

LEGISLATIVE ORDER 002

WHEREAS, Pursuant to the provisions of Band Statute 1002-MLC-2, Section 8, the Band Assembly shall establish rules of its proceedings, and;

WHEREAS, pursuant to the provisions of Band Statute 1002-MLC-2, Section 18, the Band Assembly shall have the power to hold hearings of inquiry on any issue upon which the rights and privileges of the Band Assembly has been abridged.

NOW THEREFORE, to exercise the statutory obligations of the Band Assembly, the following are hereby established as Procedures for Formal Inquiry, to be incorporated into the Rules of the Band Assembly.

Rule No. 01

The Band Assembly, by unanimous consent of the District Representatives in formal session assembled, may order a formal inquiry on any issue upon which the rights and privileges of the Band Assembly has been abridged. The sponsoring District Representative shall declare in writing the measure or matter to be considered for inquiry.

A. If in the event the matter of inquiry concerns the conduct of a District Representative, the Speaker of Assembly shall be considered as a voting member for purposes of inquiries of the Band Assembly. The Speaker shall continue to preside over all proceedings.

B. No member of the Band Assembly shall cast any formal vote or participate in any inquiry proceedings in which the testimony or evidence to be presented may involve their individual conduct while serving as an elected official to the Band Assembly. Neither, shall a Member of the Band Assembly participate in any proceeding involving their relative in the first degree. Step and adopted relations apply.

C. A unanimous roll call vote of the Band Assembly shall be required to initiate any formal hearing of inquiry.

D. A Member of the Band Assembly may disqualify him/herself from participating in any inquiry upon submission of an affidavit of disqualification under oath that he/she cannot render an impartial and unbiased decision in the case at hand. The Band Assembly by simple majority may accept or reject the affidavit. This decision is final.

E. Members of the Band Assembly shall disclose any interest they may have that may tend to improperly influence any inquiry proceeding to the other Members of the Band Assembly for final disposition pursuant to Rule 1 (d) above.

Rule No. 02

The Speaker of Assembly shall within five (5) consecutive days of the Assembly vote, issue a formal Writ of Inquiry which states the purpose of the inquiry, the date, hour and location, the inquiry will begin, the names of the District Representatives supporting the inquiry, any special orders to the Solicitor General and any other information deemed necessary by the Speaker. In the event the Speaker shall fail to issue the Writ of Inquiry within the allotted time, the District Representative may cause the issuance of the Writ which shall bear the signature of each Representative.

Rule No. 03

The Clerk of the Band Assembly shall be responsible for posting the Writ of Inquiry in public locations but only on those locations under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians. The notice shall also be published in the Nay Ah Shing newsletter or other official newspaper for official public notices of the Band.

Rule No. 04

All hearings of inquiry, records, data, charts, transcribed testimony and files shall be kept in a secure location which is separate and distinct from the Band Assembly records. All such records shall be the property of the Band Assembly and only members of the Band Assembly shall have access thereto, unless topic of inquiry is any matter related to the conduct of a District Representative in which case, the prior written consent of the remaining members of the Band Assembly is required.

A. No Votes, in matters of inquiry by any member of the Band Assembly with respect to any measure or matter may be cast by proxy or other methods of telecommunication.

Rule No. 05

Each hearing of Inquiry shall be open to the public except when the Band Assembly by a two-thirds majority roll-call vote, in open session determines that all or part of the remainder of the hearing on that day shall be closed to the public because disclosure of testimony of evidence or other matters to be considered would endanger the security of the Band or would violate any Rule of the Band Assembly or for the sole purpose of discussing whether testimony of evidence to be received would endanger the security of the Band or for the sole purpose of taking testimony or evidence that may tend to defame, degrade or incriminate any person, once asserted by any person at the hearing.

Rule No. 06

The Clerk of the Band Assembly shall make public announcement of the Writ of Inquiry at least ten (10) days before the commencement of the hearing.

Rule No. 07

The Speaker of the Assembly shall cause notice to be served to each witness who is to appear before the Band Assembly, that it is required that the witness file an advance (48 hours) written statement of their proposed testimony and that their oral testimony shall be limited to a brief summary of the written presentation. Further, all testimony shall be limited to the purpose of the Inquiry in context and not contain anything that would serve to personally degrade another human being.

Rule No. 08

It shall be required that all District Representatives and the Speaker of the Assembly, except under conflict provisions of Rule 1 (b), be present for the taking of testimony and receiving evidence.

Rule No. 09

All Members of the Band Assembly inquiry shall have the privilege to question any witness who may appear before the Inquiry.

Rule 10

Upon two-thirds majority vote of the Band Assembly, the Speaker of the Assembly, the Speaker of the Assembly or whoever holds the Chair shall cause to be prepared, issued and served, any subpoena which requires the attendance of any person or documents necessary in the performance of a successful Inquiry.

Rule No. 11

At the appointed date, hour and location, the Speaker of the Assembly or whoever holds the

Chair shall announce in the opening statement the subject of the Inquiry.

A. A copy of the committee rules shall be made available to each witness.

B. Witnesses at Inquiry hearings may be accompanied by their own legal officers for the purpose of advising them concerning their constitutional rights. However, each legal officer shall be a member in good standing of the Bar Association of the Non-Removable Mille Lacs Band of Chippewa Indians. Admittance shall be governed by Court Order 003.

Rule No. 12

The Speaker of the Assembly, or whoever holds the Chair may punish breaches of order and decorum and of professional ethics on the part of legal officers, by censure and exclusion from the hearings; and the Band Assembly may cite the offender to the Court of Central Jurisdiction for contempt or exclusion pursuant to Band Statute 1069-MLC-22, Section 3.02.

Rule No. 13

Whenever it is asserted that the evidence or testimony at any Inquiry hearing may tend to defame, degrade or incriminate any person, said testimony shall be only presented in closed executive session, unless the Band Assembly by unanimous vote in closed executive session determines the testimony will not defame, degrade or incriminate any person. A verbatim transcript of any such testimony shall be made available to the concerned person upon receipt of a properly executed subpoena in the event a complaint is filed in the Joint Session of the Band Assembly or the Court of Central Jurisdiction. Only subpoenas issued by the Court of Central Jurisdiction shall have any force and effect, otherwise full legislative privilege shall prevail.

Rule No. 14

In either event related to the provisions of Rule 13, the Band Assembly shall afford such person who is the object of the testimony the opportunity to voluntarily testify as a witness; and receive and dispose of requests from such person to subpoena additional witnesses.

Rule No. 15

Except as provided for in Rule 13 or 14, the Speaker of the Assembly or whoever holds the Chair shall receive and the Band Assembly shall dispose of requests from any person to subpoena any person as a witness or any documents held by any person.

Rule No. 16

The Speaker of the Assembly or whoever holds the Chair for any particular day is the only person designated to receive service of process on behalf of the Band Assembly.

Rule No. 17

No evidence or testimony taken in executive session may be released or used in public sessions without compliance with the provisions of Rule 13 or the unanimous consent of the Band Assembly.

Rule No. 18

In the discretion of the Band Assembly, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the official record. The Band Assembly is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

Rule No. 19

A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized pursuant to Rule 13, 15 and 17.

Rule No. 20

For the purpose of carrying out any function of inquiry and duties under Band Statute 1002-MLC-2, Section 18, the Band Assembly by two-thirds majority roll-call vote may subpoena or otherwise require the attendance and testimony of any witness under the jurisdiction of the Band and the production of such books, records, correspondence, memorandums, papers, computer disc or tapes, documents or anything it deems necessary for the Inquiry. Authorized subpoenas shall be signed by the Speaker or whoever Chairs the Assembly and the official seal of the Non-Removable Mille Lacs Band of Chippewa Indians shall be affixed thereto.

Rule No. 21

The Clerk of the Assembly, or any Member designated by the Speaker shall administer the official oath of the Band to each witness before any oral testimony is taken.

Rule No. 22

Compliance with any subpoena issued by the Band Assembly may be enforced only as authorized or directed by the Band Assembly.

Rule No. 23

In matters when any Member of the Band Assembly is properly served with a subpoena or other judicial order directing appearance as a witness relating to the official functions of the Band Assembly or for production or disclosure of any documents relating to the official functions of the Band Assembly, such Member shall comply, consistent with the privileges and rights of the Band Assembly, with said subpoena or other judicial order as hereinafter provided, unless otherwise determined pursuant to the provisions of this Rule.

- A. Notify the Speaker in writing and attach the subpoena or judicial order.
- B. The Speaker shall bring the matter to the next official meeting of the Band Assembly.
- C. The Band Assembly shall determine whether the issuance of the subpoena or judicial or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the Band Assembly.
- D. Upon a determination that the subpoena is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the rights and privileges of the Band Assembly, the member shall comply with the subpoena or other judicial order by supplying certified copies of documents except that under no circumstance shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied.

TESTIMONY

The witness shall appear in court to testify, but shall not testify to matters of the Band Assembly in Executive Session, matters involving the security of the band or Cabinet sessions.

- E. A copy of this rule shall be transmitted by the Speaker, to any of said courts whenever any such subpoena or other judicial order is issued and served on a Member of the Band Assembly.
- F. Nothing in this rule shall be construed to deprive, condition or waiver of constitutional or legal rights applicable or available to any Member of the Band Assembly or the Band Assembly or the right of the Member or the Band Assembly to assert such right or privilege before any

Court, or the right of the Band Assembly thereafter to assert such privilege or immunity before any Court.

Rule No. 24

The Clerk of the Band Assembly shall keep a complete record of all actions of the Band Assembly including votes on any questions.

Rule No. 25

The Joint Session of the Band Assembly may conduct an inquiry relating to the official conduct of the Chief Executive, Member of the Band Assembly, Speaker of the Assembly, Member of the School board, Member of the Corporate Commission or any appointee of the Chief Executive only upon receipt of a legislative complaint, in writing and under oath, from any member of the Mille Lacs Band of Chippewa Indians if the Joint Session of the Band Assembly finds that probable cause exists to believe the allegations contained therein are true. The provisions of Rule 1 and all other subsequent rules shall be applicable to proceedings under this Rule.

Rule No. 26

No later than forty-five (45) consecutive days from the close of any inquiry hearing, the Band Asssembly shall release to the public a written report outlining its Findings of Fact, Conclusions of the Assembly and Orders of the Assembly. If the Inquiry is regarding the official conduct of any position listed in Rule 25, the concerned person shall be notified of the decision, five (5) days in advance of public release, by registered United States mail.

Rule No. 27

The decision of the Band Assembly or the Joint Session of the Band Assembly on all matters on inquiry shall be final.

Rule No. 28

No information or testimony received in executive session, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any Member of the Band Assembly or Joint Session thereof or any staff member unless specifically authorized in each instance by vote of the Band Assembly. Any violation of this Rule shall subject the offender to censure or disciplinary action in the event a staff member commits the offense.

Rule No. 29

In all matters of Inquiry, the Solicitor General shall represent the expressed interests of the Band Assembly or the Joint Session of the Band Assembly in the name of the Non-Removable Mille Lacs Band of Chippewa Indians. In the event of a writ of Inquiry regarding the conduct of the Solicitor General or into an alleged abridgement of the rights and privileges of the Band Assembly or Joint Session of the Band Assembly, the Band Assembly shall appoint a competent and qualified person to represent their interests.

Rule No. 30

In matters when any appointee of the Chief Executive or Secretary/Treasurer is properly served with a subpoena or other judicial order directing appearance as a witness relating to the functions of the Executive Branch or for the production or disclosure of any documents relating to the official functions of their positions or the Executive Branch, such appointee shall comply, consistent with the privileges and rights under law of the Executive Branch, with said subpoena or other judicial order as hereinafter provided, unless otherwise determined pursuant to the provisions of this Rule.

- A. The appointee shall notify the Chief Executive and the Speaker of the Assembly in writing and attach the subpoena or judicial order.
- B. The Speaker shall bring the matter to the next official meeting of the Band Assembly. The appointee involved shall testify as to the position of the Chief Executive or Secretary/Treasurer regarding compliance and privilege.
- C. The Band Assembly shall determine whether the issuance of the subpoena or other judicial order is proper exercise of the Court's Jurisdiction, is material and relevant, and is consistent with the rights and privileges of the Executive Branch.
- D. Upon a determination that the subpoena is a proper exercise of the Court's jurisdiction, is material and relevant, and is consistent with the rights and privileges of the Executive Branch, the appointee shall comply with the subpoena or other judicial order by supplying certified copies of documents except that under no circumstances shall any minutes or transcripts of executive sessions, Cabinet minutes or any evidence of witnesses in respect thereto, be disclosed or copied.

TESTIMONY

The witness shall appear in Court to testify, but shall not testify to matters of the Band Assembly in executive session or to matters of the Cabinet.

E. A copy of this rule shall be transmitted by the Speaker, to any of said Courts whenever any such subpoena or other judicial order is issued and served on an appointee of the Mille Lacs Band of Chippewa Indians.

F. Nothing in this rule shall be construed to deprive, condition or waiver of constitutional or legal rights applicable or available to any appointee of the Chief Executive or the Secretary/Treasurer to assert such right or privilege before any Court, or the right of the Band Assembly thereafter to assert such privilege or immunity before any Court.

G. Executive privilege shall not extend to appointees of the Chief Executive or the Secretary/Treasurer in official matter of Inquiry by the Band Assembly. Communications between the Chief Executive and/or Secretary/Treasurer or any appointee therefrom and the Solicitor General, are privileged and protected communications between the Solicitor General and the legal client and shall not be disclosed in testimony in any Court. Any communications between the aforementioned parties or with members of the Band Assembly shall only be disclosed to the Band Assembly or Joint Session of the Band Assembly in executive session.

Rule No. 31

In matters when the Chief Executive or Secretary/Treasurer is properly served with a subpoena or other judicial order directing appearance as a witness relating to official function of the Band Assembly or Executive Branch for production or disclosure of any documents relating to the official functions of their duties or that of the Band Assembly, such Officer (s) shall comply, consistent with the privileges and rights of the Band Assembly, with said subpoena or other judicial order as hereinafter provided, unless otherwise determined pursuant to the provisions of this Rule.

- A. Notify the Speaker in writing and attach the subpoena or judicial order.
- B. The Speaker shall bring the matter to the next official meeting of the Band Assembly.
- C. The Band Assembly shall determine whether the issuance of the of the

subpoena or other judicial order is a proper exercise of the Court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the Band Assembly.

D. Upon a determination that the subpoena is a proper exercise of the Court's jurisdiction, is material and relevant, and is consistent with the rights and privileges of the Band Assembly, the Officer (s) shall comply with the subpoena or other judicial order by supplying certified copies of documents except that under no circumstances shall any minutes or transcripts of executive sessions, Cabinet minutes or any evidence of witnesses in respect thereto, be disclosed or copied.

Testimony

The witness shall appear in Court to testify, but shall not testify to matters of the Band Assembly in Executive session, matters involving the security of the Band or Cabinet sessions.

E. A copy of this rule shall be transmitted by the Speaker, to any of said Courts whenever any such subpoena or other judicial order is issued and served to the Officer (s)

F. Nothing in this rule shall be construed to deprive, condition or waiver of constitutional or legal rights applicable or available to the Chief Executive or Secretary/Treasurer or the Band Assembly or the right of the (s) or the Band Assembly to assert such right or privilege before Court, or the right of the Band Assembly thereafter to assert such privilege or immunity before any Court. Officer any

G. Executive privilege shall not extend to official matters of Inquiry by the Band Assembly pursuant to Band Statute 1002-MLC-2, Section 17.

Rule No. 32

Any person who shall make a false material statement which he/she does not believe is true, or is inconsistent with their previous testimony or is misleading in material manner, whether orally or in writing before a Band Assembly Inquiry shall be subject to public censure or be cited to the Court of Central Jurisdiction for exclusion, if found guilty, pursuant to Band Statute 1069-MLC-22, Section 3.02. any

Rule 33

Each Representative to the Band Assembly shall sign and be a party to all decisions of the majority in matters of the official documents of the Inquiry. Minority opinions shall be permitted as official parts of the Inquiry record. However, no Representative shall disclose his/her opinion during any Inquiry proceeding to any person not a member of the Inquiry panel.

Rule 34

The Band Assembly or Joint Session, whichever is applicable, shall be the sole determiner of any questions or interpretations that may arise from the rules herein. Additional rules may be incorporated at any time during any Inquiry provided that any party to the Inquiry shall have the right to object, if adversely effected, to adoption of the new rule. No rule, however may be adopted which is contrary to the laws of the Non-Removable Mille Lacs Band of Chippewa Indians.

Rule 35

For purposes of Inquiry, all references to the Band Assembly shall mean the Non-Removable Mille Lacs Band of Chippewa Indians.

Rule 36

Whoever does any of the following before or during an official Inquiry shall be subject to public censure and/or be cited to the Court of Central Jurisdiction for exclusion, if found guilty, pursuant to Band Statute 1069-MLC-22, Section 3.02.

- A. Offers, gives or promises to give, directly or indirectly to any public officer or employee any benefit to which he/she is not legally entitled to receive with intent to influence any person or proceeding.
- B. Offers, gives or promises to give, directly or indirectly, any such benefit, reward or consideration to a witness or one who is about to become a witness, with intent to influence testimony or that he will absent himself from the proceeding.
- C. Accepts directly or indirectly any benefit, express or implied listed above in (A) or (B).

Pursuant to the provisions of Band Statute 1002-MLC-2, Section 20.

IT IS SO ORDERED

DONE at Nay-Ah-Shing this 9th day of April, 1986

[OFFICIAL SEAL OF THE BAND]

/s/
DOUGLAS SAM, Speaker of the Assembly

/s/
MARGIE ANDERSON, District I Rep.

/s/
JULIE SHINGOBE, District II Rep.

/s/
BRATON CHURCHILL, District III Rep.

Accepted to Form and
Execution

/s/
JAY KANASSATEGA, SOLICITOR GENERAL