathalie Whyte

FOR THE APPLICANT,  
CHIEF GAYLE STRIKES WITH A GUN

Ms. Emily Grier

FOR THE RESPONDENT,  
FABIEN NORTH PEIGAN

Ms. Rishma Shariff

FOR THE RESPONDENT,  
PIIKANI FIRST NATION COUNCIL

**SOLICITORS OF RECORD:**

RATH & COMPANY  
Barristers & Solicitors  
Priddis, Alberta

FOR THE APPLICANT,  
CHIEF GAYLE STRIKES WITH A GUN

RANA LAW  
Calgary, Alberta

FOR THE RESPONDENT,  
FABIEN NORTH PEIGAN

JSS BARRISTERS  
Calgary, Alberta

FOR THE RESPONDENT,  
PIIKANI FIRST NATION COUNCIL