



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

EXECUTIVE ORDER NO. 182-18

AN EXECUTIVE ORDER REGARDING THE AUTHORITY OF THE CHIEF EXECUTIVE TO APPOINT ATTORNEYS; THE OFFICE OF THE SOLICITOR GENERAL TO SERVE AS SOLE INTERIOR LEGAL COUNSEL; AND THE HIRING OF PERSONS WITH JURIS DOCTOR DEGREES BY COMMISSIONERS

WHEREAS, pursuant to Mille Lacs Band Statutes Annotated (MLBSA), 4 MLBSA 6(e), the Chief Executive is authorized to issue Executive Orders on any subject matter within the Executive Branch pursuant to the authorities conferred by Band Statute; and

WHEREAS, the Chief Executive is authorized to faithfully and impartially execute the laws, judicial determinations, orders, and resolutions of the Band pursuant to Band Statute 4 MLBSA 6(a); and

WHEREAS, Band Statute 4 MLBSA 6(b) states that, whenever authorized by Band Statute, the Chief Executive is authorized to appoint any officer authorized by Band Statute subject to confirmation by the Band Assembly; and

WHEREAS, Band Statute 4 MLBSA 16 explicitly identifies the Band's legal counsel, which includes both Interior Legal Counsel, known as the Solicitor General, and Exterior Legal Counsel; and

WHEREAS, the Band Statutes 4 MLBSA 16(b) and 17 explicitly provide that the Chief Executive shall appoint both Interior and Exterior Legal Counsel, and that both types of appointments are subject to the advice and consent of Band Assembly; and

WHEREAS, the duties of the Solicitor General, the legal standards governing the Office of the Solicitor General (including Deputy Solicitors General employed by the Solicitor General), and the legal responsibilities of the Solicitor General in the capacity of a prosecutor are all delineated with specificity and exactitude in the Band Statutes 4 MLBSA 18, 19 and 20; and

WHEREAS, with the exception of the Solicitor General's implicit authority to employ Deputy Solicitors General to staff the Office of Solicitor General, the Band Statutes make no provision for

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Commissioners or any other Executive Branch officer other than the Chief Executive to appoint or retain legal counsel; and

WHEREAS, it is clear that the drafters of the Band Statutes did not contemplate the employment of legal counsel in the Executive Branch outside the appointment process set forth in the Band Statutes 4 MLSBA 16, 17, 18, 19, 20; and

WHEREAS, Commissioners of the Band are authorized to faithfully and impartially execute the laws of the Band and the policies of the Executive Branch pursuant to 4 MLBSA 7(a); and

WHEREAS, Commissioners of the Band are authorized to regulate the performance of all persons employed within their subject matter of jurisdiction pursuant to 4 MLBSA 7(b); and

WHEREAS, the Office of the Chief Executive notes that in recent months, Commissioners have been hiring persons with Juris Doctor degrees or are licensed attorneys; and

WHEREAS, the Office of the Chief Executive encourages Commissioners to hire persons of the highest value to the Band with excellent credentials, such as an advanced degree; and

WHEREAS, the Band Statutes provide that the only persons authorized to interpret the Band's laws outside of the Band's court, to represent the Band in court, and to dispense legal advice to Commissioners and the Chief Executive are the Solicitor General (including Deputy Solicitors General employed by and subject to the supervision of the Solicitor General) and outside legal counsel appointed by the Chief Executive and ratified by the Band Assembly under Title 4 of the Band Statutes.

NOW, THEREFORE, BE IT ORDERED:

1. Pursuant to Title 4 of the Band Statutes, the only persons authorized to provide legal advice to the Chief Executive and the Commissioners are the Interior Legal Counsel (Solicitor General and the Office of the Solicitor General) and outside legal counsel appointed by the Chief Executive and ratified by Band Assembly; and

2. While Commissioners may employ persons with Juris Doctor degrees, those persons are not permitted to dispense legal advice, litigate cases on behalf of the Band or act as legal counsel to the Band or the Commissioners as delineated in the Minnesota Rules of Professional Conduct and enforced by the Minnesota Board of Professional Responsibility and the Minnesota Supreme Court; and

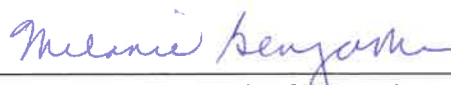
3. It is the sole province of the Office of Solicitor General and/or outside legal counsel appointed and ratified pursuant to Title 4 of the Band Statutes to interpret law, to provide legal opinions and to dispense legal advice to the Chief Executive and the Commissioners; and

4. Any persons currently employed or under contract as a non-employee or independent contractor by the Band who are licensed attorneys, and who were not hired in compliance with Band law and who are not supervised by the Solicitor General, are to immediately refrain from providing legal representation, dispensing legal advice or acting as legal counsel to the Band or commissioners; and

5. Subject to the consent of the Solicitor General, a commissioner may have assigned a Deputy Solicitor General, selected by the Solicitor General, to primarily provide legal counsel to the respective commissioner, with other duties as assigned by the Solicitor General. In contemplating such a designation, a portion of that commissioner's budget may be designated to the Solicitor General.

6. This Executive Order does not apply to Corporate Counsel or Counsel for the Legislative Branch or the Executive Branch.

Dated: This 15th Day of October, 2018



Melanie Benjamin, Chief Executive

Expiration Date: September 30, 2020

