

IN THE MATTER OF
An **Appeal** by Orlin (Joe)Noganosh of the
Magnetawan First Nations Election held on Saturday, April 25, 2015
AND
IN THE MATTER OF THE INDIAN ACT AND
THE INDIAN BAND ELECTION REGULATIONS

AFFIDAVIT OF CHIEF WILLIAM DIABO
Sworn July 16th, 2015

I, **WILLIAM DIABO**, of the Magnetawan First Nations Reserve in the District of Parry Sound in the Province of Ontario MAKE OATH AND SAY AS FOLLOWS:

1. I am a resident and member of the Magnetawan First Nations Reserve (MFN).
2. I was elected as Chief of the Magnetawan First Nations Reserve through a properly constituted and valid democratic election held on April 25, 2015.
3. I have read the affidavit of Orlin (Joe) Noganosh and I believe that Mr. Noganosh is not being truthful or accurate in his allegations surrounding the April 25, 2015 elections or his grounds for appealing these election results.
4. There were no corrupt or unfair practices committed by me or band Council in preparation for or during the aforesaid election. I did not have any unfair advantage over Mr. Orlin (Joe) Noganosh who was also a prior Chief of the MFN. I did not have any lists or confidential information such as names and addresses of off reserve band members in five cabinets in my office under lock and key. The only cabinet containing the lists and membership information was and continues to be in the office of Kimberley Ann Charles, the MFN Indian Registry Representative who was appointed by Band Council Resolution (BCR) number 2013/14-65 on July 21, 2014 which is well before the April 25, 2015 election. Attached is a copy of this BCR as exhibit "A" which forms part of my affidavit.

5. The member list was provided to the electoral officer and was not used by myself as Chief or by Council. To the best of my knowledge and belief no one was denied access to the member list as no candidate requested access to this list.
6. Julie Fontaine is and was our Band Manager prior to and throughout the election process and Lloyd Noganosh as past Band Manager could not have witnessed me moving five (5) cabinets into my office prior to the elections as this never occurred.
7. The MFN has its own website which is known as magnetewanfirstnation.com which is owned by the MFN and which is used strictly for band business. No one is permitted to post any personal matter on the band website. I did not post any campaign literature on the band website. I did not have to campaign for this election as I relied on my record as past Chief and my family and friends to get elected. I did not use or pressure any staff to work for me and Mr. Noganosh is wrong when he states that I did.
8. I have never bribed any voters for my re-election and to the best of my knowledge and belief Counsellor Lloyd Myke would never do this also. I believe that Mr. Noganosh will say anything, whether truthful or not, to support his reasons for his appeal.
9. I deny abusing my power as Chief to get re-elected. I believe that during all of the time that I have been Chief of the Magnetawan First Nations reserve that I have governed honestly and truthfully. My focus has been on the proper management of the MFN and to correct some of the negative practices that existed in the past.
10. With all due respect I verily believe that Orlin (Joe) Noganosh is a very negative person and a bully, especially if he does not get his way. It is my belief that Mr. Noganosh cannot accept defeat or the will of our members who democratically re-elected me as their Chief in our last election. The election process was fair and honest and no one as far as I

know had any unfair advantage over any other candidate. Orlin (Joe) Noganosh conduct is vengeful and consistent with the manner in which he has treated me in the past.

11. Attached hereto and forming part of this my affidavit and marked as composite Exhibit "B" including emails to and from Orlin (Joe) Noganosh from #1 to # 9 that demonstrates the abrasive, negative and derogatory behaviour of Mr. Orlin Noganosh.
12. Exhibit "B" #1 is an email dated April 28, 2013 from Orlin (Joe) Noganosh to an Ontario Graphite official (Ellerton Castor) warning him that there was a new government at MFN and that the new Chief and Council will cause them grief in a major contract negotiations between them. The new Chief was me, William Diabo and new Council included Lloyd Myke, among others The election Mr. Noganosh refers to was the April, 2013 election wherein I defeated him as Chief. In this email, Mr. Nagonaosh also tells Ellerton Castor that "I cannot tell you what actions to take but you, being an intelligent businessman, will know when to cut and run.....". This email shows how Mr. Noganosh was destructive and mean spirited and that even in the 2013 election he could not accept defeat. By Mr. Noganosh's actions he prejudiced negotiations between the MFN and Ontario Graphite without regard to the financial impact his interference would have on the financial well being of the MFN.
13. Prior to the April 25, 2015 elections I received a series of emails from Orlin (Joe) Noganosh marked as Exhibit "B" #2, 4,5,6,7 and #9 which Orlin signed for the most part as "Mr. Unacknowledged" but then changes to "brwalker formerly known as Mr. Unacknowledged" . These emails are dated from April 10, 2015 to April 21, 2015 which is four days prior to the last election. None of the emails sent to me by Mr. Noganosh talk about any "corrupt and unfair practices" as alleged by Mr. Noganosh and nowhere in any of Mr. Noganosh's emails does he make any requests for any list or any allegations he asserts in his affidavit about moving cabinets and so on. His emails are focussed on being

disruptive, defamatory, interfering and trying to create a non-existing issue relating to MFN evictions just prior to an election.

14. In my opinion Mr. Noganosh's emails are disrespectful and abusive towards myself in particular. At Exhibit "B" #2 Mr. Noganosh accuses me of "contravening the by-law with illegal evictions" which was not so as the MFN has every right to enforce rental agreements between itself and band members who fail to honour their side of the contract. At Exhibit "B" #3 is my reply to Mr. Noganosh relating to evictions being band business and with me telling Mr. Noganosh that [his] "standard that WRONG is RIGHT and should be overlooked and rewarded is absolutely "WRONG" ". Mr. Noganosh's reply at Exhibit "B" #4 was to call my email as "unsolicited verbal diarrhea". Mr. Noganosh did not respond to any of the comments in Exhibit "B" #3.
14. Exhibit "B" #5 is an email that shows how Mr. Noganosh purposely misspells my name or resorts to name calling in his communications to me. This is a pattern in his emails.
15. At Exhibit "B" #6 is an email from Mr. Noganosh that attacks "mr. myke" who is one of our Councillors known as Lloyd Myke which Mr. Noganosh accuses in his affidavit of bribing members for votes which I believe is simply untrue.
16. At Exhibit "B" #7 Mr. Noganosh continues to insist on making MFN evictions an issue and ends with Mr. Noganosh stating "Certain constituents are not afraid of you and your henchpersons and would like a truthful reply, at least once, from your office." Mr. Noganosh at Exhibit "B" #8 sends another email dated April 19, 2015 where he continues to try and make MFN evictions as an issue and after more of his derogatory remarks he ends his email by stating "Good luck in the upcoming elections ?". My reply to Mr. Noganosh emails which is also shown on Exhibit "B" #8 which addresses the matter of evictions as band business and also my responsibility as Chief and that of Council to take

care of band assets and that the terms of rental agreements on reserve need to be adhered to. I end my reply to Mr. Noganosh by stating "Chief and Council do not have to take abuse from you [Mr. Noganosh] or anyone and if you [Mr. Noganosh] continue[s] to be disrespectful in addressing Council and I, do not expect to receive a reply." Orlin (Joe) Noganosh reply to my last email is found at Exhibit "B" #9 where he calls my reply "more verbal diarrhea" and goes on to state "I assume that this means because I (Mr. Noganosh) do not pucker up and kiss your ass then you will no longer speak to me or answer my questions. You want me to be the same as the other workers you and myke have terrified in that office ---- well diablo "aint gonna happen"

- 17. I believe that Mr. Noganosh's appeal is an abuse of process in that it has no merit and that the people of Magnetewan First Nations Reserve have the right to expect that their vote be honoured and that the election results be respected.

This Affidavit is being made by me in reply to the affidavit of Orlin (Joe) Noganosh and for no improper purpose.

AFFIRMED BEFORE ME at the)
City of Greater Sudbury, in the)
Province of Ontario, Canada, this)
16th day of July, 2015)



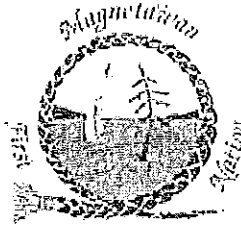
A Commissioner, etc.



CHIEF WILLIAM DIABO

BAND COUNCIL RESOLUTION

BCR Number:
2013/14 - 65



COPY

<p>Council Of:</p> <p>MAGNETAWAN FIRST NATION</p>	<p>Quorum:</p> <p>3</p>	<p>Date of Duly Convened Meeting:</p> <p><u>7</u> / <u>21</u> / <u>2014</u></p> <p>Month Day Year</p>
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PURPOSE: Indian Registry Representative

WHEREAS: Magnetawan First Nation wishes to appoint a new Indian Registry representative, therefore;

BE IT RESOLVED: That the Chief and Council of Magnetawan First Nation hereby approve the appointment of Kimberly Charles to serve as the Indian registry Representative

THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF CHIEF WILLIAM DIABO,
SWORN BEFORE ME THIS 16TH DAY OF
JULY, 2015

A Commissioner, etc.

Chief
William Diabo

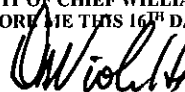
Councilor
Lloyd Myke

Councilor
Joanne Dominic

**COMPOSITE EXHIBIT "B" TO THE AFFIDAVIT
OF CHIEF WILLIAM DIABO
sworn July 16, 2015**

#	Date and Time	Description
1	April 28, 2013 at 12:31 am	E-mail from Mr. Noganosh to "Ellerton" at Ontario Graphite advising there is a new "government" at MFN and warning them that he will receive grief from the new Chief and Council.
2	April 10, 2015 at 11:34 am	Email from Mr. Noganosh to Chief Diabo accusing the Chief of contravening the bylaw with illegal evictions.
3	April 10, 2015 at 4:00 pm	Reply E-mail from Chief Diabo to Mr. Noganosh advising that evictions are band business and contraventions will not be overlooked.
4	April 11, 2015 at 4:22 pm	E-mail from Mr. Noganosh to Chief Diabo stating that Chief Diabo reply is seen as "unsolicited verbal diarrhea".
5	April 13, 2015 at 2:00 pm	E-mail from Mr. Noganosh to Chief Diabo with misspelled and made up names for Chief Diabo.
6	April 14, 2015 at 5:03 pm	E-mail from Mr. Noganosh to Chief Diabo attacking "mr. myke" and accusing him of bribing voters.
7	April 15, 2015 at 10:43 am	E-mail from Mr. Noganosh to Chief Diabo on band evictions that is accusing the Chief of having henchpersons and stating that certain constituents are not afraid of him.
8	April 19, 2015 at 8:43 a.m. (Refers to 2 emails in the same exhibit)	E-mail from Mr. Noganosh to Chief Diabo on evictions With sarcastic remark "Good Luck on the Upcoming Elections ?"
	April 19, 2015 at 8:58 p.m.	E-mail from Chief Diabo to Mr. Noganosh stating that evictions are band business and if Mr. Noganosh's continues to be abusive and disrespectful his emails will not be answered
9	April 21, 2015 at 10:46 am	E-mail from Mr. Noganosh to Chief Diabo stating that Mr. Noganosh will not pucker up and kiss ass and saying that he will not be terrified ...well diablo "aint gonna happen".

THIS IS COMPOSITE EXHIBIT "B" REFERRED
TO IN THE AFFIDAVIT OF CHIEF WILLIAM
DIABO, SWORN BEFORE ME THIS 16TH DAY
OF JULY, 2015



A Commissioner, etc.

E-MAIL #1
of Composite Exhibit "B"

Date: 07/04/2015 [02:32:58 PM]
From: Chief William Diabo <chief@magnetawanfirstnation.com>
To: Lawyer - Diane Violette <office@violettelaw.com>
Subject: Fwd: Changes at Magnetawan

Sent from my iPhone

Begin forwarded message:

From: Joe Noganosh <chief@magfn.com>
Date: April 28, 2013 at 12:31:48 AM EDT
To: <ecastor@ontariographite.com>
Cc: <larc@magfn.com>
Subject: Changes at Magnetawan

Ellerton----- be advised that there is a new "government" at MagFN and that you should and will receive grief from the new Chief and Council.

I cannot tell you what actions to take but you, being an intelligent businessman, will know when to cut and run.....

E-MAIL #2
of Composite Exhibit "B"

Date: 07/04/2015 [10:47:21 AM] From: Chief Diabo <chief@magnetawanfirstnation.com> To: Dianne Violette <office@violette.law.com> Subject: Fwd: Evictions

----- Forwarded Message -----

Subject: Evictions
Date: Fri, 10 Apr 2015 11:34:25 -0400
From: brwalker@vianet.ca
To: chief@magnetawanfirstnation.com

Mr diablo ---

There seems to be some confusion as to whether you actually have a legal right to evict anyone.

Where is the copy of the legally enacted bylaw that you are using to do this eviction? It must be thoroughly vetted by INAC and approved by the crown to become a legal bylaw, you should know this ...

Without this legal document you are doing illegal evictions and putting this First Nation in a situation whereby a lawsuit can be launched by the person being evicted...

This is a total unethical and irresponsible move on the part of this c/c. I am waiting for a certified copy of a properly executed and approved bylaw relating to any "evictions" here on this FN...and I suggest that you do the same before any more actions are taken on your part and this c/c.

Thank you

E-MAIL #3
of Composite Exhibit "B"

Date: 07/04/2015 [01:35:49 PM]
From: Chief William Diabo <chief@magnetawanfirstnation.com>
To: Lawyer - Diane Violette <office@violettelaw.com>
Subject: Fwd: Evictions

Sent from my iPhone

Begin forwarded message:

From: William Diabo <chief@magnetawanfirstnation.com>
Date: April 10, 2015 at 4:00:29 PM EDT
To: Jennifer Tagliabracci <jennifer.tagliabracci@gmail.com>
Subject: Fwd: Re: Evictions

Hi Jen - post all of this....

Email request and response

----- Forwarded Message -----

Subject: Re: Evictions
Date: Fri, 10 Apr 2015 15:45:36 -0400
From: William Diabo <chief@magnetawanfirstnation.com>
To: brwalker@vianet.ca
CC: Lloyd Myke <councillor2@magnetawanfirstnation.com>

Mr. Unacknowledged, (JOE ORLIN NOGANOSH)

Firstly, you profess yourself to be traditional, yet you do not have the courtesy nor practice respect shown in your constant desire to belittle me by intentionally spelling my name incorrectly.

Secondly, Why are you not man enough to come to the office and face me in reasonable and respectful dialogue?

Thirdly, You appear to have a lapse in memory and have a different standard for people who break the law and distribute illegal substance within our community and on community property. As Lana Says - "SHAME ON YOU"

You seem to conveniently forget that you and Lana evicted Lloyd's two sons and put their belongings outside during your previous watch in order to allow her son to occupy the premises. Again - "SHAME ON BOTH OF YOU"

You of all people should know as a Nation, we have the right to handle the affairs of our First Nation without crying to INAC (AANDC).

Contrary to what you say, this is a total ethical and responsible move on the part of this Chief and Council in enforcing the terms of the rental agreement which were blatantly disregarded; the tenant read, acknowledged and signed the agreement.

The matter in question relates to personal business between the Band and an adult person who's affairs are private.

WHEN ARE YOU GOING TO PROTECT OUR MEMBERS, ESPECIALLY OUR CHILDREN AND YOUTH?
Your standard that WRONG is RIGHT and should be overlooked and rewarded is absolutely "WRONG".

Chief William Diabo

E-MAIL #4
of Composite Exhibit "B"

Date: 07/04/2015 [10:47:59 AM] From: Chief Diabo <chief@magnetawanfirstnation.com> To: Dianne Violette <office@violettelaw.com> Subject: Fwd: Eviction Bylaw

----- Forwarded Message -----

Subject: Eviction Bylaw
Date: Sat, 11 Apr 2015 16:22:20 -0400
From: brwalker@vianet.ca
To: chief@magnetawanfirstnation.com

Mr. diablo...

Thank you for the unsolicited verbal diarrhea that you sent , however I still have not received a certified copy of the Eviction Bylaw.

Thank you
Mr. Unacknowledged

E-MAIL #5
of Composite Exhibit "B"

Date: 07/04/2015 [10:48:42 AM]
From: Chief Diabo <chief@magnetawanfirstnation.com>
To: Dianne Violette <office@violettelaw.com>
Subject: Fwd: Eviction Bylaws

----- Forwarded Message -----
Subject: Eviction Bylaws
Date: Mon, 13 Apr 2015 14:08:03 -0400
From: brwalker@vianet.ca
To: chief@magnetawanfirstnation.com
CC: marielana051@gmail.com

Mr..diablo, maloffy, diaboo or whatever

I am still patiently awaiting the certified copy of the Eviction Bylaws that I requested last week.

Thank you
Mr. Unacknowledged

E-MAIL #6
of Composite Exhibit "B"

Date: 07/04/2015 [10:49:19 AM]
From: Chief Diabo <chief@magnetawanfirstnation.com>
To: Dianne Violette <office@violettelaw.com>
Subject: Fwd: Spirit Rd.

----- Forwarded Message -----

Subject: Spirit Rd.
Date: Tue, 14 Apr 2015 17:03:58 -0400
From: brwalker@vianet.ca
To: chief@magnetawanfirstnation.com
CC: marielana051@gmail.com

Mr diablo et. al.

Thank you for having the dangerous hole filled in the road at Spirit Rd.
The repair was excellent BUT the delivery of the small tree to my driveway
in the village was CHILDISH and inappropriate matter...

Perhaps mr. myke should be spoken to re; his behaviour to his Elders and
Bettors in this community..

Not exactly the kind of actions expected from one who works for our people.

Thank you
Mr. Unacknowledged

E-MAIL #7
of Composite Exhibit "B"

Date: 07/04/2015 [10:49:58 AM]
From: Chief Diabo <chief@magnetawanfirstnation.com>
To: Dianne Violette <office@violettelaw.com>
Subject: Fwd: Eviction Bylaws

----- Forwarded Message -----

Subject: Eviction Bylaws
Date: Wed, 15 Apr 2015 10:43:57 -0400
From: brwalker@vianet.ca
To: chief@magnetawanfirstnation.com
CC: marielana051@gmail.com

Mr diaboo,

Last week I sent a mail requesting a certified copy of the existing Eviction Bylaw for this FN.

I have had no response and perhaps you are afraid to state that any bylaw pertaining to eviction DOES NOT EXIST. If this is the case then your premise to evict anyone is false and ILLEGAL.

Certain constituents are not afraid of you and your henchpersons and would like to hear a truthful reply, at least once, from your office.

Thank you

Mr. Unacknowledged

E-MAIL #8
of Composite Exhibit "B"

Date: 07/04/2015 [10:50:33 AM]
From: Chief Diabo <chief@magnetawanfirstnation.com>
To: Dianne Violette <office@violettelaw.com>
Subject: Fwd: Re: Eviction Bylaws

----- Forwarded Message -----

Subject: Re: Eviction Bylaws
Date: Sun, 19 Apr 2015 20:58:56 -0400
From: Chief Diabo <chief@magnetawanfirstnation.com>
To: brwalker@vianet.ca

brwalker,

For your information, I suggest that you apply some truth to your correspondence, 8 days does not make 3 weeks.

It has been a period of 2 terms of 2 years that I have been chief and you took this long to get involved with the community and is deplorable that you choose to do so by supporting something that is destructive to the lives and safety of not only the OUR people but all people. Again, Shame on you for not being supportive of ALL of OUR people.

I have searched the office files for the copy of the by-law that you must have had in your possession when you threw 2 individuals that you call YOUR people Will and Jeremy out of the house in question during your last term as chief.
Why are you asking me to produce one? You know that it does not exist.

You should also know that a by-law is not necessary anywhere to enforce the terms of a rental lease agreement that has been breached by the tenant who is an adult and has not signed over power of attorney you to speak or act on his behalf.

There is no problem at the band office as you seem to imply. This Council is doing what we were elected to do, take care of the band assets, ensure that the terms of any agreements are adhered to and foremost do what is necessary to ensure that the safety and well being of the community is maintained.

Lastly, Chief and Council do not have to take abuse from you or anyone and if you continue to be disrespectful in addressing Council and I, do not expect to receive a reply.

Magnetawan First Nation
/Chief William Diabo/

On 4/19/2015 8:43 AM, brwalker@vianet.ca wrote:

Mr chief diaboo

I am awaiting your reply to my request for a certified copy of the Eviction Bylaw that you are currently using to throw my people from their residences.

I use the term "my people" as you are certainly not treating them as your people, and heaven forbid that that should ever happen.

Three weeks is a lengthy enough time to access and process a simple copy, what seems to be the problem at that office?

Once again I await your reply, and as usual you refuse to reply unless it is in your favour.

Thank you

Mr Unacknowledged

Good luck in the upcoming elections ?

E-MAIL #9
of Composite Exhibit "B"

Date: 07/04/2015 [10:51:23 AM] From: Chief Diabo <chief@magnetawanfirstnation.com> To: Dianne Violette <office@violettelaw.com> Subject: Fwd: Emails

----- Forwarded Message -----

Subject: Emails
Date: Tue, 21 Apr 2015 10:46:57 -0400
From: brwalker@vianet.ca
To: chief@magnetawanfirstnation.com
CC: marielana051@gmail.com

Mr. diaboo -

Thank you for more verbal diarrhea and your reference to yourself as chief.

And in reference to your last comment then I assume that this means because I do not pucker up and kiss your ass then you will no longer speak to me or answer my questions.

You want me to be same as the other workers you and myke have terrified in that office ---- well diablo "aint gonna happen"

Thank you from brwalker formerly known as Mr. Unacknowledged

IN THE MATTER OF an Appeal by Orlin (Joe) Noganosh of the
Magnetawan First Nations Election held on Saturday, April 25, 2015
AND IN THE MATTER OF the *Indian Act* and the Indian Band Election Regulations

AFFIDAVIT OF CHIEF
WILLIAM DIABO
(Sworn July 16th, 2015)

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