

Legislative Order 001

- WHEREAS, the Band Assembly received a petition to remove Arthur W. Gahbow as Chief Executive in and for the Non-Removable Mille Lacs Band of Chippewa Indians on March 18, 1986, and;
- WHEREAS, the Band Assembly did consent to formally accept the aforementioned petition on March 27, 1986 and to officially notify Chief Executive Gahbow of this action, and;
- WHEREAS, the Band Assembly did condition acceptance of the petition pending the results of an immediate official inquiry into the allegations by an independent person, and;
- WHEREAS, the Band Assembly has subject matter jurisdiction pursuant to the provisions of Band Statute 1002-MLC-2, Section 20 and Article X of the Constitution of the Minnesota Chippewa Tribe.

NOW THEREFORE, pursuant to the vested powers in the law of the Band Assembly, it is hereby ordered that Gerald D. Thedens of Isle, Minnesota be and hereby is appointed as "Special Prosecutor" to inquire into allegations of malfeasance in the handling of tribal affairs of the Non-Removable Mille Lacs Band of Chippewa Indians by Chief Executive, Arthur W. Gahbow, with the following powers, duties, obligations, and responsibilities.

Special Prosecutor Thedens shall:

1. Upon receipt of a notarized affidavit, under penalty of perjury, from the person (s) who obtained documents presented with the petition, in support of allegations of malfeasance in the handling of tribal affairs of the Non-Removable Mille Lacs Band of Chippewa Indians, the inquiry shall commence. The affidavit (s) shall contain, but not be limited to the following:

"I, _____ under penalty of perjury do hereby swear and affirm that the documents presented in support of the petition to remove Arthur W. Gahbow, as Chief Executive, were copied by me or someone else under my direction and are copies of original documents on file with the Mille Lacs Reservation Construction Company and that the documents were obtained in a lawful manner and that to the best of my knowledge the documents have not been unlawfully altered in any material aspect or respect by myself or any other person known to me."

Part II: Charge to the Special Prosecutor.

1. Validate the authenticity of the supporting documents.
2. Determine whether the supporting constitute evidence in a quasi-judicial proceeding.
3. Determine whether supporting documents constitute sufficient evidence to support a complaint of "malfeasance in the handling of tribal affairs" of the Non-Removable Mille Lacs Band of Chippewa Indians against Arthur W. Gahbow, Chief Executive.
4. Determine whether the supporting documents constitute sufficient evidence to support a complaint found in any other sub-section of Article X, Section 2 of the Constitution

of the Minnesota Chippewa Tribe against Arthur W. Gahbow, Chief Executive.

5. Determine whether the supporting documents constitute sufficient evidence to support a complaint found in any subsection of Article X, Section 2 of the Constitution of the Minnesota Chippewa Tribe against any other person who is or was an elected official or an employee of the Non-Removable Mille Lacs Band of Chippewa Indians or any of its political sub-divisions or entities.

6. Receive and receipt the general books of account and all records, papers, computer discs or tape or any and all information and correspondence of the Mille Lacs Reservation Construction Company from Thomas Feierabend, former manager of the Mille Lacs Reservation Construction Company and Arthur Gahbow, Chief Executive. Undertake a thorough review of the books and all supporting documentation during the period May 1, 1980 - December 31, 1985 and determine whether any criminal activity occurred by any person (s) and whether any improper or inappropriate conduct occurred by any person (s) who may have unlawfully received any funds or services from the Mille Lacs Construction Company.

a. Determine if any criminal or civil charges may be properly filed with the Band Assembly, the Court of Central Jurisdiction or any other Court of competent jurisdiction.

b. Determine if there exists a legal mechanism to recover any said funds from any person (s).

c. Review the purchase agreement between Feierabend Construction Company and the Mille Lacs Band. Determine the disposition of all equipment purchased as of that date and all subsequent equipment purchases made with Construction Company funds. Determine legal ownership of all previous and existing equipment.

d. Determine if just compensation for the fair market value was received by the Construction Company for any sale of equipment.

7. Review all bid documents, contracts and subcontracts for all jobs of the Mille Lacs Reservation Construction Company to determine if any illegal or improper activity occurred by any person (s) connected thereto.

8. Conduct a thorough review of all business relationships between the Mille Lacs Band and any of its entities and G.J. Construction Company or Gerald Jurek.

9. Determine if Mille Lacs Reservation Construction Company funds were utilized to pay for personal items, property of expenses for any present or past elected or appointed officials or employee of the Mille Lacs Band or Construction Company.

10. Determine if a conspiracy existed between any person (s) to defraud the Mille Lacs Reservation Construction Company or the Non-Removable Mille Lacs Band of Chippewa Indians.

11. Determine if Thomas Feierabend received Construction Company funds in excess of twenty thousand dollars, pursuant to any contractual agreements, with said being justified as cost of living adjustment during 1983 or 1984, in compliance with the provisions of a contractual agreement for services between the Mille Lacs Band and Tom Feierabend.

12. Determine any accounts receivable of the Mille Lacs Reservation Construction Company arising during the period of May 1, 1980 - December 31, 1985.

13. Interview, through oral and written deposition any person who may have knowledge related to your charge as Special Prosecutor. Document exhibits which substantiate any allegations of wrong-doing brought to your attention.

14. Review all financial transactions of the Mille Lacs Reservation Construction Company held at Security State Bank of Aitkin, Minnesota including loans and certificates of deposit. Determine the source and disposition of all transactions in excess of five thousand dollars.

15. Prepare a written report of your Findings of Fact, Conclusions and Determinations supported by Exhibits. Present this report to the Band Assembly, with one copy to Chief Executive, Arthur Gahbow at the time designated herein. Codify all copies of the original report so as to protect the security of the document and the civil rights of each person who may be named therein. You shall not release this report to any other person without the prior expressed written consent of the Band Assembly unless you are obligated to do so pursuant to any legal Code of Ethics.

Part III Special Conditions

1. The Special Prosecutor shall present his final report to the Band Assembly no later than July 15, 1986 unless such time-line is extended at the formal request of the Special Prosecutor, by the Band Assembly.

2. The Special Prosecutor shall not disclose any information to any person during the inquiry. Monthly status reports shall be presented to the Band Assembly in closed session. Strict confidentiality and high standards of discretion shall be accorded by and to all persons connected herein so as not to prejudice any civil rights any person has or may have.

3. Powers of subpoena shall be reserved to the Band Assembly except in those matters which may involve a member of the Band Assembly. In this instance, the Special Prosecutor shall call upon the Solicitor General to petition any Associate Justice of the Court of Central Jurisdiction.

4. All Commissioners of the Non-Removable Mille Lacs Band of Chippewa Indians are hereby ordered to assist the Special Prosecutor in fulfilling the mandates of this Legislative Order.

5. The Special Prosecutor shall recommend to the Band Assembly such measures, be they policies or legislation as he shall judge necessary and expedite to protect the future interests of the Non-Removable Mille Lacs Band of Chippewa Indians.

6. The Solicitor General is hereby ordered and directed to assist the Special Prosecutor in any matter related to his charge, including but not limited to petitioning the Court of Central Jurisdiction for any appropriate relief deemed necessary by the Special Prosecutor in the performance of his official duties.

7. Notwithstanding the provisions of law of any other sovereign the Special Prosecutor shall first consider and weigh the laws, policies and procedures of the Non-Removable Mille Lacs Band of Chippewa Indians written or unwritten, prior to the issuance of any determinations in his written report.

Pursuant to the provisions of Band Statute 1002-MLC-2, Section 10.

IT IS SO ORDERED

DONE at Nay-Ah-Shing this 8th 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