



REPORT TO LAYNE HELLRUNG
Legal Counsel
Cassels, Brock & Blackwell LLP

In this matter of

CONDUCT REPORT
ALLEGATIONS, FINDINGS, AND CONCLUSIONS

Submitted by Sarah Chamberlain,
Southern Butler Price LLP (the "Investigator")

June 23, 2021



Complaints and Process

I was asked to conduct an investigation (the “Investigation”) into allegations of potential misconduct by the President of the Métis Nation of British Columbia (“MNBC”), Clara Morin Dal Col, pursuant to the Conduct Report process under the Board Manual. I have taken into account the Oath of Office, Board Manual Policies, Human Resources Manual, Travel Policy, and the law when assessing these allegations. The Terms of Reference are attached as Exhibit 1.

President Morin Dal Col was suspended from her position by the Board of Directors (“BOD”) on or around January 11, 2021. The BOD members, excluding Susie Hooper, made the following allegations regarding President Morin Dal Col’s conduct:

- Conduct amounting to bullying and harassment and/or discrimination, including against:
 - Vera LeFranc;
 - Colette Trudeau; and
 - Daniel Fontaine;
- Failure to follow BOD motions, including:
 - March 4, 2020 motion;
 - April 16, 2020 motion;
 - October 16, 2020 motion;
 - November 23, 2020 motion; and
 - December 14, 2020 motions;
- Undermining the integrity of MNBC laws and processes, including:
 - Failure to post BOD expenses;
 - Continued involvement of Dale Drown in MNBC matters; and
 - Continuing to be involved in MNBC matters post-suspension;
- Breaches of confidentiality and privacy, including:
 - Review of VP Smith’s personnel file;
 - Sharing details of an ongoing BOD meeting with members of the public; and
 - Reviewing VP Smith’s MNBC citizenship file;
- Refusal to provide information to BOD members;



- Preferential interests to the Métis National Council (“MNC”) over those of MNBC;
- Misuse of MNBC finances, including:
 - Misuse of the MNBC credit card for personal expenses;
 - Payment of Mr. Drown’s WorkSafeBC Appeal;
 - Charging MNBC for a personal condo rental while also charging MNBC for per diems and expenses; and
 - Failure to return a 50-inch television that was provided to her by MNBC;
- Failure to comply with the *Conflict of interest Policy* disclosure requirements;
- Placement of herself in a conflict of interest by voting against disclosure of expenses during the previous BOD’s tenure;
- Disseminating letters on January 11, 2021 and January 15, 2021 that undermined the integrity of MNBC laws, processes, and BOD members; and
- Not resigning during the election as required by the *Election Act*.

I conducted virtual interviews with the following individuals:

1. Louis De Jaeger, BOD member;
2. Dean Gladue, BOD member;
3. Kate Elliott, BOD member;
4. Deborah Fisher, BOD member;
5. Paulette Flamond, BOD member;
6. Raynie Gervais, BOD member;
7. Shaughn Davoren, BOD member;
8. Lissa Smith, Vice President of the BOD;
9. Patrick Harriott, BOD member;
10. Susie Hooper, BOD member;
11. Daniel Fontaine, Chief Executive Officer (“CEO”) of MNBC;
12. Chris Gall, Legal Counsel for MNBC;
13. Colette Trudeau, Director of Operations of MNBC;
14. Vera LeFranc, former CEO of MNBC; and



15. Derek Robitaille, Assistant to President Morin Dal Col.

At the beginning of each interview, the participants were advised of the need for honesty and their obligation to maintain confidentiality of both the information that we shared and the fact that the Investigation process was occurring. Each participant acknowledged their understanding of both obligations.

I also received a significant volume of documentary evidence from the participants. Although I have reviewed all the evidence, I have only referred to evidence and documents that are required to make my findings of fact. All quotes are copied as written or spoken by the participants.

The majority of the evidence was consistent between the BOD members. The one exception was that Ms. Hooper provided some contradictory evidence and described President Morin Dal Col as her “*friend*” and said they were “*close allies*.”

Correspondence with President Morin Dal Col

Prior to my retention as Investigator, President Morin Dal Col had filed a civil claim on February 3, 2021 against MNBC with respect to her suspension, and applied for an injunction seeking to overturn her suspension (the “Civil Claim”). I was asked to correspond with President Morin Dal Col’s legal counsel (“Respondent’s Counsel”) rather than with President Morin Dal Col. I sent particulars of the allegations to Respondent’s Counsel on April 26, 2021. Pursuant to a request by Respondent’s Counsel, I provided further detailed particulars on May 17, 2021 and documents related to the Investigation on May 26, 2021. President Morin Dal Col was also offered the opportunity to access any documents she wished at the MNBC offices as of the week of May 17, 2021. President Morin Dal Col failed to respond to this offer and/or arrange a time to access her documents.

On June 4, 2021, Respondent’s Counsel indicated that President Morin Dal Col was dealing with a health issue and was unable to drive from her home to the Lower Mainland to access to the MNBC offices. I offered to arrange for Respondent’s Counsel to access the documents. On June 7, 2021, it was brought to my attention that new posts were uploaded to President Morin Dal Col’s personal website, detailing comments from President Morin Dal Col about two recent MNBC-related events. I wrote to Respondent’s Counsel indicating my concern that President Morin Dal Col appeared to be engaging in work while stating that she was unable to participate in the Investigation. I requested medical documentation to support her inability to participate and her prognosis by June 11, 2021. This information was not provided. I followed up with Respondent’s Counsel on June 14, 2021, indicating that I required by June 16, 2021 at noon either the medical documentation or President Morin Dal Col’s availability to access her documents that week. On June 16, 2021, Respondent’s Counsel wrote to me stating that President Morin Dal Col declined to participate in the Investigation.



I have received a copy of President Morin Dal Col's affidavits filed in the Civil Claim from Mr. Layne Hellrung, Legal Counsel and have relied on this sworn evidence where it relates to the allegations. President Morin Dal Col swore three affidavits in the course of the Civil Claim, dated February 24, 2021 ("Affidavit #1"), April 2, 2021 ("Affidavit #2"), and April 5, 2021 ("Affidavit #3").

Public Statements by BOD Members

President Morin Dal Col's Affidavit #1, and correspondence from Respondent's Counsel dated June 16, 2021, allege that other members of the BOD made public statements and/or internet postings regarding President Morin Dal Col's behaviour. This allegation is not within the scope of my Investigation and has not been considered further.

Undisputed Evidence / Findings of Fact

A significant portion of the evidence was not disputed amongst the participants or through President Morin Dal Col's affidavits.

Background

The BOD is comprised of the President, Vice President, seven Regional Directors, and two Provincial Chairs (one representing Métis Women and one representing Métis Youth). The current BOD was voted into office in 2020 and members began their four-year terms in or around September 2020.

Vice President Smith ("VP Smith"), President Morin Dal Col, Ms. Hooper and Mr. Gervais are the only current members who also sat on the BOD during the 2016 to 2020 term.

As part of her responsibilities as President, President Morin Dal Col was assigned national portfolio work with the MNC. The MNC is comprised of the Manitoba Métis Federation ("MMF"), Métis Nation-Saskatchewan, Métis Nation of Alberta, MNBC and the Métis Nation Ontario ("MNO").

There is currently an ongoing dispute at the national level regarding the appropriate definition of 'Métis', and with respect to registry requirements. MNC attempted to suspend MNO, and the legality of this suspension is currently before the courts.

On January 11, 2021, a BOD meeting was called and a motion was presented to remove President Morin Dal Col from leading the national portfolio. President Morin Dal Col did not attend this meeting.

While the BOD members were conducting the January 11, 2021 meeting, a letter written by President Morin Dal Col was sent out to MNBC Citizens and posted on social media (the "January 11 Letter"). The Letter states, in part:



Members of the MNBC Board have put forward a motion that proposes to remove key national level responsibilities from me as the duly elected and constitutionally elected President of Métis Nation British Columbia.

This is not even a thinly disguised move but in fact a very blatant attempt to end the suspension of Métis Nation Ontario (MNO) from the Métis National Council (MNC), by attempting to replace me as President of Métis Nation British Columbia with the MNBC Vice-President on the MNC Board of Governors.

...

In December 2020 nine members of the MNBC Board (VP Lissa Smith, Patrick Harriott, Louis De Jaeger, Dean Gladue, Debra Fisher, Raynie Gervais, Paulette Flamond, Dr. Kate Elliott and Shaughn Davoren) passed motions directing me take certain steps to end the suspension of the MNO.

Just three and half months ago, I was re-elected as President of MNBC and I was given another strong mandate to continue my leadership of Métis Nation British Columbia and to continue to defend the interests of the Métis Nation and our people. I was not re-elected to cave-in to pressure from these nine members of the MNBC Board and to let non-Métis people take over our nation. I will never support allowing that to happen because the critical interests of our true Métis Citizens will be seriously weakened. Allowing non-Métis into our Nation has serious implications for our governance and our potential funding.

Not one of these nine members of the Board has a mandate from our Citizens to go against the decision of the MNC General Assembly and cancel the MNO suspension. How dare they pull a stunt like this?

...

As President of MNBC, I sit on the Board of Governors of MNC on behalf of the Citizens by virtue of the MNC Bylaws, and I was appointed to my portfolios at the national level by President Clément Chartier – not by this group of nine.

I also want you to know that this same group of nine in December wanted to raise their salaries as members of the Board. They had already voted in October, just after being elected a month earlier, to give each of themselves a \$7500 salary increase from the previous Board. Their demand in December for a further increase in salary would have meant a 170% increase in compensation for Board members since being elected. I pushed back, as did Director Susie Hooper, because I said it was not at all right for them to be grabbing for increased salaries when so many of our Citizens are barely coping financially with the fall-out of the Covid-19 pandemic. They were not pleased with our push-back, but very reluctantly agreed to put it off until more research on salaries could be done.

And I have also run into strong resistance from this group of nine for wanting to live-stream our Board meetings. In the interests of openness, transparency and accountability, I have been wanting to live-stream our meetings so that any MNBC Citizen anywhere can tune in on the internet and see how we do business of the Nation. They have been strongly resisting this move.

Quite frankly, I am growing tired of the antics of these nine individuals. This latest move of theirs to remove me from the MNC Board of Governors and my responsibilities at the



national level on behalf of Métis Citizens just so that they can allow non-Métis in Ontario into our Nation is unconstitutional, contrary to the Bylaws of MNC and is just plain wrong.

To address the issue of MNO and allowing non-Métis into our Nation, I propose holding a referendum of our MNBC Citizens and giving you the opportunity to tell us how to proceed. Please let me know your thoughts by emailing me at cmdalcol@gmail.com

Copies of unapproved Board minutes from November 23, 2020 and December 14, 2020 were also posted online.

On January 15, 2021, another letter written by President Morin Dal Col was sent out to MNBC Citizens and posted on social media (the “January 15 Letter”). The Letter states, in part:

... I have received several hundred emails already and more are coming in every day expressing support for my position regarding Métis Nation Ontario’s (MNO) suspension from the Métis National Council (MNC) because of them allowing non-Métis to be registered as Métis Citizens. You have also communicated very clearly your outrage at the move taken by the Group of 9 on the MNBC Board of Directors to remove my national responsibilities from me as your President, and have the MNBC Vice President Lissa Smith assume my national Ministerial roles and replace me on the Métis National Council (MNC) Board of Governors.

The constant message that runs throughout the emails is that non-Métis should not be part of our Métis Nation and there is a real fear that this move by the Group of 9 would also lead to non-Métis coming into MNBC. There is very strong support for my suggestion of putting the question to MNBC Citizens through a referendum.

Many of you also say in no uncertain terms – how dare this Group of 9 try and remove my responsibilities which in effect is overturning the electoral decision of the MNBC voters of just over three and a half months ago. Some have even called it a coup and hostile takeover. And you are asking how can we deal with them?

...

The latest move by this Group of 9 since my last email to you is to attempt to limit my ability to send out communications to you. I have absolutely no intention of giving in to such intimidation and bullying tactics. As President I will communicate with our Citizens when I so choose to because you have every right to know what is going on.

...

The Group of 9 wants the suspension of MNO from the MNC to be voided which if allowed to happen would in effect condone MNO’s registering individuals who do not meet the national definition of Métis. This is the same position taken by what is called the Tri-Council, an organization established in January 2020 by Métis Nation Alberta, Métis Nation Saskatchewan and Métis Nation Ontario. The Group of 9 supports that position. I will not.

Going forward, based on your feedback, I am calling for:

- *A referendum question on the MNO issue to be held by mail-in ballot to all MNBC Citizens no later than April 15, 2021*



- *A referendum question to be held by mail-ballot to all MNBC Citizens no later than April 15, 2021 on the question of being able to recall members of the Board of Directors who pursue such issues as salary increases, and other issues that are counter to the interests of MNBC Citizens and were not part of their mandate from the last election; and*
- *Each current MNBC Board member to provide a copy of their genealogy by January 31, 2021 that fully meets the national definition of Métis, as verified by an independent 3rd party.*

Again, thank you so much for all of your support. During these challenging times, it makes me proud to be your President. Please continue to let me know your thoughts by emailing me at cmdalcol@gmail.com

On January 18, 2021, the BOD passed a motion suspending President Morin Dal Col from her position on the BOD.

Conduct Amounting to Bullying and Harassment and/or Discrimination

Behaviour Towards Vera LeFranc

Ms. LeFranc was hired as CEO in or around May 2019. Shortly before her start date, President Morin Dal Col and Dale Drown, then CEO of MNBC, met with Ms. LeFranc and told her that one of the “*first orders of business*” was to fire Ms. Trudeau, Tracy Thornhill (Office Manager) and Wade Katernick (Technical Support and Facilities Coordinator). Ms. LeFranc determined these terminations were not warranted and could not be justified as for-cause terminations. President Morin Dal Col did not want to accept Ms. LeFranc’s assessment, so continued to pressure her to terminate these staff members. President Morin Dal Col yelled at Ms. LeFranc and other staff members on multiple occasions. President Morin Dal Col told Ms. LeFranc on several occasions that Ms. LeFranc could not understand something or would not know something because she was “*not Métis.*” President Morin Dal Col repeatedly threatened Ms. LeFranc’s job security by referring to the fact that she was still within her probationary period and implying that her job could be terminated at any time.

Ms. LeFranc’s job was terminated during her probationary period, and she filed a WorkSafeBC complaint; I was informed by Mr. Gall that this was not resolved. I am not aware of any findings of fact or active investigation by WorkSafeBC.

Behaviour Towards Colette Trudeau

President Morin Dal Col sent Ms. Trudeau an email on March 4, 2020 asking when she was going on maternity leave. Ms. Trudeau responded stating that her tentative date for maternity leave was April 3, 2020. Ms. Trudeau sent a follow-up email to Mr. Gall on April 1, 2020 stating that she was postponing her leave date to April 13, 2020. On April 3, 2020 at approximately 4:30pm, Ms. Trudeau suddenly lost access



to her MNBC email and systems. She spoke with Mr. Gall who told her that he had not requested her access be removed, and told her that it must have been President Morin Dal Col's action.

Mr. Gall spoke with an IT Department representative who told him that President Morin Dal Col instructed them to shut down Ms. Trudeau's access, and they would not reverse the decision without the President's instruction, which she did not provide. Ms. Trudeau had to work for a week without proper access to her email or other MNBC systems.

Behaviour Towards Daniel Fontaine

President Morin Dal Col pressured Mr. Fontaine to fire certain MNBC staff members, including:

- **Chris Gall**, Chief Public Affairs Officer;
- **Colette Trudeau**, Director of Operations;
- **Anna Maione**, Senior Director of Finance;
- Colleen Hodgson, Senior Director of Education and Early Learning;
- **Tanya Davoren**, Senior Director of Health;
- Vanessa Masters, Senior Director of Human Resources; and
- **Tracey Thornhill**, Office Manager.

The staff noted in bold were identified by President Morin Dal Col as a "*top priority*" for termination of employment and were the staff she regularly (on a weekly basis) spoke to Mr. Fontaine about firing. President Morin Dal Col referred to Ms. Hodgson and Ms. Masters less often, but President Morin Dal Col stated that they "*were not loyal to her*" and "*needed to go.*"

Failing to Follow Board of Director ("BOD") Motions

March 4, 2020 Motion

On or around March 4, 2020, the BOD minutes demonstrate that the BOD passed the following motion:

... all future issues with respect to the Métis Nation Homeland, Citizenship, or conduct of Métis Nation Governing Members – which are of fundamental importance to the future of the Métis nation as a Nation and are, therefore, of too great of importance for individual MNBC Board Members to act unilaterally – be discussed and deliberated by all MNBC Board members prior to decision-making at either the Métis Nation General Assembly or Board of Governors.



President Morin Dal Col failed to provide the BOD members with any updates regarding her work with the MNC or on any national Métis issues from September 2020 to the date of her suspension.

October 16, 2020 Motion

The BOD minutes indicate that a motion was passed “*requiring retention of an outside consultant*” to “*look into the 5 Métis governments around Canada and compare wages, and expenses.*”

There is no deadline in the motion for the retention of the consultant. There is no evidence that President Morin Dal Col took any steps to retain the consultant.

November 23, 2020 Motion

The BOD minutes indicate that a motion was passed with respect to providing COVID-19 grants to the Métis Financial Corporation of BC (“MFCBC”), specifically:

THAT no later than Monday, November 30th the Métis Financial Corp of BC will be transferred by MNBC Staff a total of \$500,000 worth of COVID-19 grants up to \$10,000 per Métis business with administrative fee of 10%.

Mr. Fontaine was instructed to provide the grants, but due to administrative hurdles, the grants were not provided by the deadline provided in the motion.

December 14, 2020 Motions

The BOD minutes indicate that motions were passed requiring President Morin Dal Col to call for a meeting of the MNC to discuss the end of the MNO suspension. Specifically:

a) That the MNBC Board of Directors is in support that the suspension of the Métis Nation Ontario be removed prior to the next Board of Governors meeting and Métis National Council Assembly.

Further resolved, THAT the MNBC Board of Directors calls for the Métis National Council to convene a Board of Governors Meeting via electronic teleconference by January 15, 2021.

Further resolved, THAT the MNBC Board of Directors calls for the Métis National Council to convene a National Assembly in which a vote for Métis National President is held via electronic teleconference within 60 days.

....

b) Further Resolved THAT the MNBC Board of Directors directs the MNBC President or the MNBC Vice President to officially call for the Métis National Council to convene a Board of Governors Meeting via electronic teleconference within 15 days.

Further resolved THAT the MNBC Board of Directors directs the MNBC President or the MNBC Vice President to officially call for the Métis National Council to convene National



Assembly to finish the deliberations regarding the MNO as was set out in the resolution dated September 2018, and in which a vote for Métis National President is held via electronic teleconference within 60 days.

VP Smith followed up with President Morin Dal Col by email on December 29, 2020 and January 7, 2021 requesting information on the President's actions to comply with the motions. President Morin Dal Col responded that she had sent a copy of the motions to the MNC on December 17, 2020.

Ms. Hooper said she was concerned that a meeting of the BOD was called on January 11, 2021 to address President Morin Dal Col's apparent failure to comply with the December 14, 2020 motions, given that it was her understanding that President Morin Dal Col had until January 15, 2021 to do so. Although the language is somewhat unclear, upon review of the motions, I conclude that Motion b) states that within 15 days of December 14, 2020 (so by December 29, 2020), President Morin Dal Col or VP Smith must call for the MNC to convene the Board of Governor Meeting, and Motion a) calls for the MNC to actually convene the Board of Governors meeting by January 15, 2021.

Undermining the Integrity of MNBC Laws and Processes

Failure to Post BOD Expenses

President Morin Dal Col instructed Mr. Fontaine not to post BOD member expenditures before the election in 2020.

Continued Involvement of Dale Drown in MNBC Matters

Article 13.1 of the BOD Minutes from the March 22-24, 2019 Métis National General Assembly ("MNGA") state, *"The former CEO was no longer employed with MNBC; the MNBC President would confirm such in writing to the MNGA members."*

Ms. Flamond and Mr. Davoren attended a national health meeting in December 2020. Mr. Drown announced that President Morin Dal Col was on an international call, and that she had asked him to ask a couple of questions related to vaccines.

I was provided with copies of email messages from Mr. Drown's former MNBC email account, demonstrating that he received a copy of the MNBC budget submission to MNC from Marc LeClair (Chief Negotiator, MNC) in April 2021.



Continuing to be Involved in MNBC Matters Post-suspension

President Morin Dal Col attended a Parks Canada meeting with the federal government on March 4, 2021 at which she provided opening remarks as MNBC President, and a MNBC Health meeting on March 5, 2021.

I was provided with copies of documentation demonstrating that Respondent's Counsel wrote to the Royal Bank of Canada ("RBC") on January 27, 2021, putting them *"on notice of MNBC governance matters that impact certain MPCBC [Métis Provincial Council of BC] financial and banking matters with the Royal Bank of Canada,"* and stating that *"any decisions of the boards of MNBC and MPCBC"* taken in her absence may be *"unlawful and subject to invalidation."*

Breaches of Privacy and Confidentiality

Reviewing VP Smith's Personnel File

In or around December 11, 2020, President Morin Dal Col instructed Mr. Robitaille to scan a large package of documentation related to VP Smith's personnel file and email it to her. Mr. Robitaille complied with this request.

Preferring Interests of MNC over those of MNBC

Mr. Harriott requested a briefing on MNC matters from President Morin Dal Col, which did not occur.

On December 4, 2020, President Morin Dal Col organized a virtual meeting with the President of MNC to discuss the suspension of MNO; however, there was no discussion of MNBC's position on the suspension.

I was provided with a copy of an email message dated March 11, 2021, demonstrating that President Morin Dal Col was copied on an email message from Mr. LeClair regarding a request from Mr. Gall to receive a copy of the MNC budget submission. Mr. LeClair asked the email recipients, including President Morin Dal Col, how he should respond to Mr. Gall's request. President Morin Dal Col was suspended at this time and not supposed to be involved in MNBC matters, addressed above.

In or around early January 2021, President Morin Dal Col told Mr. Robitaille that she had a plan along with MNC to create a *"National Card"* and would stop funding from going to MNBC.



Misuse of MNBC Finances

Use of MNBC Credit Card for Personal Expenses

Mr. Fontaine indicated that President Morin Dal Col was supposed to use the credit card for MNBC-related expenses, not personal expenses. While reviewing the financial records, I noted several expenditures that appeared unrelated to President Morin Dal Col's position as President. A detailed list of the charges is found at Exhibit 2, and includes charges to rvezy.com (an RV rental site), Amazon prime membership fees, and Bed Bath and Beyond. There is no evidence President Morin Dal Col reimbursed MNBC for these charges.

President Morin Dal Col was supposed to reimburse MNBC for travel related to MNC business. I identified a number of charges on President Morin Dal Col's credit cards that occurred outside of BC and it was not clear whether these were related to MNC or other travel.

President Morin Dal Col did not submit her expenses to Mr. Fontaine for approval as required by the *Travel Policy*.

Paying for Mr. Drown's WorkSafeBC Appeal

The documentation establishes that MNBC retained a lawyer in regards to WorkSafeBC and Workers Compensation Appeal Tribunal ("WCAT") issues from July 2019 to February 2021, including related to submissions and an appeal related to a complaint against Mr. Drown by a former staff member.

Mr. Fontaine provided evidence that the payment was authorized by the former BOD.

Failure to Comply with the Conflict of Interest Policy Disclosure Requirements

The BOD made a request on May 19, 2021 for disclosure of whether any third parties paid any or all of President Morin Dal Col's legal fees related to the February 3, 2021 action filed against MNBC and the related injunction, pursuant to an inquiry under the *Conflict of Interest Policy*. President Morin Dal Col sent a letter to VP Smith on May 24, 2021 stating that she did not intend to provide any disclosure.

Not Resigning During Election as Required by the Election Act

There was an allegation raised that President Morin Dal Col ought to have resigned her position during the previous election, but did not and continued to receive a salary. I reviewed the *Election Act* and was unable to find a provision requiring President Morin Dal Col to step down during an election process.



Disputed Evidence

Failure to Follow BOD Motions

April 16, 2020 Motion

The BOD minutes demonstrate that the BOD passed a motion on or around April 16, 2020 stating, *“That all communications be sent to the Board of Directors before being sent out publicly including to the communities.”* Several BOD members alleged that President Morin Dal Col had failed to provide them with communications before they were released to the public, and/or failed to provide them with the opportunity to provide meaningful input and feedback prior to release.

Dr. Elliott, Ms. Hooper, Mr. Harriott, Ms. Flamond, and Mr. De Jaeger said that on or before November 6, 2020, President Morin Dal Col sent a letter to Premier John Horgan about renaming the Pattullo Bridge, asking that it be renamed to “Reconciliation Bridge” or named after a local Indigenous person or using a local Indigenous word for the bridge, and that they were not informed of this communication beforehand.

Dr. Elliott, Mr. Harriott, Mr. Davoren, and Ms. Flamond alleged that on or around October 1, 2020, President Morin Dal Col authorized the publication of the “Tale of Two Nations” report without any or adequate consultation with the BOD. They stated they were provided with an initial draft but not given a reasonable opportunity to provide input, and the final report was issued without their approval.

Mr. Fontaine said he became aware that President Morin Dal Col had posted on her personal webpage on March 2, 2021 an announcement that MNBC made a federal budget submission to MNC for 2021. Mr. Fontaine said he and the BOD did not receive a copy of this budget submission until after President Morin Dal Col’s suspension.

Ms. Hooper agreed that, at times, news releases had been released, primarily around COVID funding, of which she was not aware. She said that there were a *“couple of times”* that President Morin Dal Col did not inform the BOD before statements were released, such as with the Pattullo Bridge. She said she had *“no problem with it.”* She also stated that the “Tale of Two Nations” was an *“excellent report,”* and she was *“glad it went out.”*

Evidence from Affidavits

In Affidavit #2, President Morin Dal Col stated that the *“majority”* of communications sent out to Citizens were shared with the BOD in advance, but that at times, due to COVID-19, there was *“urgent need”* to get information out, and BOD members received their copy of a communication at the same time as Citizens. She said these were specifically about emergency COVID-19 funding.



Breaches of Confidentiality and Privacy

Sharing Details of an Ongoing Board Meeting with Members of the Public

During the January 18, 2021 BOD meeting, Don Courson, a member of the public, posted on social media that there were members of the BOD in the President's office who were shredding documents and that a "coup" was taking place. Members of the BOD alleged that President Morin Dal Col shared details of the meeting while it was occurring with Mr. Courson.

Evidence from Affidavits

Mr. Courson provided an affidavit in the court proceedings stating that President Morin Dal Col wrote to him stating that she was "just having a meeting."

Affidavit #2 indicated that President Morin Dal Col responded to Mr. Courson's text message on January 18, 2021 to say she was in a meeting.

Reviewing VP Smith's MNBC Citizenship File

Mr. Fontaine said that President Morin Dal Col told him verbally and by email that she had seen a copy of VP Smith's MNBC Citizenship application file and requested he provide her with a physical copy.

VP Smith said that calling into question someone's citizenship and/or the integrity of the MNBC registry was a serious matter, and was key to ensuring funding from government partners.

VP Smith said she had spoken with Mr. Gall and understood that an outside expert had reviewed her citizenship file and confirmed that she was Métis.

Mr. Gall said President Morin Dal Col told him that she had seen a copy of VP Smith's file and that she had a copy of it. Mr. Gall agreed that he had VP Smith's file vetted by an external genealogist and that it was confirmed VP Smith was Métis.

Evidence from Affidavits

In Affidavit #2, President Morin Dal Col stated that Citizens had informed her they were concerned that VP Smith and/or other BOD members did not meet MNBC's citizenship requirements, and that she proposed that all BOD members have their credentials reviewed by an independent and professional third-party genealogist as a result.

Refusal to Provide Information to BOD Members

Dr. Elliott, Mr. De Jaeger and Mr. Harriott alleged that President Morin Dal Col told BOD members that they were not to speak with staff members unless she was also present.



Mr. Harriott said that as Treasurer, he requested copies of the MNBC budget but was not provided with it.

Mr. Fontaine said that President Morin Dal Col instructed him not to provide Mr. Harriott with the fulsome MNBC budget. He said President Morin Dal Col stated that she believed Mr. Harriott was “*spying*” for the BC Métis Federation (“BCMF”) and she said she had seen a photograph of Mr. Harriott at a BCMF event. He said that President Morin Dal Col told him she only wanted Mr. Harriott to receive the same information that the last Treasurer had received, which was a very high level budget. Mr. Fontaine said he did not have any concern with providing Mr. Harriott the full budget provided he was aware of the sensitive nature of the information.

Mr. Fontaine said that he had told President Morin Dal Col around the time of the 2020 election that he would prepare briefing notes for the BOD members, but she instructed him not to provide the BOD with that information and stated that all information going to the BOD had to come from her. Mr. Fontaine said that President Morin Dal Col told her the BOD members were not “*smart enough*” to receive information, and it would “*leak out*.”

Mr. Gall and members of the BOD said they became aware that MNBC had participated in a budget submission to the federal government through the MNC but were not provided a copy of any of the information prior to the President’s suspension.

Ms. Hooper said that she had a good rapport with the two senior staff members who were responsible for the matters in her portfolio, and she had “*no difficulty talking to them*.” She said she had not been told by President Morin Dal Col that she could not speak with staff directly. Ms. Hooper said that she was concerned that the budget request sent to MNC was not provided to them.

Evidence from Affidavits

Affidavit #2 stated that there were large amounts of briefing material prepared to go to the BOD members but that President Morin Dal Col did not vet the material. She alleged that she believed Mr. Fontaine was going to be providing the material to the BOD.

In Affidavit #2, President Morin Dal Col denied that she told Mr. Fontaine he had to run information requests through her before responding and denied that she told him he could not provide the annual budget to Mr. Harriott. She stated that she suggested he provide the same amount of information in the same format that he had in the past. She alleged that Mr. Fontaine told her he would prefer not to provide the full budget to the BOD showing the project surplus as it would “*give the Board more arguments in support of their position that MNBC Board member salaries should increase*.”

In Affidavit #2, President Morin Dal Col stated that MNBC funding was based on a formula that had been in place for 15 years. She stated that the MNC “*takes the lead*” on submissions to the federal government



but received input from each member on their needs. President Morin Dal Col said that the budget submission was prepared by MNC and she was not involved in its finalization.

Misuse of MNBC Finances

Condo Rental / Failure to Return a Television

VP Smith alleged that during the previous term (2016 to 2020), President Morin Dal Col was permitted to rent a condo for personal use with the understanding that she would not charge for per diems and other expenses when she travelled to the Lower Mainland for MNBC business. VP Smith said that she was on the Executive Board at the time the condo was rented for President Morin Dal Col and she was not informed prior to the decision and not given the opportunity to provide input.

Mr. Gall said there was an “operational decision” made by President Morin Dal Col and Mr. Drown when Mr. Drown was CEO, and it made sense financially as a cost saving measure for President Morin Dal Col to rent the condo.

Mr. Fontaine said that President Morin Dal Col told him she was eligible for per diem expenses. Mr. Fontaine said that President Morin Dal Col did not allow anyone else on the BOD to approve her expenses – they were sent directly to the Finance Manager for reimbursement.

Ms. Hooper said that she could not recall when the condo decision was brought to the Board but said she “didn’t question it” and did not know all the details. Ms. Hooper said she recalled that there was information presented to the Board that it was cheaper to rent the condo than to pay for hotels and per diems for President Morin Dal Col’s travel to the Lower Mainland.

The condo lease is dated November 1, 2018. I was given copies of President Morin Dal Col’s expense submissions, and identified a number of per diems and/or expenses for travel in the Lower Mainland between January 7, 2019 and December 15, 2020. Full copies of the per diem charges are attached at Exhibit 3.

VP Smith said that she was aware there had been a 50-inch television in the condo but when they arrived to clean out President Morin Dal Col’s condo after her suspension, there was only a 32-inch television in the apartment.

Evidence from Affidavits

President Morin Dal Col stated in Affidavit #2 that the decision to rent the condo was communicated to the Executive Board after a discussion with then CEO, Mr. Drown, as a cost-saving measure.



Voting against Disclosure of Expenses During the Previous BOD's Tenure

VP Smith alleged that President Morin Dal Col voted against disclosure of expenses related to her condominium in the 2016-2020 term, and they were not disclosed at the time. I requested copies of the BOD minutes but they were not provided.

January 11 and 15 Letters and Social Media Posts

Mr. Robitaille said that President Morin Dal Col instructed him to disseminate the January 11 Letter and the January 15 Letter to the BOD and to MNBC Presidents and Citizens. He also provided email messages indicating that Nick Hosseinzadeh, Associate Director, Communications & Stakeholder Relations, posted the letters online, including to social media.

Mr. Robitaille said that President Morin Dal Col instructed him to email her a copy of the November 23, 2020 Board Salary Motion and the December 14, 2020 Board Salary Motion. He provided copies of the email messages he sent to President Morin Dal Col attaching the motions. Mr. Robitaille said that he was asked by President Morin Dal Col to convert the files to jpeg as the original formatting would not post to Facebook.

Evidence from Affidavits

Affidavit #1 stated that President Morin Dal Col released the January 11 Letter because she felt it was important to provide an update to Citizens about the re-assignment of her national responsibilities. She stated that she also felt it was important to be more transparent about BOD decisions.

President Morin Dal Col stated in Affidavit #1 that her January 15 Letter was sent in part to provide Citizens with some of the background concerning the suspension of MNO from the MNC. She also stated that in order to resolve the dispute between herself and other BOD members about the proper definition of Métis and the issue with MNO, that the MNO issue be put to MNBC Citizens by referendum.

President Morin Dal Col stated in Affidavit #1 that she had never publicly released or shared confidential information from in-camera BOD proceedings.

Affidavit #2 stated that President Morin Dal Col did not request the posting of any excerpts from any BOD minutes on Facebook on January 11, 2021 and that *"posting of any excerpts was done without [her] knowledge."*

Assessment of Credibility

Where there were material facts in dispute, in assessing credibility, I have applied the test set out by the British Columbia Court of Appeal in the case of *Farnya v. Chorny* [1952] 2 D.L.R. 354, which is as follows:



The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanor of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of the witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions. Only thus can a Court satisfactorily appraise the testimony of quick-minded, experienced and confident witnesses, and of those shrewd persons adept in the half-lie and of long and successful experience in combining skilful exaggeration with partial suppression of the truth.

In my assessment of the evidence of those interviewed, applying this legal test, and in consideration of the documentary evidence in this case, I find the members of the BOD, Mr. Gall, Mr. Fontaine and Mr. Robitaille credible. The majority of the evidence was undisputed by President Morin Dal Col, and was internally consistent amongst the participants. I am cognizant that there is a significant history of tension between several of the BOD members and President Morin Dal Col. However, I find that even Ms. Hooper's evidence about the material issues did not significantly differ from the remainder of the BOD members; rather, only her perception about some of the events and whether the conduct was inappropriate differed.

Although President Morin Dal Col refused to participate in the Investigation, I find that I have concerns about her credibility based on her affidavits and the documentary evidence provided to me. President Morin Dal Col testified that she was not aware that the January 11 Letter and January 15 Letter were posted online, but I was provided with copies of email messages from Mr. Robitaille and Mr. Gall on January 15, 2021, copying President Morin Dal Col, indicating that President Morin Dal Col had directed that the correspondence be distributed, and instructing Mr. Hosseinzadeh and staff to post the January 15 Letter on the MNBC website and on social media accounts, and to send it through mail chimp "like the previous letter" (referring to the January 11 Letter). If President Morin Dal Col had not instructed her staff members to post this information, I fail to understand why she would not have informed Mr. Fontaine of this and sought to have them reprimanded. I have also been provided with other email communication between President Morin Dal Col and Mr. Robitaille in which President Morin Dal Col provided Mr. Robitaille with drafts of the two letters, and Mr. Robitaille provided copies of the BOD minutes that were attached to the letters.

I was also provided with documentation indicating that President Morin Dal Col said she had seen a copy of VP Smith's citizenship file, indicating that her statement in her affidavit that "citizens" had informed her they were concerned about VP Smith's genealogy at minimum omits her own concerns, and attempts to undermine VP Smith's citizenship status.

In sum, I have accepted the evidence of the other Participants over that of President Morin Dal Col.



Findings of Fact

As the majority of the evidence was undisputed, and based on my credibility findings in favour of the evidence of the participants, I have accepted that President Morin Dal Col engaged in the conduct described by the participants and outlined in the *Undisputed Evidence* section of this report.

I make the following findings regarding the allegations discussed in the *Disputed Evidence* section of this report.

April 4, 2020 Motion:

I find that there were several communications made to the public at the same time as provision to the BOD, including about renaming of the Pattullo bridge and COVID-19 measures. I find that President Morin Dal Col provided the BOD with a draft copy of the “Tale of Two Nations” but there was no formal consultation before a final draft was provided publicly.

Sharing Details of BOD Meeting with Members of the Public

I find that during the January 18, 2021 BOD meeting, President Morin Dal Col sent a text message to Mr. Courson and told him there was a meeting occurring.

Reviewing VP Smith’s MNBC Citizenship File

I find that President Morin Dal Col attempted to view VP Smith’s MNBC citizenship file and called into question her Métis citizenship.

Refusal to Provide Information to BOD Members

I find that President Morin Dal Col instructed Mr. Fontaine not to provide information to the BOD members without reviewing with her first.

I find that President Morin Dal Col was involved in the preparation of the MNC budget submission at minimum by providing information about MNBC’s financial needs and budget request. I find that President Morin Dal Col did not provide the BOD with information about MNBC’s budget requests to MNC.

Misuse of MNBC Finances

I find that President Morin Dal Col was authorized by the previous CEO to rent a condominium for personal use, but on the expectation that she would not also charge for per diems or expenses when she was working in the Lower Mainland. In the absence of evidence to the contrary, I find she was reimbursed for a number of per diems when she was working on the Lower Mainland. I conclude there is insufficient



information to establish that President Morin Dal Col failed to return or took a 50" TV from her condominium. The TV could have broken and been replaced with a model of a different size.

Voting against Disclosure of Expenses During the Previous BOD's Tenure. Given that I am unaware of the specific motion or vote requested, I find that there is insufficient evidence to establish that President Morin Dal Col placed herself in a conflict of interest regarding this vote.

January 11 and 15 Letters and Social Media Posts

I find that President Morin Dal Col instructed staff members to post the January 11 Letter and the January 15 Letter online, including to social media, as well as sending them out to MNBC Citizens. These letters included copies of the BOD minutes.

Policies

Oath of Office

The Oath states, in part:

I will in all things to be treated, debated and resolved in Cabinet faithfully, honestly and truly declare my mind and my opinion. I shall keep secret all matters committed and revealed to me in this capacity.

...

I will carry out my duties, obligations and responsibilities in a manner that will bring honor to the Métis Nation.

Board Manual

Board Structure

The Board governs as a collective. All decisions are made by motions at a duly convened meeting of the Board of Directors or a Committee of the Board. The Board speaks with one voice.

..

Role of the Board of Directors

...

3. Has ultimate authority and responsibility for the operations and policies of the MNBC.

..



5. Reviews, directs changes to, and approves operational plans, budgets, policies and reports for the MNBC, its departments, Regions and affiliated Locals.

Expected Standard of Care

The Métis Nation British Columbia (“MNBC”) Constitution recognizes that the members of the MNBC Board of Directors have a fiduciary relationship and duty to all Métis Citizens and that a breach of that relationship and duty will result in being disqualified as a member of the MNBC board of directors. The members of the Board of Directors for the MNBC are expected to conduct themselves in a manner which exemplifies their status as leaders and role models for all Métis Citizens.

...

Board Executive Committee Responsibilities

...

President/Chair of the Board

1. Is responsible for the effective governance of the MNBC and for carrying out the wishes of the Board of Directors in relation to the direction and management of the MNBC.

...

3. Ensures that directives and/or resolutions of the Board Members are carried out.

4. Is the primary spokesperson for the organization.

Senior Management Terms of Reference

The Métis Nation British Columbia believes there is a clear distinction between Governance (a Board role) and Management) a staff role....

...

3. No individual Member of the Board has the authority to direct the activities of staff either in Head office or in the Regions of the MNBC.

Human Resource Manual

Conflict of Interest Policy

1. Board of Directors and staff members are expected to arrange their private affairs so that no possible conflict of interest exists...

...

2. Upon recognizing the potential for conflict of interest, Board of Directors and staff members are required to disclose the potential for conflict at the earliest opportunity using the MNBC’s Conflict of Interest Disclosure form ...

3. Where disclosure has not occurred and the organization becomes aware of financial, commercial or business transactions that may constitute conflict of interest, the matter will



be reported to the President or the Chief Executive Officer for investigation. Full disclosure will be requested and required.

Respectful Workplace Policy

The Métis Nation British Columbia recognizes its responsibility to build and maintain a work environment in which dignity, self-respect and respect for others are living values.

...

The MNBC takes action to prevent and eliminate disruptive workplace conflict and disrespectful behaviour, including bullying and harassment.

....

1. Every individual is entitled to respectful treatment at work. The MNBC will not tolerate behaviour that is considered disruptive, disrespectful and/or bullying and harassment.

...

Definition:

a) Includes any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but

b) Excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment

Social Media and Networking Policy

The Métis Nation British Columbia and the Métis Provincial Council of British Columbia seek to present a positive and professional image to the community at all times and this policy sets out the terms of use of all forms of social media and networking including blogs, Facebook, LinkedIn, Twitter, Pinterest, Google Plus, Tumblr, Instagram, YouTube, message boards, chat rooms, online forums and all other forms of Social Media and Networking technology.

...

9. ... when utilizing any form of social media or networking technology are expected to conduct themselves both publicly and privately, in a manner that does tarnish the image of or otherwise bring disrepute to the MNBC or MPCBC.

...

12. This policy applies to the use of social media and networking during work hours and personal time.

...

14. All MNBC users should use their best judgement in not posting any material that is inappropriate or harmful to MNBC, its employees, Board members or its Citizens. Although not an exhaustive list, some specific examples of prohibited social media and networking



conduct include posting in either static or video format commentary, content, or images that are defamatory, pornographic, proprietary, harassing, libellous or that can create a hostile work environment.

15. All MNBC users are not to publish, post or release any information that is considered confidential. If there are questions as to what is considered confidential, an MNBC user should check with the Communications Officer, or in that person's absence the CEO, CFO or Human Resource Manager before posting.

Travel Policy

...

1. All travel must relate to the work and interests of the MNBC and all travel must be pre-approved for subsequent claim reimbursement for expenses.

2. All out of province and out of country travel must be authorized in writing by the President, Chief Executive Officer and/or Chief Financial officer.

3. ..

4. Reimbursement eligibility for travel related meals will be based on the following criteria.

a. Breakfast is claimable only if required to be en route prior to 8:00 a.m.

b. Lunch is claimable only if required to be en route between the hours of 12:00 p.m. and 1:00 p.m.

c. Dinner is claimable only if required to be en route after 4:30 p.m.

d. Charges for alcoholic beverages will not be claimed or reimbursed.

5. The traveller may not claim meal allowances for any meal or meals provided during a meeting, seminar, or any event where meals are provided by the host.

6. Meal allowances (meals not provided by host) may not be claimed when the meeting or seminar is within boundaries or close proximity or normal business is being conducted within home boundaries.

7. ...

8. Claims for meal expense reimbursements within community of residence may be reimbursed provided there is a valid rationale submitted along with the expense claim and it is approved by the Chief Financial Officer and/or the Chief Executive Officer.

....

12. Incidentals may be claimed only if overnight stay is required and has been authorized by the Chief Executive Officer.

...

CREDIT CARDS



1. Misuse of any credit cards authorized for business purposes will result in restitution by the credit card user to the MNBC and recall or cancellation of the specific credit card. Additionally, misuse may include legal action.

Métis Nation Governing Assembly Act

Article 9.2.1 requires public posting of BOD expenses by June 1st of each year.

Law and Analysis

Allegations Regarding Bullying and Harassment and/or Discrimination

Behaviour Towards Ms. LeFranc, Ms. Trudeau and Mr. Fontaine

WorkSafeBC has provided the following definition and examples of behaviours that may constitute bullying or harassment:

Inappropriate conduct or comment by a person towards a worker that the person knew or ought to have known would be humiliating or intimidating.

Examples might include:

- *Verbal aggression or name-calling / personal attacks*
- *Vandalizing personal belongings*
- *Sabotaging work*
- *Spreading malicious rumours / cyber bullying*
- *Humiliating initiation practices / hazing*
- *Aggressive / threatening gestures*

The law has made an important distinction between the important and weighty words ‘harassment’ and ‘bullying’ and an employee’s dissatisfaction with a manager’s style, approach or effectiveness. Direct, strict management does not constitute harassment or bullying.

In *MacKenzie Pulp Mill Corp. v. Communications, Energy and Paperworkers Union of Canada, Local 1092 (Forbes Grievance)* [2013] B.C.C.A.A. No. 102 (Brown), the union argued that the supervisor was engaged in a pattern of harassment in disciplining the grievor. Arbitrator Brown found that it was clear that the supervisor and the employee “do not like each other and the working relationship is strained.” With respect to the harassment grievance, Arbitrator Brown determined that this “mutual dislike” did not amount to harassment. He cited:

... I concur with the comments in S. v. M, G, Z, supra



In these times there are few words more emotive than harasser. It jars our sensibilities, colours our minds, rings alarms and floods adrenaline through the psyche. It can be used causally, in righteous accusation, or in a vindictive fashion.

Whatever the motivation or reason for such a charge, it must be treated gravely, with careful, indeed scrupulous, fairness given both to the person raising the allegation of harassment and those against whom it is made.

The reason for this is surely self-evidence. Harassment, like beauty, is a subjective notion. However, harassment must also be viewed objectively. Saying this does not diminish its significance. It does, however, accentuate the difficulty of capturing its essence in any particular circumstance with prevision and certainty.

For example, every act by which a person causes some form of anxiety to another could be labelled as harassment. But if this is so, there can be no safe interaction between human beings. Sadly, we are not perfect. All of us, on occasion, are stupid, heedless, thoughtless and insensitive. The question then is, where are we guilty of harassment?

I do not think that every act of workplace foolishness was intended to be captured by the word harassment. This is a serious word, to be used seriously and applied vigorously when the occasion warrants its use. It should not be trivialized, cheapened or devalued by using it as a loose label to cover petty acts or foolish words, where the harm, by any objective standard, is fleeting. Nor should it be used where there is no intent to be harmful in any way, unless there has been a heedless disregard for the rights of another person and it can be fairly said "you should have known better." (paras. 227-231)

I find that President Morin Dal Col's behaviour of yelling at Ms. LeFranc, alleging that she did not understand something because "*she's not Métis*" and threatening her job security, considered cumulatively, amount to bullying and harassment and a breach of the *Respectful Workplace Policy*. Ms. LeFranc described this conduct as occurred on a number of occasions not just as an isolated incident, and I find this pattern of behaviour would reasonably be expected to cause an individual to be humiliated or threatened.

I further find that removing Ms. Trudeau's IT access prior to her maternity leave date, and refusing to reinstitute it once Mr. Gall clarified that Ms. Trudeau had not yet started her leave, amounts to bullying and harassment and a breach of the *Respectful Workplace Policy*. Had President Morin Dal Col simply made a mistake about the date of the leave and reinstated the IT access, I would not have found this behaviour to be a breach of the *Respectful Workplace Policy*. However, there is no reasonable explanation for President Morin Dal Col's refusal to permit Ms. Trudeau to work until her leave date. This was reasonably perceived as a punitive action and threatened Ms. Trudeau's job security. Furthermore, Ms. Trudeau had to attempt to work for a week without access to her email or computer files, which placed her in an extremely challenging position with respect to directing her staff and would reasonably be humiliating for her to have to attempt to explain the circumstances. It would also be reasonable for Ms. Trudeau to fear to return to her job after her leave. I find there is insufficient evidence that President



Morin Dal Col's conduct was sufficiently connected to the fact that Ms. Trudeau was pregnant to amount to discrimination; President Morin Dal Col had expressed to both Ms. LeFranc and Mr. Fontaine that she wanted to terminate Ms. Trudeau long before Ms. Trudeau was pregnant.

I find that President Morin Dal Col's conduct of pressuring Mr. Fontaine to fire staff does not amount to bullying and harassment. Although inappropriate and disconcerting to Mr. Fontaine, President Morin Dal Col did not actually force Mr. Fontaine to fire anyone or engage in any retaliatory behaviour towards Mr. Fontaine for failing to terminate the employment the staff. President Morin Dal Col was permitted to engage in discussion of concerns about staff with Mr. Fontaine but did not have authority to hire or fire staff, as authority rests with the CEO. I find the manner in which President Morin Dal Col engaged in this pressuring tactic was inappropriate and did not foster a positive work environment, which is a breach of the *Respectful Workplace Policy*.

Failure to Follow BOD Motions

March 4, 2020 Motion

I find that President Morin Dal Col failed to comply with the requirement in the March 4, 2020 Motion requiring her to engage in discussion and deliberation with the BOD members about any MNC issues, and failed to inform them of the content of the budget submission made to MNC regarding MNBC's requests for federal funding.

April 16, 2020 Motion

I find that President Morin Dal Col breached the April 16, 2020 Motion on several occasions by failing to provide the BOD with communications either before they went out to the public, and/or by failing to provide them a reasonable time to review and comment on the communications, including with respect to the Pattullo Bridge renaming and the announcement of the budget funding. This action also goes against her obligations under the Board Manual to "*act as one voice*" with the BOD. Although the President is the spokesperson, the BOD members have a right to participate in decision making.

October 16, 2020 Motion

I was not provided with any evidence to demonstrate that President Morin Dal Col took steps to initiate retention of a consultant; however, there was also no set deadline in the motion for retention of the consultant. Given this, I find President Morin Dal Col did not fail to comply with her obligations under the motion by the date of her suspension.



November 23, 2020 Motion

I accept that although the COVID-19 grants were not provided within the timelines set out in the motion, this was due to administrative hurdles, and that President Morin Dal Col authorized the provision of the grants. I find President Morin Dal Col complied with her obligations under the motion.

December 14, 2020 Motions

The December 14, 2020 motions required the President or Vice President to call for the MNC Council to convene its Board of Directors Meeting within 15 days and to call for the MNC to convene the National Assembly to finish the deliberations regarding the MNO within 60 days.

President Morin Dal Col's only attempt to comply with these motions was to send a copy of the motions to the MNC on December 17, 2020. President Morin Dal Col did not actually request a meeting of the Board of Governors. Although I note that VP Smith similarly did not send out a call to MNC, I accept that the Vice President typically only acts in the absence of the President. I find that President Morin Dal Col failed to comply with the obligations set out in the December 14, 2020 motions.

Undermining the Integrity of MNBC Laws and Processes

Failure to Post BOD Expenses

I conclude that President Morin Dal Col instructed Mr. Fontaine not to post BOD member expenditures before the election in 2020, and breached her obligations under Article 9.2.1. of the *MNGA Act*.

Continued Involvement of Dale Drown in MNBC Matters

Pursuant to the Board Manual, President Morin Dal Col is a fiduciary of MNBC. A fiduciary is required to act honestly, in good faith and with a view to advancing the best interests of the organization.

I find that there is insufficient credible information to establish that President Morin Dal Col breached her fiduciary obligations to MNBC by providing Mr. Drown with confidential information related to MNBC. The national health call that Mr. Drown attended allegedly on her behalf does not establish that President Morin Dal Col had disclosed information or otherwise breached her fiduciary duties to MNBC. Mr. Drown was provided a copy of the MNC budget by Mr. LeClair, not by President Morin Dal Col.

Continuing to be involved in MNBC Matters Post-Suspension

I find that President Morin Dal Col continued to engage in work or communications while representing herself as President after her suspension. Although she has not been removed from her position, the intention of the suspension was that she cease all MNBC-related work. I find that her conduct in attending



meetings in her capacity as President of MNBC was in violation of this suspension, and undermined the integrity of the MNBC process.

I find that the conduct of the President and Respondent Counsel in contacting the MNBC bank was also inappropriate, given that once the President was suspended, she had no authority to interfere with MNBC finances.

Breaches of Confidentiality and Privacy

Reviewing VP Smith's Personnel File

I find that President Morin Dal Col's conduct in reviewing VP Smith's personnel file and asking Mr. Robitaille to scan and send her a copy of it was inappropriate and breached VP Smith's privacy rights. If President Morin Dal Col had concerns about VP Smith's conduct, then the appropriate procedure under the Board Manual would be to submit a Conduct Report to the CEO.

Sharing details of a BOD meeting with members of the public

I find that President Morin Dal Col's conduct did not amount to a breach of confidentiality or her other obligations.

Reviewing VP Smith's MNBC Citizenship File

President Morin Dal Col's conduct with respect to VP Smith's citizenship file violated VP Smith's privacy rights by surreptitiously accessing her personal information. This conduct also breaches President Morin Dal Col's fiduciary obligations to MNBC and acts to call into question the validity of their registration process.

Refusal to Provide Information to BOD Members

I conclude that President Morin Dal Col's conduct in failing to provide, or instructing others to withhold, information from the BOD members was in breach of her fiduciary duties to MNBC. Although President Morin Dal Col was the link between staff and the BOD, and BOD members could not instruct staff, there is no reasonable explanation for failing to provide them with information they required to oversee their portfolios and understand the business of MNBC, particularly as the majority of the BOD members were new to their positions.

Preferring Interests of MNC over that of MNBC

I find that President Morin Dal Col's failure to inform BOD members of MNC and national Métis business, including the budget ask, and her comment to Mr. Robitaille that she had a plan to create a "National



Card that would stop funding from going to MNBC breached her fiduciary duties to MNBC. President Morin Dal Col had an obligation to act in good faith and in the best interests of MNBC, and she failed to do so.

Misuse of MNBC Finances

Use of the MNBC Credit Card

It is difficult to come to a conclusion about the purpose of many of the charges on President Morin Dal Col's credit card at issue. While some of the charges may be related to expenses required for her condo, and which may have been part of the agreement to provide this accommodation to her, I do not have any evidence to that effect. Other charges appear to be more clearly inappropriate, such as charges to an RV rental site and for her Amazon prime membership. In the absence of any evidence to the contrary, I find that President Morin Dal Col used the MNBC credit card for personal expenses, unrelated to her position with MNBC. Similarly, without evidence to the contrary, I find that President Morin Dal Col's extra-provincial travel was not related to her MNBC work and was a breach of the *Travel Policy*. This conduct is a further breach of her fiduciary duty to MNBC.

Payment for Mr. Drown's WorkSafeBC Appeal

I am unable to conclude that the payments for Mr. Drown's WorkSafeBC Appeal was inappropriate or not appropriately authorized under current BOD policies.

Condo Rental / Failure to Return a Television

I accepted that President Morin Dal Col was permitted to rent the condominium for personal use on the basis that she was not to charge per diems. I therefore conclude that her expense claims related to per diems in the Lower Mainland were inappropriate and breached this expectation as well as the *Travel Policy*.

I do not have sufficient evidence with respect to the 50-inch television to determine if the original 50-inch television had been removed by President Morin Dal Col, or had been replaced by a 32-inch television at some point. I am unable to conclude that President Morin Dal Col breached any policies or expectations with respect to this allegation.

Failure to Comply with the Conflict of Interest Policy

Although I do not have evidence to demonstrate that President Morin Dal Col's legal fees in related to the Civil Claim were paid for by anyone other than herself, I find that her failure to comply with the disclosure request breached her obligations under the *Conflict of Interest Policy*.



January 11 and 15 Letters and Facebook Posts

I find that President Morin Dal Col's conduct in issuing the January 11 Letter and the January 15 Letter and Board motions was inappropriate and a breach of her fiduciary duties and Oath of Office. She called into question the integrity of the BOD, referring to the involved members as the "*Group of 9*," stating that they pulled a "*stunt*," and also called into question the validity of the MNBC registry and placed the reputation of MNBC at risk. She also posted unapproved BOD minutes publicly, without approval from the BOD to do so. This conduct was reasonably viewed as serious and distressing by the other BOD members. This conduct is also in breach of the *Social Media and Networking Policy*, as I find it "*tarnish[es] the image of or otherwise bring[s] disrepute to the MNBC ...*"

Conclusion

I find that the following allegations are founded:

- Behaviour amounting to bullying and harassment towards Ms. LeFranc and Ms. Trudeau in breach of the *Respectful Workplace Policy*;
- Conduct breaching the *Respectful Workplace Policy* towards Mr. Fontaine;
- Breach of her fiduciary duties / Oath of Office through:
 - Failure to follow her obligations set out in the BOD motions, including the March 4, 2020 motion, April 16, 2020 Motion, and December 14, 2020 motions;
 - Refusal to provide information to BOD members;
 - Reviewing or attempting to review VP Smith's personnel file and citizenship application without informing VP Smith, and calling into question the validity of the registry;
 - Preferring interests of MNC over those of MNBC;
 - Posting of the January 11 Letter and the January 15 Letter;
 - Continuing to engage in post-suspension work in her position as President; and
 - Misuse of MNBC finances;
- Breach of the *Social Media and Networking Policy* through posting of the January 11 Letter and the January 15 Letter and associated BOD motions
- Breach of VP Smith's personal privacy rights through review of her personnel file without a valid reason and viewing or attempting to view her citizenship application;
- Failure to post BOD expenses, in breach of Article 9.2.1 of the *MNGA Act*;



- Breach of the *Travel Policy*; and
- Breach of the *Conflict of Interest Policy* by failing to comply with the disclosure requirements

The remaining allegations are unfounded.

All of which is respectfully submitted.

Sarah Chamberlain

Dated: June 23, 2021



Amendment to Report

On or around July 21 and 22, 2021, I was provided with additional evidence with respect to the allegations at issue in this Investigation (the “Additional Evidence”). I was asked to consider any amendments to my findings and conclusions arising from the Additional Evidence. The Additional Evidence was not provided to President Morin Dal Col given her decision not to participate in the Investigation. I have made findings of fact in the absence of her version of events.

Additional Evidence

October 16, 2020 Motion

I was provided with a copy of a report dated January 22, 2021 by Mike McKay, of Hadrian Consulting, providing a sample and analysis of BC Public organization elected board members’ compensation, as required by the October 16, 2020 BOD motion.

November 23, 2020 Motion

I was provided with documentation demonstrating that the funds outlined in the November 23, 2020 motion were transferred to the Financial Corporation on November 30, 2020. The Financial Corporation did not return a signed agreement to MNBC by the deadline outlined in the motion, so the administrative funds were transferred following receipt of that agreement, on January 19, 2021.

Use of MNBC Credit Card

President Morin Dal Col’s credit card statements list the following charges related to an RV rental in 2019:

1. June 17, 2019 \$1,359.45 to rvezy.com (RV rental website)
2. July 14, 2019 - \$1000.00 to Rvezy.com Ottawa (RV Rental website);

Mr. Robitaille stated that President Morin Dal Col attended a camping event, the “Back to Batoche festival” from July 18 to 21, 2019 (the “Festival Trip”), and that President Morin Dal Col rented the RV from July 16 to 30, 2019. Mr. Robitaille stated that the Festival Trip was related to President Morin Dal Col’s work for both MNC and MNBC. Mr. Robitaille said he was uncertain whether the charges made on June 17, 2019 related to the Festival Trip or personal use of the RV.

Disclosure of Expenses Related to Condo Rental

I was also provided with a copy of minutes from a July 30, 2019 BOD meeting, demonstrating that there was a vote calling for the disclosure of expenses related to the rental of the condo for President Morin



Dal Col, which was defeated by a tiebreaker vote, cast by President Morin Dal Col. This behaviour is alleged to be in breach of the *Conflict of Interest Policy*.

Findings and Analysis

October 16, 2020 Motion

I find that a consultant was retained as per the requirements of the October 16, 2020 motion. On the basis of the evidence previously able, I had concluded that President Morin Dal Col had not failed to comply with the October 16, 2020 Motion, and the Additional Evidence supports this conclusion.

November 23, 2020 Motion

I find that President Morin Dal Col authorized the provision of grants to the Financial Corporation, which were provided in accordance with the motion. I find President Morin Dal Col complied with her obligations under the motion.

Use of MNBC Credit Card

I find that at least some of the June and July 2019 charges related to the rental of an RV were made pursuant to President Dal Col's work with MNBC and not in breach of her fiduciary duties or obligations to MNBC; however, I am unable to determine whether the full amount of the charges were related to the Festival Trip or whether any amount was for personal use of the RV.

Disclosure of Expenses Related to Condo Rental

The *Conflict of Interest Policy* states:

1. Board of Directors and staff members are expected to arrange their private affairs so that no possible conflict of interest exists. Board of Directors and staff members will not receive personal advantage or benefit as a result of access to information that is obtained in the course of duty and that is not publicly available.

2. Board of Directors and staff members are expected to remain from:

- Use of organizational property for any purpose other than those approved by the President, Treasurer or Chief Executive Officer;*

...

Upon recognizing the potential for conflict of interest, Board of Directors and staff members are required to disclose the potential for conflict at the earliest opportunity using the MNBC's Conflict of Interest Disclosure form and withdraw from situations or discussions that would place the



member in conflict relative to the responsibilities of his or her role. Withdrawal means that the individual involved will exit during discussions and subsequent voting or decision-making.

Given the July 30, 2019 BOD vote involved issues of potential personal gain and/or misuse of finances by President Morin Dal Col, she was required to remove herself from discussion and voting on this Motion, which she failed to do. This failure amounts to a breach of the *Conflict of Interest Policy*.

Conclusion

The additional evidence provided to me in July 2021 amends my conclusions with respect to the following:

- President Morin Dal Col's use of the MNBC credit card for an RV rental, at least in part, did not breach her fiduciary obligations to MNBC;
- President Morin Dal Col breached the *Conflict of Interest Policy* when voting against the disclosure of expenses related to her condo on July 30, 2019.

All of which is respectfully submitted.

Sarah Chamberlain

Dated: July 23, 2021