



THE MILLE LACS BAND OF
OJIBWE INDIANS

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Office of the Solicitor General

Opinion of the Solicitor General

No. 41-18

June 21, 2018

Mandatory Involvement of the Solicitor General in Federal Investigations

Under 4 MLBSA § 18(d), the Solicitor General has the responsibility, obligation and authority on behalf of the Mille Lacs Band of Ojibwe to interpret all laws and executive, legislative, secretarial and commissioner's orders and policies on behalf of the Band. Under § 18(d)(1), such interpretations must be titled in the form of Opinion of the Solicitor, be consecutively numbered, and contain the official seal of the Band. Under § 18(d)(2), such opinions have the force of law and are binding until annulled by the Court of Central Jurisdiction or amended pursuant to legislative order of the Band Assembly.

This opinion is issued pursuant to the authority conferred upon the Solicitor General in 4 MLBSA § 18(d) and shall have the force of law subject to the conditions stated in § 18(d)(2).

Under 4 MLBSA § 16, the Solicitor General is the Interior Legal Counsel of the Band. Under 4 MLBSA § 19(a), the Solicitor General has "the duty of advocating whatever position [he or she] concludes is required by Band Statute in the event of any conflicts within the Executive and or between the Executive and Legislative branches of Band government." Under 24 MLBSA § 1054(b), the Solicitor General is "the Band's lead attorney" and "is responsible to all Mille Lacs Band of Ojibwe elected officials."

More specifically, under 4 MLBSA § 18(b), it is the responsibility of the Solicitor General "[t]o independently uphold the laws and executive, legislative, secretarial and commissioner's orders, judicial determinations, policies and *the*

terms of domestic assistance grants and contracts of the Band when consistent with the Constitution of the Minnesota Chippewa Tribe and the laws of the [Band]" (emphasis added). Further, under 4 MLBSA § 18(c), it is the responsibility of the Solicitor General "[t]o initiate *and defend* any legal action necessary, that is or can be brought in or against the name of the [Band], to uphold the provisions of the Constitution of the Minnesota Chippewa Tribe and the laws of the Band or to protect the rights of the enrolled members of the Band" (emphasis added). Under 24 MLBSA § 1054(d), the Solicitor General has "a duty to supervise investigations of potential violations of the law."

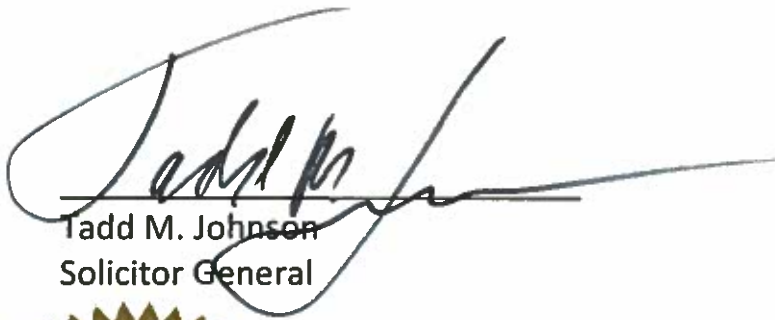
I have been informed that federal investigators commenced an investigation of the Band's 477 Program and that the investigation may be ongoing. I have also been informed that Band officials and/or Band employees may have communicated and may be continuing to communicate with the federal investigators without notice to the Office of the Solicitor General.

In order to fulfill the Solicitor General's responsibilities as described above in the context of the possible federal investigation of the Band's 477 Program or any other federal investigation of the Band, it is essential that the Solicitor General be informed of all communications by Band officials and Band employees with the federal investigators. The purpose of this requirement is not to stifle or limit the federal investigation of the Band's 477 Program or any other federal investigation of the Band in any way, but simply to enable the Solicitor General to fulfill his statutory obligations as the Band's lead attorney and to facilitate any bona fide investigation of the Band. The involvement of attorneys outside of the Office of the Solicitor General, even those retained by another branch or subdivision of Band Government, is not sufficient to satisfy this requirement.

Accordingly, no Band official or Band employee should communicate with federal investigators without prior notification to and authorization from the Office of the Solicitor General. This directive extends to and includes attorneys acting on behalf of Band officials or Band employees. Further, all inquiries and other requests for information from federal investigators should be referred to the Office of the Solicitor General, which will provide appropriate advice on how best to respond to the inquiry or other request for information. And, any Band official or Band employee that has previously engaged in communications with, or provided

documentation or any type of writing to, federal investigators shall immediately notify the Office of the Solicitor General and provide a copy of any written or electronically recorded communications.

Any Band official or Band employee who objects to the requirements set forth in this opinion may apply to the Court of Central Jurisdiction for a waiver. The Court of Central Jurisdiction may issue a waiver for good cause only based on evidence that compliance with the requirements set forth in this opinion will unlawfully interfere with the federal investigation or violate the rights of the Band official or Band employee.



Tadd M. Johnson
Solicitor General

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Date of Issuance

