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FEDERAL COURT

BETWEEN:

14922000 CANADA ASSOCIATION

Applicant

-and-

MISSISSAUGAS OF THE CREDIT FIRST NATION

Respondent

NOTICE OF APPLICATION (Pursuant to section 18.1 of the *Federal Courts Act*)

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules* information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

June 15, 2023

Issued by: _____
(Registry Officer)
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APPLICATION

This is an application for injunctive relief pursuant to sections 18 and 18.1 of the *Federal Courts Act*, R.S.C., 1985, c. F-7 for the Federal Court to Order the Band Council of the Mississaugas of the Credit First Nation to stay any enforcement of its recently introduced “Constitution” until a hearing regrading its constitutionality has occurred and/ or until the appeal to the Ratification Officer, Margaret Sault, by Kenneth Hughes, a Band Member of the Mississaugas of the Credit First Nation and the sole Director and owner of 14922000 Canada Association, of the voting process duly filed within 60 days of the ratification of the impugned Constitution has been heard and decided upon by the Ratification Officer.

The Applicant attempted to prevent the vote held by the Band Council on the impugned Constitution by filing an emergency motion in Ontario Superior Court (File number: CV-23-00000020-0000) but was unable to prevent the vote from occurring due to time constraints. That Motion was never heard. The vote occurred on April 22, 2023 with significant problems with the voting and notice requirements. At present, it is less than 60 days since the vote was ratified and the appeal duly filed by Kenneth Hughes was within the 60 day timeline, as is this Application.

THE APPLICANT MAKES APPLICATION FOR:

- a) An order compelling the Respondent Band Council to immediately cease any actions pursuant to the impugned legislation until a fulsome hearing can be held regarding the constitutionality of said legislation;
- b) An order that the Respondent Band Council be restrained from enforcing any sections of the impugned law against Band Members or prospective Band Members;
- c) A declaration that the Respondent, by introducing a Constitution without proper legal authority and in defiance of lawful attempts by the Applicant to

constrain this unlawful exercise of power, have violated the rights of Band Members of the Mississaugas of the Credit First Nation (MCFN), rights which are held pursuant to the *Charter of Rights and Freedoms (Charter)*, the *Indian Act*, the *Canada Elections Act*, and the *Indian Band Election Regulations*;

- d) An Order in the form of an interlocutory injunction restraining the Respondent from enforcing any section of the impugned legislation insofar as it relates to Band Members, other Nations, the Federal and Provincial governments of Canada, and any international government;
- e) An Order permitting the Applicant to access the legal research documents relied upon by the Respondent in creating the impugned legislation;
- f) An Order validating and abridging the time for service and filing the Notice of Application and the Application Record, or for substituted service or dispensing with service, if required;
- g) Its costs of this Application; and
- h) Such further and other relief that this Honourable Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE:

Interlocutory injunction to maintain status quo

1. The Respondent, Mississaugas of the Credit First Nation (MCFN), commenced a vote through the Band Council, for the purposes of introducing a *Constitution* which violates the terms of the *Indian Act* RSC 1985 c. I-5 as well as the *Constitution Act, 1867* 30 & 31 Vict c. 3 and the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.
2. The Chief of the MCFN has acknowledged in numerous social media and mainstream media that the purpose of the impugned legislation is to remove the MCFN from the *Indian Act* and to alter the method for determining status for Band Members.

3. MCFN had no lawful authority to introduce a law that violates the *Constitution Act*, nor did it have lawful authority to deviate from the powers granted to it as a Band Council via the *Indian Act*.
4. The Applicant here is an Association founded by a Member of the MCFN who previously expressed concerns regarding the lawful authority of this purported MCFN “Constitution” but who was denied the ability to make submissions or seek direction from the Federal government regarding the MCFN’s lawful authority to introduce this law.
5. The Applicant here attempted in good faith to delay the introduction of the impugned legislation to allow for fulsome Independent Legal Advice to be provided to the affected Band Members. The Court File Number of that Motion is CV-23-00000020-0000.
6. The Applicant seeks interlocutory and immediate declaratory relief and injunctive relief to prevent the MCFN from relying on the impugned law which effectively removes Indian Status for Members of the MCFN as a consequence of misleading statements made by the Council of the MCFN.
7. MCFN did not provide proper notice of this legislative process and did not provide independent legal advice to Members regarding the serious potential consequences of enacting a Constitution which removes MCFN from the rights associated under the *Indian Act* and constitutionalized by the *Royal Proclamation of 1763*, issued by George R, Proclamation, 7 October 1763, reprinted in RSC 1985, App II, No.1.
8. The only way for the Applicant Director, Kenneth Hughes, and other Members of MCFN to guard against the possibility of losing Indian Status is to pursue this application for declaratory and injunctive relief against the proposed law.
9. The Applicant seeks to maintain the status quo for MCFN while a fulsome legal assessment of the consequences of the impugned law is conducted by independent counsel.

10. The Respondent will not suffer prejudice should the introduction of the new law be postponed to allow for Band Members to be properly advised of the serious potential consequences if the law were to be introduced.
11. The Federal Court has the jurisdiction to hear this issue and grant a declaration under ss.18 and 18.1 of the *Federal Courts Act*.
12. The dispute is real and not theoretical since the Applicant cannot legally stop the Band Council from exercising illegal authority pursuant to this invalid "Constitution" and faces a potential loss of Indian status based on the powers made available to the Band Council through the Constitution. Even if a stay is granted, the procedural irregularities associated with the voting process will render the Constitution's ratification invalid.
13. The Applicant has a genuine interest in this dispute's resolution since the Applicant's Director, and all other Band Members, are facing a revocation of Indian status and potentially the loss of all benefits associated with status as a Band Member.
14. All Band Members also face the loss of ongoing litigation relating to land claims as a consequence of the impugned law.
15. The Applicant will rely on:
 - a. Sections 18 and 18.1 of the *Federal Courts Act* RSC 1985 c. F-7
 - b. Sections 18 and 18.1 of the *Federal Courts Act*, RSC 1985, c F-7;
 - c. *Federal Courts Rules*, SOR/98-106.
 - d. Extensive caselaw dealing with issues relating to the powers of Band Councils; and
 - e. Such further and other grounds as counsel may advise and this Court may permit.
16. The following documentary evidence will be used at the hearing of the application:
 - a. Application Record of the Applicant including but not limited to the affidavits of a number of Band Member witnesses as well as expert reports and the exhibits thereto;

- b. The Notice of Motion for Superior Court filed before the illegal vote on the impugned law;
- c. Materials gathered for the Superior Court motion;
- d. Factum and Book of Authorities of the Applicant;
- e. Such further and other materials as counsel may advise and this Honourable Court permit.



June 16, 2023

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