

**FEDERAL COURT**

BETWEEN:

**LORNA JACKSON-LITTLEWOLFE**

Applicant

and

**WHITEFISH LAKE FIRST NATION #128**

Respondent

**AFFIDAVIT OF BEN HOULE**

I, Ben Houle, of Whitefish Lake First Nation reserve #128, in the province of Alberta, SWEAR THAT:

1. I am a Member of the Whitefish Lake First Nation (the "Nation") and, as such, have personal knowledge of the matters hereinafter deposed to except where stated to be on information or belief, in which case I believe the same to be true.
2. The WFLFN #128 is a First Nation based near the Goodfish Lake, north of Vilna, Alberta. The WFLFN #128 is a signatory to the written text of Treaty 6, dating back to 1876. We were one of the original adherents and negotiators of Treaty 1876. Treaty 6 consists of both the written text and the oral promises that were made by the Commissioners.
3. I was born in 1962 and, but for the years 1981-1984 when I went to college, have spent my entire life living on the Whitefish Lake First Nation Reserve.

I am considered an Elder of the Whitefish Lake First Nation, as a result of our traditions and customs.

4. I was elected to the position of Councillor from the years 2005 to 2008, and again 2008 to 2011. As a result, I have become extremely familiar with our customs, practices, and history related to governance of the WFLFN #128. I have learned about our customs, practices, and history through my discussions with WFLFN #128 elders, former leaders, through my experience working as a Councillor and former leader of WFLFN #128, and through review of WFLFN #128 records.
5. I am advised by WFLFN #128's elders, former leaders, and by historical records that the Customary Election Regulations, including the Common Law Provision, are a reflection of the WFLFN #128's customs and traditional practices and reflect our historical practices of governance.
6. By way of example, I spoke recently, in November, 2021 with Elder and retired Reverend Bill Jackson, an eighty-eight (88) year old Elder and former Minister in our community, about the historical significance of how our Nation's governance practices and traditions were, are, and remain to this day. I was advised by Reverend Jackson that:
  - (a) He worked as a Minister for the Methodist Church in Whitefish Lake #128 from 1954 when he went to bible college, and that he moved back onto the Whitefish Lake Reserve in approximately 1972;
  - (b) He recalled that his father, Thomas Jackson, a former Councillor of the Nation, told him when he was a teenager that, at the time the Whitefish Lake Reserve #128 was first surveyed, in 1876, the Reserve was surveyed around the existing Mission at that time, and that the Nation, around the time Chief Pakan (James Seenum), the first Chief of Whitefish Lake First Nation #128, was alive, the Nation adopted and accepted the teachings of the Methodist Church; that some of our Members had two (2) wives, some had one wife (1) and

some had none, and that they would come to follow the teachings that if a man were to marry a woman, it would be one (1) only;

- (c) When Reverend Jackson and I spoke, he told me that his father, Thomas Jackson, told him at that time, respected Members of the Nation sat down and determined some rules on how their governance would come to be (notwithstanding that at that time the Nation's governance was determined by a hereditary Chief system of governance), which included committing to the institution of marriage; that is to say, that if a Member were going to become a leader of our community, marriage would demonstrate that they were secure and committed to building a family within our community;
- (d) In addition, Reverend Jackson remarked that up until the time when he was quite young, he recalled that his father, Thomas Jackson, who became a Councillor in 1944, telling him and others as he grew up in his formative years, including councillors in the community that one thing they were sure about within the context of the ability for a Member to run as a candidate for Council, that if they were not married, and were common law instead, that they could not run. They [the Members] followed that rule and no-one really questioned that over time;
- (e) Further, Reverend Jackson recalled multiple occasions when his father would tell him stories of Members that were living in common law relationships that desired to become councillors, only to be told that they were not permitted to do so, and that custom and tradition was followed religiously;
- (f) Reverend Jackson also told me of several notable leaders in our community; one of which, my late cousin Tom Houle, the most recent former Chief of our great Nation, was originally living common law before contemplating to run for the position as Councillor, before discussing the matter with Reverend Jackson directly and becoming married before running;
- (g) The same was true for the current Chief of our Nation, Stan Houle, and Members, in particular Elders in our community, have been

satisfied with this custom and tradition for as long as he could remember;

(h) In addition, Reverend Jackson recalled a survey that was distributed to Elders in our community approximately six (6) or (7) years ago by the Nation, in which the Elders were asked if any changes should be recommended to the Customary Election Regulations of the Nation, and most, if not all of the Elders surveyed, he recalled, remained in favour of the current iteration of the Customary Election Regulations.

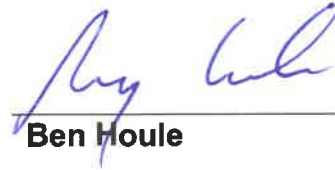
7. I believe that our ability to continue to practice our methods of governance are a right promised to us through treaty, or otherwise. In canvassing the evidence and opinions of our Elders, like Reverend Bill Jackson, I understand that oral history in our community was and is often passed down from our Elders in the home, when Councillors and other respected Members in our community would visit and be told stories about our familial past, our traditions and customs, the “old ways”, the ways of our ancestors, and that in so doing this oral history would spread among the community and be accepted as “the way”.
8. Reverend Jackson, in our call, told me that his father would often, during his time as a Councillor, speak with his eldest brother Alec Jackson about the history of the Nation, his goals and the importance of our traditions and customs; that other Councillors and Members would visit their family home and they would discuss things openly, to help and teach the younger Members about our history and way of life, and that it must always be protected.
9. My own father, Allan Houle, who was on Council for many years and in fact was Chief of our Nation for over twenty (20) years, would always tell me and my siblings about the significance of our traditions and customs and that they should always be maintained. He would tell us about his four (4) brothers and five (5) sisters, and that if we wanted to make any changes to how we governed ourselves, it would be a membership driven endeavour.

That is to say, we would make the decision on if any changes to our customs should occur.

10. During our history, we have had many iterations of our “voters list”. Up until the late 1990’s, and potentially into the early 2000’s, Indigenous and Northern Affairs Canada, or INAC, as they were then known, would send a representative to be our electoral officer for the purposes of overseeing our elections. Part of their responsibilities was to uphold and enforce our traditional customs as enshrined in our Customary Election Regulations and elsewhere through our oral traditions and customs as Indigenous people which included, among other things, the residency requirement, the criminal record check, and the common law prohibition in our Customary Election Regulations. Attached as Exhibit “1” to this my Affidavit is a copy of a Council Resolution evidencing that Jim Ruller, an INAC representative, was the part of the Appeal Committee for our Nation in 1996.
11. I believe that if the Customary Election Regulations governing the Nation’s elections for the position of Chief and Council should be amended, they should be amended by the Members of our Nation in a referendum. In speaking with Reverend Jackson, he also remarked that as Members, it is incumbent on us all, as Members are “waking up” and becoming more involved in our political processes, to make any changes they want to see to our governance processes.

12. I make this Affidavit in support of the Respondent's response to the application by the Applicant for judicial review.

SWORN BEFORE ME at the City of )  
Edmonton in the Province of )  
Alberta, this 8<sup>th</sup> day of November, )  
2021. December )  
)  
)  
)  
)  
A Commissioner for Oaths in and for )  
the Province of Alberta )

  
\_\_\_\_\_  
**Ben Houle**

**Tara Lillian Edwards**  
A Commissioner for Oaths  
in and for Alberta  
My Commission Expires June 15, 2023

WHITEFISH LAKE BAND ADMINISTRATION No. 128

Your File

Our File



GOODFISH LAKE

Alberta T6A 1R0  
Box 271

Phone 636-7000

Fax 636-7006

This is Exhibit " 1 " referred to in the Affidavit of

Ben Houle  
Sworn before me this 3rd  
day of December, 2021

Tara Lillian Edwards

A Commissioner for Oaths  
in and for Alberta

My Commission Expires June 15, 2023

Moved that we approve the following as presented to be the Official 1996 Electoral Voting List

Any appeals regarding the list should be made directly to the Appeals Committee 48 hours prior to election on this 25th day of September 1996.

Appeals Committee:

Allan Makokis  
Pauline Houle

Jim Ruller  
Ed Cardinal

(2021)  
15 years - 1996

Chronological no. - N° consécutif #16- 96/97
File reference no. - N° de référence du dossier 1 - 1

BAND COUNCIL RESOLUTION  
RÉSOLUTION DE CONSEIL DE BANDE

NOTE: The words "from our Band Funds" "capital" or "revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.  
NOTA: Les mots "des fonds de notre bande" "capital" ou "revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes.

The council of the Le conseil de		WHITEFISH LAKE BAND #128	Cash free balance - Solde disponible	
Date of duly convened meeting Date de l'assemblée dument convoquée	DJ	M	Y.A	Province
	2	6	0	9
		9	6	ALBERTA
				Capital account Compte capital \$ _____
				Revenue account Compte revenu \$ _____

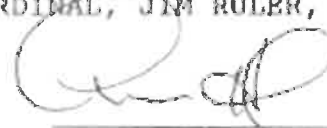
DO HEREBY RESOLVE  
DÉCIDE, PAR LES PRÉSENTES:

- WHEREAS THE CHIEF AND COUNCIL OF THE WHITEFISH LAKE BAND #128 HAVE BEEN ELECTED TO BE THE GOVERNING BODY OF THE WHITEFISH LAKE BAND #128 BY THE MEMBERSHIP; AND
- WHEREAS THE CHIEF AND COUNCIL OF THE WHITEFISH LAKE BAND #128 ARE RESPONSIBLE FOR THE MEMBERSHIP OF THE WHITEFISH LAKE BAND #128 FOR PEACE, ORDER AND GOOD GOVERNANCE OF THE WHITEFISH LAKE BAND #128; AND
- WHEREAS THE CHIEF AND COUNCIL ARE POSTING THE ELIGIBLE VOTERS LIST FOR THE ELECTION TO BE HELD ON SEPTEMBER 30, 1996, THE LIST IS PURSUANT TO DOCUMENTS GOVERNING THE WHITEFISH LAKE BAND #128, AND
- WHEREAS THE CHIEF AND COUNCIL WILL APPOINT AN APPEAL COMMITTEE TO ENSURE ALL APPEALS ARE RULED UPON, AND

THEREFORE BE IT RESOLVED THAT:

- AT A DULY CONVENED MEETING HELD ON SEPTEMBER 24, 1996, IT WAS AGREED BY THE CHIEF AND COUNCIL OF WHITEFISH LAKE BAND #128, THAT THE APPEAL COMMITTEE WILL CONSIST OF ED CARDINAL, JIM RULER, PAULINE HOULE, AND ALLAN MAKOKIS.

Quorum (three)

  
\_\_\_\_\_  
(Chief - Chef)

\_\_\_\_\_  
(Councillor - Conseiller)

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(Councillor - Conseiller)

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