

**SPECIAL TRIBAL EXECUTIVE COMMITTEE MEETING
GRAND CASINO MILLE LACS CONVENTION CENTER
JUNE 11, 2018**

*Chief Executive Melanie Benjamin's Response to Secretary-Treasurer Carolyn Beaulieu's
Motion for Censure*

INTRODUCTION

In our Mille Lacs Band culture, publicly attacking others is not viewed favorably by the majority of our people, and tends to make us very uncomfortable. So I want to apologize in advance to Band Members for what they will hear today, because as I respond to each charge made against me truthfully, factually and with evidence, there is no avoiding an outcome that may prove embarrassing for the Secretary-Treasurer.

It will be clear that her statements were deliberately false or misleading and that may cause some discomfort for the audience. But please keep in mind that we are here today because the Secretary-Treasurer made the motion for censure; due to her decision to start this process and her allegations made against me, I have no choice but to address and defend myself.

This is a result of her choice to bring this censure motion against me. I am required by the Minnesota Chippewa Tribe to address the allegations. I am responsible for answering each charge made against me, even if the truth results in others being publicly exposed as having made false statements and misled the TEC and the Mille Lacs Band Members. That is not something I am comfortable doing, but I have no choice.

At the last TEC meeting, Secretary-Treasurer Beaulieu read from a prepared statement that includes several allegations against me, none of which are backed up by facts, and none of which are truthful. In certain instances, specific facts were deliberately left out of the binder she presented to the TEC. Several statements were made which are completely untruthful. This appears to have been done to mislead the TEC and Band Members

TEC Members – in your packet, I have provided a written response that I ask be included in the record, along with evidence. I have organized the response in outline form and concisely and completely responded to each allegation to aid the Tribal Executive Committee (“TEC”) members in reading through the several allegations. The response lists the allegations exactly as they appear in Secretary-Treasurer Beaulieu’s memorandum to the TEC that she read from to make her motion and the audio transcript of the motion.

After the Secretary-Treasurer read through her statement on April 27 requesting that I be censured, many people were confused, because under the Constitution, a censure request must identify exactly which part of the MCT Constitution was violated. It must also include a statement of facts that provide evidence of how each allegation violated the Constitution. In the Secretary-Treasurer’s statement, she did not mention the Constitution at all. When she was finished, MCT Attorney Phil Brodeen had to ask her which part of the Constitution I had allegedly violated

because her statement included no violations. Almost as an afterthought, she answered his question by verbally lumping her entire statement under “Malfeasance in handling of tribal affairs” and “Dereliction or neglect of duty”.

The TEC can only censure me if this body finds that I violated a provision of the Constitution. Throwing everything into the bucket of “Malfeasance in handling tribal affairs” or “Dereliction or neglect of duty” after-the-fact, without explaining which of these two categories each allegation falls within, made responding to each allegation challenging.

At this point, I will walk through my response with you. The Secretary-Treasurer’s allegations were grouped into four broad categories.

I. 09CR01 UNRESOLVED THEFT CHARGES

The first category is, “Unresolved Theft Charges”. Under this heading, the Secretary-Treasurer included twelve statements, lettered A through L.

“A” states: **“Failure to disclose unresolved Tribal Court Case 09CR01 during the 2016 certification process. The charges in that case were the cause for her removal from office in 2008 and reason for her denial of certification to run in the special election also in 2008.”**

1. First, this allegation, if true, would not be dereliction of duty or malfeasance. Filing as a candidate for office is the civic right of any MCT Member and is a right that is carried out in an individual, personal capacity as an enrolled member of the Tribe. When Secretary-Treasurer Beaulieu walked into the Mille Lacs Band election office to file her paperwork for re-election, she was not handling tribal affairs or performing her duty as Secretary-Treasurer. She was acting as a private citizen.

Likewise, when I filed for re-election in 2016, I was not “handling tribal affairs” or performing an exercise of any duties under Band law or the Constitution. So it would be impossible for me to have committed “malfeasance in the handling of tribal affairs” or “dereliction or neglect of duty” while filing as a candidate.

2. However, the allegation is false. A person cannot be guilty of failing to disclose something that was never required of them to do. My Notice of Candidacy filing fully complied with the Election Ordinance’s requirements because it did not require disclosure of the case.

Candidates must meet the requirements of Article IV, Section 4 of the Constitution and file their Notice of Candidacy with the Secretary-Treasurer. The Notice of Candidacy must comply with Section 1.3(D) of the Election Ordinance.

Candidates must include two notarized documents with their Notice of Candidacy: First, a document stating they are eligible for office and have not committed an offense in violation of Article IV, Section 4; and second, a document authorizing the Band governing body to conduct a criminal history check. The scope and purpose of the criminal history check is to search for convictions in violation of Article IV, Section 4.

I have included the “Authorization and Release” form – Tab 15 -- that candidates signed when filing for office. On this form, I signed a statement saying that “I am eligible to hold office, if, among other things, I have not been **convicted** of a felony of any kind; or (2) of a lesser crime if that crime involved the theft, misappropriation, or embezzlement of money, funds, assets or property belonging to an Indian tribe or tribal organization.”

This is a statement that all Mille Lacs Band candidates had to sign. Notably, the word “**convicted**” is in bold on this form– because that is all that is being asked. There are no questions asked about any charges. There are no lines available for providing additional information. I provided **exactly** the information asked of me. I did not fail to disclose anything.

Further, the filing period is 10 days long, and the Band governing bodies have 21 days after the filing period ends to inform the TEC of their decisions.

Certification decisions must follow the Constitution, the Election Ordinance, and the Election Ordinance dates and guidelines. Article IV, Section 4 establishes the constitutional standard for disqualifying candidates. It is NOT whether there is a criminal case against them, but whether the candidate has been **convicted** of an offense under Article IV, Section 4.

As a result, the criminal history check correctly found that I have never been convicted of an Article IV, Section 4 offense, and the Band governing body properly certified me.

3. Third, over the past year, the Secretary-Treasurer has implied many times -- that if the Certification Committee had been formally notified in 2016 of the 2009 tribal court case, they might have refused to certify me.

Band Assembly Members **did** know about this tribal court case, which I will address later. But if they had been **formally** notified about the case during the 2016 certification, there still would have been **no legal basis to deny my certification**. The filing period is only ten days long, and Band governing bodies have only twenty-one days to make their decision.

If the Secretary-Treasurer is claiming that she might have refused to certify me until the case was concluded, it would have been impossible for the Band’s court to conclude the case against me in just thirty-one days.

As an example, eight months have passed since the Band Assembly resumed the case against me, and the case remains in the pre-trial stage. Neither the Constitution nor the Election Ordinance would have permitted the Band governing body to withhold a certification past the certification deadline, in hopes of a conviction.

4. Fourth, within this allegation, Secretary-Treasurer Beaulieu also stated that these charges were the reason I was removed from office in 2008 and denied certification to run in the Special Election in 2008. She included a letter to the TEC dated November 24, 2008, from the Band Assembly at that time, which attempted to defend their decision in 2008 denying my certification.

Once again, I am very uncomfortable dragging up old issues that most Band Members would prefer to put behind them, especially when it involves the actions of other Band Members who are private citizens and no longer in office. However, by including that 2008 letter, she has left me no choice but to defend myself.

What she did not include or tell TEC Members about, is how the TEC responded to that 2008 letter. If you look at Tab #16, you will find a letter from the TEC dated October 28, 2009, which censured the Band's Secretary-Treasurer at that time for participating in a decision to deny certification to a candidate who the TEC had determined met the eligibility requirements.

The TEC found that because I had no convictions, I was eligible to run. They found the Secretary-Treasurer *"had refused to comply with the Constitution and Bylaws of the Minnesota Chippewa Tribe when he participated in a decision not to certify a Mille Lacs Band member who met the candidate eligibility requirements of Article IV. Such a refusal is a cause for removal under Article X, Section 2(e) of the Constitution."*

Had Secretary-Treasurer Beaulieu refused to certify me in 2016 - or if she were successful in reconvening the 2016 Certification Committee two years later to undo my certification -- the Certification Committee would have violated Article IV, Section 4 and the Election Ordinance. The Secretary-Treasurer herself would have very likely been censured.

5. Fifth, the matter of whether I was properly certified was **ruled on by the MCT Court of Appeals in 2012**. Two other Mille Lacs Band candidates had challenged my certification. In both cases, the challengers asserted that I violated the Election Ordinance that prohibits candidates from holding office if they have ever been convicted of a felony. **In both cases, the MCT Court of Appeals ruled that I was properly certified because there were no convictions.**

Four years later, in 2016, nothing had changed. I still have no convictions today and was properly certified. At Tab # 17, you will find those decisions from the MCT Tribal Election Court of Appeals. This matter has already been decided by the Minnesota Chippewa Tribe.

Finally, the assertion that I should have disclosed the case during the 2016 certification process amounts to nothing more than a politically-motivated effort by Secretary-Treasurer Beaulieu and some members of the Band Assembly to target me. **Because the Band governing body never asked this year's candidates to disclose whether there are any pending cases against them.**

If this effort was honest and pursued in the interest of fairness, the Secretary-Treasurer would have tried to require all of this year's candidates – including herself - to disclose whether there are any pending criminal cases or charges against them. She had an opportunity this year to demand that the Solicitor General look for charges or pending cases, but did not. In effect, she has been arguing that I should be held to a different standard than she and every other candidate was held to.

If this is not a politically-motivated effort to remove me from office, then why didn't the Band Assembly ask candidates to disclose any pending criminal cases or charges against them? Why do they only apply this standard to me?

Since the Election Ordinance did not require me to disclose the criminal case against me to the Band governing body and the constitutional standard to disqualify a candidate is conviction, I have not committed “malfeasance in the handling of tribal affairs” or “dereliction or neglect of duty”.

The Secretary-Treasurer’s next allegation “B” states: “Melanie misled constituents by writing an article in the Band’s newspaper, stating how relieved she is have her theft charges ‘behind her’. She also used this same article in her December 2017 court hearing to persuade the judge that the case was resolved. It appears, that no one in leadership at that time, corrected this mistruth. In fact, the court case remained undisclosed until July 10, 2017, when a Mille Lacs Band member obtained a copy of the court case and revealed it at a MCT TEC meeting.”

There are 3 statements in this allegation that are not just false, but completely made up.

First, I **never** used the Band newspaper to write an article stating the tribal court charges were “behind her”. For the audience, the words “behind her” are in quotation marks, as if that was my direct quote, but I do not refer to myself as “her”.

Second, since being re-elected in 2012, I have **never** once written in the Band news about the tribal or state court case. I have with me **every Band newsletter that has been published** since I was re-elected in 2012. You will not find mention of the tribal court case in any column I wrote, nor will you find any quotes from me about the tribal or state court case in the Band news.

This is a false statement made to the TEC not once, but twice. On October 30, 2018, the Secretary-Treasurer wrote a letter to the TEC. Her exact words were: *“MB also used the Band Newspaper to accuse the 2012 and 2016 certifying bodies of “already certifying her justly & fairly and that questioning any certification now or reconvening her hidden court case is unnecessary and just another attack on her.* This letter is at Tab #18.

Again, her use of quote marks alleges these were my exact words. Not only did I not make that statement, I never wrote anything like that statement in the Band newspaper. And again, I offer every issue of the Mille Lacs Band newspaper going back to 2012 as evidence and invite anyone to read my columns.

Even if I had done so, it would **not** be a violation of the MCT Constitution or Band law. But the fact is that I did not write this.

Third, Secretary-Treasurer Beaulieu already proved to the TEC that her allegation is false. In the binders she passed out on April 27 to TEC members, she included a copy of an article from the August, 2017 Band newspaper, which is apparently her “evidence”. This article is at Tab #3.

But as you can see, **there are no quotes from me, and I did not write this. It is an article written by a contracted journalist and is evidence of nothing** -- other than she has been falsely accusing me – by claiming I wrote things I never did and misleading the Band Membership and the TEC.

I want to note that fabricating quotes for a public figure is defamatory if the person who published the defamatory statement acted with knowledge or reckless disregard of whether the statements are truthful.

Fourth, she alleges that I used this imaginary article in the Band news that **I never wrote** to persuade the Judge in December of 2017 that the tribal court case was resolved. Again, this is a **total fabrication**. Neither I nor my attorney ever referenced a Band news article in court, nor any articles from any publication with quotes from me.

Only one news article was submitted to the court, but it was a footnote from a local, privately owned regional newspaper called the Mille Lacs Messenger. In a 2010 news piece written by a journalist, then-Solicitor General Rjay Brunkow was interviewed about the Band Assembly's decision to send the case to state court. His exact quote is: *"Elected officials decided they'd rather have an independent entity prosecute the case"*.

That article is attached, as you can see, it is not a Band newspaper article, I was not interviewed and there are no quotes in this article from me. This is at Tab #20.

I have also submitted the excerpt from the audio courtroom transcript as proof that I never used the Band newspaper in my court case. This can be found at Tab #21.

The Band Assembly's attorney's exact quote is: *"The Defendant cites uh a newspaper article uh your Honor, the document that was handed to you this morning, and there's a section highlighted there in yellow, Judge, and it says that Chief or uh Solicitor General Brunkow acted, and quote: "Elected officials decided they'd rather have an independent entity prosecute the case", Brunkow said."*

Again, that article is included as evidence that I was falsely accused of using the Band newspaper in my court case. Although even if I had done so, it would **not** be a violation of the MCT Constitution or Band law.

But the fact is that this accusation is made up. It is one matter to forget to include a document, but it is an entirely another matter to base an allegation on a document that does not exist.

The next statement in this section of the censure document reads: *"In fact, the court case remained undisclosed until July 10, 2017, when a Mille Lacs Band member obtained a copy of the court case and revealed it at a MCT TEC meeting."*

This statement is untrue. The case was not undisclosed from the Band Assembly until July 10, 2017.

First, at Tab #22, page 78, you will find a statement that former Solicitor General Matha made to the TEC last December, saying this issue was all over the media in 2012. It was regional and even national news through Indianz.com that the tribal court matter had been stayed.

Second, right after I prevailed in the primary election, the previous Chief Executive asked the Band Assembly to revive the tribal court case. This was highly publicized and known across the Band. It was neither hidden nor undisclosed, especially from the Band Assembly. A timeline Mr. Matha produced provides evidence of this, which is at Tab #23. He notes:

- On November 9, 2009, the Band Assembly approved the decision to indefinitely postpone the tribal court case and send it to the State.
- On April 25, 2012, the Joint Session – **which is comprised of all 5 elected officials** – moved to revive the tribal court case.
- On May 10, 2012, the Joint Session moved to hire a Special Prosecutor to renew the tribal court case.
- On June 5, 2012, a private attorney signed the contract with the Band Assembly to serve as Special Prosecutor.
- On June 14, 2012, in a packed room in front of about 60 Band Members – the Band Assembly declined to ratify the contract. They decided **not** to hire the attorney to serve as special prosecutor to pursue the case.

Third, current members of the Band Assembly **did** know that the tribal court case had been suspended. Two of our three current District Representatives were on Band Assembly in 2009 when the Band Assembly voted to suspend the tribal court case and send it to State court. One of those individuals was also serving on the Band Assembly in 2012 when they decided NOT to ratify the contract with the special prosecutor to revive the case.

Third, it is impossible for me to fail to disclose to the Band Assembly something which the Band Assembly itself did. Presumably, they have documentation of their own actions. At Tab #24, I've attached the law stating that the Secretary-Treasurer is responsible for keeping records of all Band Assembly actions.

Governing bodies are responsible for knowing of the body's actions. It does not matter if the composition of the Band Assembly has changed. For example: every two years the composition of the U.S. Congress changes. Old members are voted out and new members are voted in. New Members of Congress might be unaware of the actions of the previous Congress, but that does not mean those previous actions were hidden from the new Members or undisclosed from them. Returning Members of Congress might not remember what they voted on in the previous Congress, but that does not make their previous actions hidden or undisclosed.

Fourth, it would be a huge stretch of the imagination to conclude that the current Secretary-Treasurer was unaware of the tribal court case, and that it was hidden from her or undisclosed. In 2012, the Chief Executive requested the Band Assembly revive the tribal court case. This was a highly controversial issue among the Band Community, because I had just prevailed in the primary election as one of the candidates moving forward.

During this time, Secretary-Treasurer Beaulieu was serving as the Commissioner of Administration – which under Band law is the Chief of Staff to the Chief Executive. Unless she had an extended absence, it does not seem possible that the tribal court case was hidden or undisclosed from her, much less the Band Assembly, or the Band public until July 10, 2017.

But most compelling, is the fact that the Secretary-Treasurer is on record **admitting that she did know** about this court case **before** a Mille Lacs Band Member brought it to the TEC on July 10.

She had been getting outside advice on how to handle it far in advance of the TEC meeting, and **she and her own staff engineered bringing the issue to the TEC to manipulate TEC members.** It is an undisputed FACT that the Secretary-Treasurer **did** know about this case well before July 10, so her statements to the TEC are completely false.

As MCT Secretary, I now record all TEC proceedings to ensure accuracy of the minutes. At the July 10 TEC meeting during the break, after a Mille Lacs Band Member had passed out the 9 year old tribal court case, the Band Member can be heard on tape speaking to Secretary-Treasurer Beaulieu, discussing how she was slipped an envelope by the Secretary-Treasurer's own staff at a Band Assembly meeting at Eddy's Resort on June 8, a full month before July 10.

The Band Member then says, *"I didn't want to do this."*

Secretary-Treasurer Beaulieu then replies, *"I know. Well, and I couldn't either, as this Member..."* _

Then Secretary-Treasurer Beaulieu admits she had known about the case, by stating, *"Cuz I've been talking to someone else about the matter....because I knew it would come up...and this guy suggested that..."*

This unwillingness to bring up this issue herself is apparently why her staff gave the court paperwork to the Band Member a month earlier at the June 8 Band Assembly meeting. At Tab #25, I have also included the minutes from the June 8, 2017 Band Assembly meeting, which proves that besides a former staff person in my office, only Legislative Branch employees were present at that meeting. The Band Member could have only been given this copy by the Secretary-Treasurer's own staff.

So that entire presentation on July 10 was manufactured. It was staged with support from the Secretary-Treasurer and her staff and intended to manipulate the TEC on July 10. Which proves that this case did **not** remain undisclosed until July 10, 2017.

In addition to misleading the TEC about her knowledge of this case, the Secretary-Treasurer also misled Band Members at the July 20, 2017 Joint Session meeting at the ALU in East Lake. The transcript of that meeting is at Tab #26. She made the following statement:

"We were never provided this information. I didn't know this was a pending court case. "

She also said:

“At TEC -- because I knew nothing about it -- I couldn’t do anything about it.”

Later in the meeting, after she was confronted on July 20 about her taped conversation with the Band Member during the TEC Break, proving she did know about this case, the Secretary-Treasurer then back-pedaled on her claim.

She responded by saying, ***“What I said was I had never SEEN the tribal court case. And then I just went upon my own recommendations from someone.”***

The Secretary-Treasurer admitted at this meeting that she **did** know about the tribal court case before July 10, even if it is true that only her staff had the case in their possession, and she personally never saw it. She also admitted she had been getting advice about how to handle the matter prior to July 10.

In her August 11 letter to Band Members at Tab #3, she repeated the phrase that she had not SEEN the tribal court case, but no longer claims she had no knowledge of it.

She writes: ***“Although I had been aware of and seen the Chief Executive’s dismissal court case from Minnesota State Court, I had not seen the pending case that was filed and continued indefinitely in the Mille Lacs Band Court of Central Jurisdiction in 2009.”***

All of these statements from the Secretary-Treasurer confirm that her allegation that the tribal court case was undisclosed until July 10, 2017, is completely false.

Allegation C: “A meeting with the Joint session of Band Assembly was held on Jul 20, 2017. At that time we asked for an explanation from Solicitor General Todd Matha, who basically blamed the delay of the case on the previous Band Assembly for not approving a special prosecutor contract. Matha also claimed that it became a conflict of interest once the Chief Executive (CE) was reelected in 2012. The Chief Executive stated at this meeting that her theft charges were resolved in Mille Lacs County Court.

First, nothing in this allegation is a violation of the Constitution or Band law. Second, if I did make that claim, it would have been accurate. The state court theft charges **were** resolved in State Court. However, I never made that statement at this meeting.

I am including the Secretary-Treasurer’s own minutes from that meeting, at Tab #26, which were only just provided to me a few weeks ago. I have been requesting copies of Band Assembly minutes for four years; the first time I have ever received minutes was a few weeks ago, when about 7 months of Band Assembly minutes were delivered to my office. If you review the Band Assembly’s July 20 minutes, there are no quotes from me in this official Band Assembly record.

The transcription of the July 20 Joint Session meeting is also at Tab #26, so you can see what was actually said as well. This is also evidence that I never stated that my tribal court charges were definitively resolved in state court.

The word “resolved” appears 10 times in the transcript, but I only used that word once -- and it was **not** about my tribal court case. What I said was -- that the matter of whether I was **properly certified** had been resolved, because I have no convictions. Here is my exact quote, which I would like to read:

“I’d like to say something on what happened at the last TEC meeting in Leech Lake. One of the TEC members stood up and talked about this issue. It was discussed at the table, the TEC tribal attorney said it was a certification issue, and should not be addressed there, that if it was going to be addressed it should be addressed during certification. He talked about that. People didn’t know exactly what to do and Carolyn made the recommendation to bring back to the Band assembly. So currently if you listen to the Solicitor General, the issue was resolved during certification, there was no conviction. That’s what they look for.”

So again, there is no evidence to support this allegation, and the claim appears to have been made up.

Allegation D reads: “On August 11, 2017, I wrote a letter on behalf of the Band Assembly to update Mille Lacs Band members of 09CR01 not being resolved and that Band Assembly needed to hire a special prosecutor to handle the case. Melanie, in response to our letter, also wrote a letter to Band Members, claiming that I had no basis for reviving court case 09CR01 other than I wanted to start trouble. Again, using her position and band resources to mislead constituents and interfere with the Legislative Branch’s duty to revive the case and allow the proper branch of government, the Judicial Branch/Tribal Court to handle it.”

My August 11 letter to Band Members at Tab #4 proves I did not make these statements. Mailing a letter that states facts and brings attention to greatly exaggerated statements does not mislead Band members or interfere with Band Assembly’s “duty”.

Secretary-Treasurer’s letter to Band Members, also dated August 11, 2017, informed them about the Band Assembly’s decision to revive the case against me in our court. She stated that *“The TEC ultimately agreed that this matter should have been addressed at the 2012 or 2016 certification of Melanie Benjamin’s candidacy”* and *“We agreed at the MCT TEC level this is an election certification matter that should be dealt with at the Mille Lacs Band level.”*

This was a huge exaggeration of what actually happened and she omitted important facts in this letter to Band Members in order to give legitimacy to the Band Assembly’s decision. The purpose seemed to be to make Band Members believe that the TEC instructed the Band Assembly to resolve this matter, and that the Band Assembly had no choice but to follow the TEC’s instructions.

In my letter to Band Members I fully described what occurred at the July 10 TEC meeting and corrected the facts. I stated that *“There was no vote, no instruction and no agreement from the TEC whatsoever.”*

I further stated that *“The MCT’s attorney then stated that officially, this matter was not even in front of the TEC, and that ‘If it’s a certification issue, take care of it during elections.’ He did not agree or state that the Band must resolve the issue or go back to tribal court.”*

These are facts, and they appear on live Facebook streams of that meeting and in the meeting's transcript. Moreover, Secretary-Treasurer Archie LaRose was the only TEC member who suggested that the TEC or the Mille Lacs Band should deal with the issue. This comment hardly demonstrates that the TEC agreed or instructed the Band Assembly to deal with the issue immediately or to attempt to redo the 2016 certification, which is not even legally possible.

Mailing a letter to Band members in order to correct her exaggeration of events does **not** constitute misleading Band members or interfering with the Band Assembly's "duty". Like all the other previous claims of statements I have made, this is yet another false statement that was recklessly included in the censure motion.

Second, it is **false that I used Band funds** to pay for mailing my August 11 letter to Band Members, even though since then, I have been advised that I could have done so. If I had, a record would exist because the Commissioner of Finance reports to the Secretary-Treasurer and scrutinizes every expense billed to our office. There would be proof. But there is no proof, because this statement is false. The fact is that I used personal resources to mail this letter.

The Secretary-Treasurer, however, has spent an undisclosed amount of Band money to finance this effort to remove me from office. She has been using Band resources for all mailings, including several mass mailing, one of which was a very large package.

These allegations against me are false, and are not dereliction of duty or malfeasance.

Statement E: This is a statement that my attorneys submitted a brief requesting the case be dismissed, and a hearing was scheduled for December 19, 2018.

It is not an allegation.

Statement F reads: "On August 24, 2017, the Band Assembly approved a contract with a special prosecutor to ensure the case is resolved through the Mille Lacs Band's Central Court of Jurisdiction."

This is also a statement, not an allegation.

Statement G reads: "On October 20, 2017 the Solicitor General provided a timeline of events on 09CR01. My intention was to provide an update the MCT and Mille Lacs Band members about the case at the next TEC meeting."

This is also a statement, not an allegation.

Allegation H reads: "On October 25, 2017, Melanie sent me an email, asking if she could attend the next day's Band Assembly meeting to provide an update on the law enforcement matter and a CMD meeting. I stated that although those topics are important, we could not add her to the agenda as we were significantly backed up. The next day during our lunch at Band Assembly, Melanie showed up anyway, unannounced and proceeded to tell us about

the law enforcement agreement. At the end of the discussion, she then asked me what the update on the TEC agenda was about. I informed her that I asked Todd Matha to provide an update to the constituents because they needed to know the truth of what's going on with her court case. Melanie's subsequent actions are those of interference. She wrote letters to both the MCT and Band Assembly stating the court case was resolved. "

First, Band Assembly meetings are public meetings. Attending a Band Assembly meeting "unannounced" is the right of every Mille Lacs Band Member, including me.

Second, she seems to be implying that I used the law enforcement crisis to make up an excuse to speak with the Band Assembly, and that my 'real' reason for meeting with them was to interfere.

The reality is that Governor Dayton had just notified my office that Mille Lacs County had agreed to mediate our law enforcement dispute, which the Governor was offering to pay for, and that the mediator had time available for mediation the following week. This was big news. The Governor's staff told my staff that an **immediate response** was necessary to lock in the time with the mediator, or we might have to wait several months. At this point, our community was in a state of crisis, as the county was threatening to arrest our officers for doing their jobs.

At Tab #27, I have included an email from my staff, dated October 25 at 3:02 p.m., informing our legal team about this phone call and the urgency. They asked that I immediately meet with Band Assembly so we could reply that the Band government was unified on this issue. Also, my long-standing practice has been to consult with the Band Assembly on all major decisions involving the law enforcement crisis.

Two and a half hours later, I emailed Carolyn at 5:30 p.m. requesting time to meet with the Band Assembly because, and I am quoting myself, "*We have some very recent developments on the law enforcement issue within the last hour, and I would like to inform the elected officials about this matter.*" That email is also at Tab #27.

Band Assembly only meets twice a week for a few hours on Tuesdays and Thursdays. The next day was a Thursday. If I had **not** talked with them on October 26, I would have been unable to speak with them as a group until the following Tuesday, which would have been too late.

I will **NOT** apologize for tracking down the Band Assembly on this critical matter -- without waiting a week for the Secretary-Treasurer's permission -- to attend what is a public meeting anyway. Further, as she pointed out, they were on a break eating lunch. I did not interrupt anything.

At the end of this discussion, I asked Carolyn why the Solicitor General was on the agenda for the next TEC meeting, but this is because I had emailed her twice with the same question but she did not reply. Asking her this question during lunch at a Band Assembly meeting was not interference.

If one of you, as TEC members, had learned third-hand that your Band's tribal attorney had been scheduled to speak to the TEC at the next meeting, would you be curious about why? As one of two TEC members representing the Mille Lacs Band, asking to know what our Solicitor General would be speaking about at the TEC meeting was not interference, it was a common sense question.

Fourth, at no point did I state in a letter to the Band Assembly dated October 30, 2017 that the case was resolved. On the contrary, I stated and acknowledged that the case against me was suspended. That letter is at Tab #28. The allegation that I wrote a letter to the Band Assembly stating that the case was resolved is false.

The letters prove those statements were never made by me. Even had I done so, that would be no violation of the Constitution or Band law.

Due to the fact that I never stated in letters to the TEC or Band Assembly that the case against me was “resolved” and, instead, acknowledged that the case was suspended, I did not commit “malfeasance in the handling of tribal affairs” or “dereliction or neglect of duty”.

None of these matters are Malfeasance, Dereliction of Duty or violation of Oath of Office.

In Allegation I, the Secretary-Treasurer states: “On October 30, I emailed the Solicitor General, forwarded Melanie’s correspondence and informed him that Band Assembly will not be discussing or accepting anything further from Melanie regarding her pending court case and her attempting to do this is unethical and perhaps unlawful.”

My communication with the Band Assembly was limited to correcting Carolyn’s false statements and providing them with factual information that was not being shared with them. Ten days after the July 10, 2017 TEC meeting when her staff staged the presentation of the tribal court case, at the July 20 Joint Session meeting, she appeared to blame the TEC for requiring the Band Assembly to resolve the court case and review the 2016 certification of my candidacy.

Those of you who were at the July 10 TEC meeting know that is untrue. I am including the transcript of our discussion at Tab #29 as proof that the TEC never instructed the Band Assembly to do anything; it was Carolyn who volunteered to bring the issue back to the Band Assembly and get it off the TEC’s plate. MCT Attorney Phil Brodeen noted that the topic was not even officially before the TEC, so there was no action to take.

After she made numerous false statements in her October 30 letter to the TEC, I realized Band Assembly was not getting transparent information. I did write to the Band Assembly to correct false information and ensure they were aware of her correspondence with the TEC (Tab #28).

I had a staff-person deliver the letters to Band Assembly members at a Band Assembly meeting but the Secretary-Treasurer refused to allow them to be passed out to the District Representatives at that meeting. She instructed my staff not to pass them out. Then she later emailed the Solicitor General stating that she would no longer be accepting information from me.

All this proves is that there was an effort to prevent the Band Assembly from receiving factual information about what had happened at the TEC meeting. Nothing in this charge is malfeasance or dereliction of duty.

Allegation J: “On December 24, 2017, Judge Plummer issue an order denying the motion to dismiss the case and added on page 6 of that ruling “Any prejudice to the Defendant as a

result of the delay in the prosecution will go to the weight of evidence against her, not to the admissibility of such evidence.”

I agree that this statement was part of his ruling.

Allegation K: At the February 21, 2018 hearing, a scheduling order was issued and the judge scheduled the next hearing for June 29, 2018.

This is a truthful statement which I agree happened.

Allegation L: “I cannot faithfully and confidently do my job as the Secretary-Treasurer to protect our financial assets, knowing the current Chief Executive has this unresolved court case pending all these years. Now that the case is being delayed more than desired, the Mille Lacs Band Assembly supports the censure hearing request of Melanie Benjamin.”

A nine-year old tribal court case has nothing whatsoever to do with the Secretary-Treasurer’s ability to perform her job. But what is most concerning is the statement about the tribal court case having been “delayed more than desired”.

At the tribal court hearing on February 21, Special Prosecutor McGee informed the Judge that the Band wanted the trial date by June 11, the day before the TEC Election. That’s today. I doubt selecting June 11 was a coincidence, which hints at political motivations.

There are 3 general categories left to cover, but the rest should move rather quickly. I apologize for the length of this response, but the record needs to be set straight and Band Members are entitled to the truth.

II. FAILURE TO ADDRESS FRAUDULENT ACTIVITY IN THE DOL 477/TANF FEDERAL PROGRAMS.

Statements A through H are not allegations, but instead are a recounting of events involving the Band’s Department of Labor 477/TANF program, from the perspective of the Secretary-Treasurer.

Statement “I” contains the first allegation under this heading, which reads: “Todd Matha was going to initiate the investigation on behalf of the Chief Executive, without informing the Band Assembly, who already tried getting his assistance in the matter. This appeared to be a potential “cover up” to the Band Assembly.

First, yes – the Band Assembly did try to get his assistance on the matter and they were successful. Three months earlier, on June 13, the Solicitor General provided a legal opinion on the matter to the Band Assembly.

Allegation J: “We have not been able to get the Executive Branch, via the Chief Executive or Solicitor General’s office to rectify the wrongdoings and hold the employees accountable for their perceived fraudulent and misappropriating activities.”

The allegation is false and misleading. The audit conducted on the 477 program does **not** conclude that wrongdoing occurred. Secretary-Treasurer Beaulieu stated in her motion that *“the audit report confirmed perceived misappropriation of federal funds, and accusations of fraudulent contracting.”* This is misleading.

Here is what the audit report actually says, which is at Tab #7, and I quote: *“it is unclear as to how federal partners will interpret the lack of income requirement within the current 477 plan for supportive services while certain policies and procedures appear to require income eligibility testing.”*

This statement does **not** confirm wrongdoing. In fact, the audit report states that program administrators relied on the advice of federal officials about how to interpret a confusing federal statute.

The former Executive Director said that the audit report *“indicated that, through discussions with federal sources, supportive services were not required to have income eligibility requirements for ‘support’ whether TANF funds were used or not as the funding source.”*

Moreover, the report states that the former Executive Director and former Commissioner of Administration, and I quote, *“were informed by federal partners that income eligibility tests were not required for supportive services.”*

Lastly, former Solicitor General Todd Matha issued a legal opinion through a memorandum on this issue and did not conclude that wrongdoing occurred, which is at Tab #8.

As to the statement about a “cover-up” or that I failed to hold anyone accountable, the facts say differently. On September 7, I was notified by our new Commissioner of Administration and new Assistant Commissioner of Administration that they were concerned about the past administration of the 477/TANF program by the previous Commissioner. That same day, I instructed the Solicitor General to conduct an investigation. This memo is also at Tab #8.

This was not a cover-up, it was following Band law. Title 4, § 12. A (3) charges the Solicitor General to investigate and inquire into matters affecting the general welfare of the Band or its organs of government.

After having two commissioners notify me of their serious concerns – had I done nothing – THAT would have been dereliction of duty. Instead, I immediately requested an investigation into an Executive Branch program that falls under the Commissioner of Administration.

On September 17, I wrote to the Band Assembly notifying them of my request for an investigation. I received an email from the Secretary-Treasurer asking that I attend a Joint Session to discuss this issue, and a notice that the Band Assembly would be conducting its own investigation through a forensic audit. This was the first I learned of a Band Assembly investigation.

The Secretary-Treasurer reports that at the Joint Session on September 17, the Band Assembly voted to conduct a forensic audit on the programs. What she neglected to tell you is that I was in

that meeting as well, and as elected officials, we agreed in that meeting that rather than two investigations, the Solicitor General and the Commissioner of Finance would work together. This was collaboration, not interference or cover-up.

Allegation O: Later, in 2(o), Carolyn writes “we feel it is appropriate to include this reason for Censure of Melanie Benjamin, based on the refusal to address fraud and misappropriation of federal funds in the federal 477/TANF programs.”

This is an untrue, unfounded accusation and attack on me. Carolyn provides no evidence whatsoever that I refused to address fraud and misappropriation of federal funds, because none exists; I never refused to address this issue. Clearly, the emails I discussed earlier prove the opposite is true.

While poor managerial decisions were made by an Executive Branch employee, not only did the report state that this employee followed the advice of federal officials when overseeing the program, it also concluded that this employee appears to have followed Band contracting procedures. This negates the Secretary-Treasurer’s statement that the report confirmed fraudulent contracting. As the audit report demonstrates, no employees committed wrongdoing.

Nevertheless, very poor management decisions were made that – although they were legal – did put the Band in a precarious position. Those responsible were held accountable. As a former Commissioner of Administration, the Secretary-Treasurer knows that our Band Assembly-approved Personnel Policies and Procedures prohibit the sharing of confidential employee information involving regular employees -- including disciplinary actions -- with any party except the immediate supervisor and our H.R. Department.

Those responsible for this program were regular employees at the time of the investigation. Employees were held accountable, although I am prohibited from disclosing any further details. However, the Secretary-Treasurer is well aware that the employee in question is no longer employed by the Band government. The allegation that I refused to hold those responsible is a false and does not constitute “malfeasance in the handling of tribal affairs” or “dereliction or neglect of duty.”

III. USING MILLE LACS BAND FUNDS TO PAY FOR SERVICES THAT THE SECRETARY OF THE MINNESOTA CHIPPEWA TRIBE’S (MCT) TRIBAL EXECUTIVE COMMITTEE (TEC) IS ALREADY COMPENSATED FOR.

Statements A-D are simply complaints about TEC officer stipends and complaints that the TEC has not revisited stipends per the request of a few MCT members who attend meetings regularly.

Allegation E states: “On March 1, 2018, during a regular budget review at a Band Assembly Legislative session, it was noted that Melanie was contracting with an individual from Arizona to transcribe and compile meeting minutes. We were informed that the contract was for the transcribing and compiling the meeting minutes for the MCT TEC. I stated my disagreement and so did the District I Representative.”

First, transcription and minutes are two completely different tasks that involve different work products. Transcription involves listening to taped recordings of meetings, and typing a word-for-word record of everything said in the meeting. Minutes are record of what was done in meetings and a summary of the discussion, not word-for-word statements.

I did not hire someone to compile or write MCT Minutes. If you look at the contract the Secretary-Treasurer attached to her motion, which is at Tab #10, it proves this point: The contract clearly states that transcribing TEC meetings is the only service she provides; the contract does not state that she compiles meeting minutes.

Compiling TEC minutes is my responsibility, and is a collaborative effort involving me, my staff and MCT staff. Since 2016, it has become too large for just one or even two people to do. This meeting today is the sixth time we have met in six months, and our meetings sometimes go all day. Collectively, my time, my staff's time, MCT staff time and the time of the transcriber has been as high as 80 hours for the longest TEC meeting held to date. The stipend I receive does not cover the time I spend working on minutes.

I always take notes during meetings, and evidence of this can be seen on the Facebook video of our meetings. As a back-up to my notes, I bring some of my office staff to TEC meetings. They are not there to watch the drama unfold and play on their phones; they are required to work, and some are assigned to help take notes.

Even with this collective effort, some information was missed that was necessary for the minutes. Listening to a six-hour meeting all over again was too time-consuming, so I hired a professional to transcribe the recordings. Now, we have a paper document to refer to, which is much faster. We all compare our notes and work collectively to ensure draft minutes are accurate.

However, this allegation is just silly. I've been accused of violating the Constitution because I have hired a transcriber to provide the MCT with a transcript of each meeting, rather than doing it myself. For me to be guilty of hiring a transcriber, one of the duties as Secretary would need to be recording and transcribing meetings – these are not duties of the Secretary.

I cannot have violated my duties as Secretary by asking a contractor to perform a task that is not required of me as Secretary. Article I, Section 3 of the Bylaws states that the Secretary shall “keep a complete record of the meetings of the Tribal Executive Committee” and “keep a complete record of all business of the Tribal Executive Committee.” That is exactly what I do. The Transcription assists me with ensuring minutes are accurate, and providing transcripts to the TEC is a bonus service that I have been providing.

It is impossible to commit “malfeasance in the handling of tribal affairs” or “dereliction or neglect of duty” for performing an action that aids the TEC and is not a required duty under the Bylaws or Robert's Rules of Order.

Item F: “On March 16, 2018, Melanie wrote a memo defending the use of Mille Lacs Band funds to pay for her secretarial responsibilities for the TEC. She stated that the MCT is underfunded. This does not justify her using Band funds to pay for her secretarial duties that she is already clearly compensated for. Also, Melanie should have sought some sort of consensus from the MCT TEC prior to hiring a stranger to listen to our most intimate discussions about MCT matters and then transcribe as she determines the context of all the discussion.”

First, we all know the MCT is under-funded. This is not debatable.

Second, At the May, 2017 MCT meeting, an audience member attacked me due to a mistake in the minutes. This is when I decided we needed to record all meetings to ensure we had a transcription to rely upon for accuracy.

My staff spoke with MCT staff, who had already been looking into buying recording equipment for the MCT, but it was very expensive. As a service, I decided to buy recording equipment to use for my meetings at home, but which could also be used at TEC meetings.

Third, it is not a violation of the constitutional duties of any officer to do more than is required of an officer, or to use Band resources to help support MCT work. This is neither dereliction of duty or malfeasance, but as someone recently said, falls into the category of “no good deed goes unpunished.”

Fourth, complaining that I should have obtained permission from the TEC “*prior to hiring a stranger to listen to our most intimate discussions about MCT matters*” is also silly. All TEC meetings are publicly available to anyone with a Facebook account.

Nothing under this Third category is dereliction of duty or malfeasance.

IV. UNRESOLVED MATTERS RELATED TO “THE RESIGNATION OF SOLICITOR GENERAL TODD MATHA PRIOR TO HIS ETHICS VIOLATION HEARING SCHEDULED ON APRIL 24, 2018.

Allegations

A: “Beginning in late 2015 Band Assembly began to experience a lack of support from Solicitor General Todd Matha. After two years of trying to get Solicitor Matha to improve his support to Band Assembly and even including the Chief Executive in communicating the many of the areas of dissatisfaction, Band Assembly had enough and decided to directly address the behavior and lack of response.”

B: On October 20, 2016, Band Assembly provided wrote a letter to Mr. Matha expressing our dissatisfaction.

C: Band Assembly saw no improvement from Mr. Matha so it was decided to hold him accountable for his actions and inactions.

The above A-C are just complaints about previous Solicitor Todd Matha, versus allegations against me. Since this is a public proceeding, however, and to ensure that the reputation of Mr. Matha is not further maligned, I want the TEC to know that Mr. Matha has always been objective when it comes to interpreting the law, and that is not just my opinion, but the opinion of other internal and external attorneys who work with the Band.

On hundreds of occasions over the past six years, I have sought his legal opinion or asked him to interpret Band law to guide my decision-making process. On more than half of those occasions, his opinion was not what I was hoping to hear. Mr. Matha was an excellent Solicitor General because he was not a “Yes Man”.

He always ensured strict compliance with the laws of the Band and did not bend to political pressure from the Legislative Branch or anyone else, for that matter. The Secretary-Treasurer’s “lack of support” complaints only began after the Solicitor General took a neutral position on a difference of opinion between me and the Band Assembly.

It wasn’t the answer I had hoped to hear, either, but I respected his decision as law. But the Legislative Branch didn’t. The mentality seemed to be, “if you’re not with us, you’re against us”.

D: “On April 19, 2018, Band Assembly (4 members of the Joint Session) signed a petition ordering an ethics violation hearing for Todd Matha to answer for the several unresolved matters, many that remained unresolved since his October 20, 2016 write up.”

Again, this is not an allegation against me, but I want to clarify that the October 20, 2016 “write up” was not a “write up” but rather a letter of complaint. The Band Assembly has no legal or administrative authority to “write up” any Executive Branch official or employee.

Second, under Band Statute, the Solicitor General can only be removed from office through the official removal proceedings laid out in Band Statute. This often lasts several months because it is intended to provide due process. In the Band Assembly’s petition, they wrote that they would be voting for “indefinite suspension without pay”, which is the exact same outcome as a removal, which also made this process illegal.

E. “On Sunday, April 22, Band Assembly received an email and memo from Melanie pleading that Band Assembly withdraw the petition and that this was just a political maneuver on the part of the Band Assembly. Melanie included our Federal Attorney in the email who is fighting for us on our Law Enforcement Matter. Band Assembly feels that was inappropriate for her to include him with a personnel matter with our Solicitor General. Band Assembly had kept this matter confidential up until the petition was sent to Melanie and Todd on April 19, 2017”.

I sent an email and memo on April 22 to the Band assembly strongly objecting to the illegal ethics hearing that had been scheduled, which is at Tab #30. I was also very concerned about the impact of this very hasty effort to immediately terminate the Solicitor General on our federal lawsuit against Mille Lacs County, filed in November of 2017.

Our Counsel on the case are Marc Slonim, of the Seattle firm of Ziontz, Chestnut and Slonim; and co-counsel was Solicitor General Todd Matha. Mr. Matha was also the lead attorney in our advocacy with the U.S. Attorney, lead negotiator with the County, primary contact with the State other federal law enforcement agencies as well as manager of the overall effort. Of course I spoke with our Attorney Marc Slonim about this issue! It was irresponsible for the Band Assembly to seek to remove the co-counsel in our federal lawsuit without consulting the other co-counsel Marc Slonim beforehand.

Mark is consulted on even the smallest matters that could possibly relate to our federal lawsuit and the law enforcement matter. Firing our Solicitor General who worked in partnership with Marc was a matter of huge significance. It would have been irresponsible of me NOT to have informed Marc of what was happening. I will not say any more about those conversations because of the fact that we are in litigation mode.

But it is ridiculous to suggest that I should not have informed Marc of what was happening. The only reason to keep that information from him would have been because the Band Assembly was aware that what they were doing was illegal, irresponsible and put the Band at risk.

F. “The CE and Mr. Matha were sent an email in February 2016 that included an anonymous note reporting that there was unethical behavior and lack leadership in the [Tribal Police Department]. Neither one followed up as requested.”

This allegation is false. I immediately forwarded this complaint to former Solicitor General Matha and Chief of Police Sara Rice on February 3, 2017 one hour after I received the complaint from Secretary-Treasurer Beaulieu. This email evidence is at Tab #12.

Chief Rice followed up on the matter with the information she had. She concluded that the allegation that tribal police officers arrived at the scene nine minutes after the call was incorrect. Tribal police records indicate that police officers arrived at the scene within four minutes. Chief Rice then held a department meeting with all officers and reminded them to remain in uniform and that, pursuant to department policy and Minnesota law enforcement statutes, they are free to file complaints against superiors without fear of repercussion (also Tab #12)

Since this allegation is false, it does not constitute “malfeasance in the handling of tribal affairs” or “dereliction or neglect of duty”.

G. “Somehow the petition was given to ‘Ogimaa Giniw’, and he posted it on Facebook ...That’s a huge breach of confidentiality.”

First, I absolutely did not provide Ogimaa Giniw the April 19th petition for an ethics hearing.

However, it would be a mistake for me not to address the misleading context that Secretary-Treasurer Beaulieu has surrounded this allegation with. It is inaccurate under Band Statutes to allege that it was a breach of confidentiality for Ogimaa Giniw to come into possession of a petition

for an ethics hearing. There is no provision in the Band's Ethics Code stating that ethics hearings are confidential or grants the Secretary-Treasurer the power to make an ethics hearing confidential.

In fact, the very purpose of the Band's Ethics Code is to promote open government and integrity and "to maximize trust between Mille Lacs Band officials and the people they serve." To accuse an appointed official of unethical behavior, keep those accusations confidential, and to convene a confidential hearing to address those accusations goes against those very purposes. As a matter of common sense, it is a matter of public concern when the Band's Solicitor General—the leader of the Band's Department of Justice—is accused of behavior that may warrant discipline.

Finally, Mr. Matha does not deem the petition to be confidential. I've attached his sworn affidavit and all information related to this matter at Tab #30. When personnel matters are deemed confidential, the purpose is to protect the privacy rights of the employee. Mr. Matha held the privilege on this matter, not the Band Assembly. Since he waived his privilege, the only reason to insist on confidentiality was for the Band Assembly to protect themselves from public knowledge about what they intended to do.

Which is...the Band Assembly had decided Mr. Matha would be "suspended indefinitely without pay". I have attached their petition as evidence that this had been pre-decided. Mr. Matha refused to go through an ethics hearing when his fate had already been determined, and resigned his position so as to protect his legal reputation.

In a stunning move, the Band Assembly voted to reject his resignation, because they wanted him punished. However, since the 13th amendment abolishing slavery and indentured servitude, forcing someone to work for you without pay is illegal. Refusing to allow an employee to quit after you have stopped paying him is highly illegal, violating scores of federal, state and Band laws. These efforts were highly unethical and an embarrassment to the Mille Lacs Band.

In conclusion, since I did not provide Ogimaa Giniw with the petition and the ethics hearing was not confidential under Band law, this allegation does not constitute "malfeasance in the handling of tribal affairs" or "dereliction or neglect of duty".

CONCLUSION

After responding fully to each allegation and charge, I respectfully request that the honorable members of the Tribal Executive Committee vote against Secretary-Treasurer Beaulieu's motion for censure against me. Miigwech.

Melanie Benjamin, Chief Executive