

**PRIVILEGED AND CONFIDENTIAL**Via Email

August 7, 2013

Mr. Dragisa Adzic
Registry Operations
Canadian Human Rights Tribunal
11th Floor, 160 Elgin Street
Ottawa, ON K1A 1J4

Dear Mr. Adzic:

Re: First Nations Child and Family Caring Society, Assembly of First Nations et al v. Attorney General of Canada - Tribunal File #: T1340/7008

In regard to the retaliation allegations contrary to Section 14.1 of the *Canadian Human Rights Act*, please be advised that the Assembly of First Nations (AFN) will not be providing closing arguments on the retaliation complaint. However, the AFN would like to advise the Canadian Human Rights Tribunal of its concerns on the broader implications raised by this matter.

Following the repeal of Section 67 of the *Canadian Human Rights Act*, the Government of Canada is subject to potential discrimination complaints in regards to decisions and/or actions made pursuant to the *Indian Act*. First Nations leaders, communities and persons now have a legal basis to challenge the Government of Canada if it were to act in a discriminatory manner. However, the circumstances of Cindy Blackstock foreshadow a troubling situation for those First Nations leaders or organizations who might submit a human rights complaint in the future.

The alleged conduct of the Respondent causes concerns for the AFN, in that a First Nation leader or the head of a First Nation organization could be personally targeted by the federal government and its agencies for simply filing a complaint. The potential of having one's personal life and history placed under federal surveillance, whereby officials seek to uncover ulterior motives or concoct a factual basis to discredit the integrity of the person is troubling. This would place one in an unfortunate situation whereby they may be attacked, discredited and subjected to public scrutiny.

In addition, First Nations leaders and organizations may have received the implied message that the filing of a discrimination complaint will result in cuts to their funding, a severing of relations with the federal government and its officials, the elimination of joint policy work and the termination of communications. The alleged conduct of the Respondent raised by Ms. Cindy Blackstock's retaliation complaint has the potential to dissuade First Nation leaders and organizations from pursuing future human rights complaints.

It would not be in accordance with a free and democratic society for persons seeking to improve public policy to fear and/or be subject to retaliation from the Government of Canada. The Canadian Human



Rights Tribunal would do well to implement specific remedies against those who contravene retaliation provisions as this would directly enforce the purpose and basis of human rights legislation.

In conclusion, the AFN fully supports the requested orders of Cindy Blackstock. Furthermore, the AFN is of the view that a strong ruling is warranted in this matter in order to deter the Government of Canada from treating future First Nation complainants in a similar way.

Sincerely,

NAHWEGAHBOW, CORBIERE

A handwritten signature in black ink, appearing to read "David C. Nahwegahbow".

Per: David C. Nahwegahbow, IPC, LSM, LL.B.
dndaystar@nncfirm.ca

Cc. Daniel Poulin, Philippe Dufresne, Samar Musallam, Sarah Pentney, Counsel for the Canadian Human Rights Commission
Paul Champ, Counsel for the First Nations Child and Family Caring Society
Jonathan Tarlton, Melissa Chan, Patricia MacPhee and Nicole Arsenault, Counsel for Department of Justice Canada
Michael Sherry, Counsel for the Chiefs of Ontario
Justin Safayeni, Counsel for Amnesty International