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April 24, 2025

BY EMAIL

Registry.Office@chrt-tcdp.gc.ca

Peter N. Mantas

Ottawa +1 613 696 6886
pmantas@fasken.com

Judy Dubois
Registry Office
Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, ON K1A 1J4

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

Dear Ms. Dubois,

We write further to the Tribunal's correspondence dated March 31, 2025, and ask that you bring this letter to its attention. At the outset, we thank the Tribunal for its indulgence in allowing us to make this submission on this date, and thank the other parties for their various consents to our request for more time.

Below, we respond to the following items: (1) AFN Representation; (2) Recent AFN correspondence to the Tribunal; and (3) Caring Society motion.

AFN Representation

We confirm that we have been appointed as the new representatives of record for the Assembly of First Nations ("AFN") in this matter, pursuant to rule 16(2) of the Tribunal's *Rules of Procedure, 2021*. An amended Party Information Form is attached.

Further to the Tribunal's request for clarity regarding the appropriate person's making representations for the AFN, this is to confirm that it will be the undersigned, as counsel to the AFN in this matter, who are authorized to make submissions. Furthermore, communications should be directed to the undersigned regarding this matter. We thank the Panel for their patience and understanding as the AFN sought to appoint new legal counsel.

We believe this addresses the Tribunal's earlier queries in this regard. Should the Tribunal continue to require further clarity, please let us know.



FASKEN

Recent AFN correspondence to the Tribunal

Regarding the status of the AFN correspondence of the past few weeks, we affirm that the letter dated April 4, 2025 of the CEO Andrew Bisson represents the AFN's position. Furthermore, we affirm that the letter dated March 31, 2025 of Regional Chief Bernard (with the exception of the first sentence of paragraph 2 relating to Mr. Williamson, who we reaffirm acted further to AFN instructions at that time) also represents the AFN's position. As stated in the letter of RC Bernard, the earlier letter of March 24, 2025 is respectfully withdrawn.

For the convenience of the Tribunal, these letters are attached, together with the referenced enclosures to RC Bernard's letter.

Caring Society motion

The AFN agrees with the relief sought by the Caring Society in its January 14, 2025 motion currently pending before the Tribunal. In particular, it supports the Caring Society's prayer for relief that the Tribunal issue an Order directing consultation between Canada, the AFN and the Caring Society on the national long-term reform of the First Nations Child and Family Services Program, First Nations federal child and family services and Jordan's Principle in line with the Tribunal's Order of February 1, 2018 (2018 CHRT 4) and its related consultation orders.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Peter N. Mantas

*c.c. Dayna Anderson, Kevin Staska, Sarah Bird, John Khan and Alicia Dueck-Read
Counsel for the Respondent, Attorney General of Canada*

*David Taylor, Sarah Clarke and Kiana Saint-Macary
Counsel for the Co-Complainant, First Nations Child and Family Caring Society of Canada*

*Anshumala Juyal and Khizer Pervez
Counsel for the Canadian Human Rights Commission*

*Maggie Wentz, Jessie Stirling and Ashley Ash
Counsel for the Interested Party, Chiefs of Ontario*

*Asha James, Shelby Percival and Meaghan Daniels
Counsel for the Interested Party, Nishnawbe Aski Nation*

*Justin Safayeni and Stephen Aylward
Counsel for the Interested Party, Amnesty International*



March 31, 2025

Sent By E-mail

Judy Dubois

Registry Operations

Canadian Human Rights Tribunal

240 Sparks Street, 6th Floor West

Ottawa, ON K1A 1J4

E-mail: Registry.Office@chrt-tcdp.gc.ca

Dear Panel:

**RE: First Nations Child and Family Caring Society et al v. Attorney General of Canada
Tribunal File: T1340/7008**

We write to you today on behalf of the Assembly of First Nations (“AFN”) Executive Committee to formally retract the letter submitted to the Tribunal on March 24, 2025 by Mr. Adam Williamson, Senior In-House Counsel for the AFN.

The letter in question was sent without the requisite authorization from the AFN Executive Committee. As such, it does not reflect the official position of the AFN in this matter. In light of this, we respectfully request that the Tribunal remove the March 24 letter from the official record of this proceeding.

The AFN would also kindly request an extension of time to file our submissions and evidence on this matter as well as the Caring Society’s consultation motion, from today (March 31, 2025) until Friday, April 4, 2025.

In the interim, we wanted to advise the Tribunal that the AFN is in agreement with the First Nations Child and Family Caring Society’s (“Caring Society”) March 24, 2025 submission that the main obstacle to long-term reform is Canada’s refusal to (i) continue consultations, and (ii) meaningfully engage in the dialogic approach in relation to continuing to develop a national agreement on long-term reform of First Nations child and family services, with regional variations which substantively address the distinct circumstances, cultures, and inherent rights of First Nations children and families (“LTR Agreement”).

1671 rue Principale Street, Madawaska Maliseet First Nation, NB E67C 1W6

The AFN has reviewed the National Children's Chiefs Commission's ("NCCC") correspondence requesting that Canada immediately re-engage with the NCCC, AFN Executive, and the Caring Society to complete negotiations of a LTR Agreement. The AFN agrees with the NCCC's statement in its February 21, 2025 letter that: "[t]he enclosed table confirms the NCCC's view that a national LTR Agreement is within reach, and merely requires Canada to return to the negotiation table to work with the NCCC, the AFN Executive, and the Caring Society in good faith to deliver the justice that all First Nation children and families deserve." In particular, the AFN would like to draw the Tribunal's attention to that table, which outlines the NCCC's views on: "(i) the ten high-level, outstanding issues with the LTR Agreement which must be addressed before the LTR Agreement is finalized; (ii) Canada's position on each outstanding issue, as set out in the draft LTR Agreement; (iii) the NCCC's proposal on how to resolve each outstanding issue; and (iv) the NCCC's views on whether each outstanding issue can be readily resolved."

We have enclosed the NCCC's correspondence with Canada for ease of reference.

The AFN shares the Caring Society and the Panel's concerns in connection with the delay in achieving long-term reform. However, there is now a clear pathway forward to concluding a national LTR Agreement.

Read together, the NCCC's correspondence with Canada on this issue and the Caring Society's position on this motion that "The Research is Ready" and "The Caring Society is Ready", suggests to the AFN that what is required here is for the Tribunal to order Canada to return to the table to work collaboratively and in good faith with the NCCC, AFN Executive, and the Caring Society to close the remaining gaps on a national LTR Agreement and to report back periodically to the Tribunal on their progress and to seek the Tribunal's guidance where necessary.

The AFN remains committed to working collaboratively and transparently in all matters before the Tribunal. We regret any confusion or inconvenience this may have caused and appreciate the Tribunal's attention to this request.

Please do not hesitate to contact us should you require any further clarification.

Respectfully,



Regional Chief, Assembly of First Nations – NB
First Nations Child and Family Services Portfolio Holder
(506)737-7018

1671 rue Principale Street, Madawaska Maliseet First Nation, NB E67C 1W6

NCCC correspondence with Canada

TAB	Document
1.	Canada legal to AFN legal – January 7, 2025
2.	NCCC Legal to Justice Canada – January 22, 2025
3.	Justice Canada to AFN Legal – January 24, 2025
4.	AFN Legal to Justice Canada – January 28, 2025
5.	NCCC Chair Chief Pauline Frost to Prime Minister Trudeau, Minister Hadju, Minister Anandasangaree – January 24, 2025
6.	AFN Legal to NCCC Legal – January 30, 2025
7.	NCCC Chair to AFN CEO – February 18, 2025
8.	MP Singh and MP Idlout to Prime Minister of Canada – February 11, 2025
9.	NCCC Chair to MP Singh and MP Idlout – February 20, 2025
10.	NCCC Chair to Canada – February 21, 2025* * Key document attached – table of outstanding issues for a long term reform agreement
11.	Canada Minister of ISC to NCCC Chair – February 25, 2025
12.	AFN NC to Canada Minister of ISC – March 4, 2025
13.	NCCC Chair to Prime Minister of Canada – March 19, 2025

Tab 1
Canada Legal to AFN Legal
January 6, 2025



Department of Justice
Canada

Ministère de la Justice
Canada

Civil Litigation Section
National Litigation Sector
50 O'Connor Street, Suite 500
Ottawa, ON K1A 0H8

Section du contentieux civil
Secteur national du contentieux
50, rue O'Connor, bureau 500
Ottawa (ON) K1A 0H8

Telephone/Téléphone:
Fax /Télécopieur:
Email/Courriel: Paul.Vickery@justice.gc.ca

Confidential and Settlement Privileged

Via Email

January 6, 2025

Stuart Wuttke and Adam Williamson
Assembly of First Nations
200 – 50 O'Connor Street
Ottawa, ON K1P 6L2

Dear Counsel,

Re: Long-Term Reform of the First Nations Child and Family Services Program

I would like to inform you of Canada's next steps with respect to the long-term reform of the First Nations Child and Family Services Program. The Chiefs of Ontario and Nishnawbe Aski Nation, whose First Nations approved the Final Agreement at their respective assemblies, have asked Canada to negotiate an agreement specific to Ontario based on the Final Agreement's terms. Canada, the Chiefs of Ontario and Nishnawbe Aski Nation will begin those negotiations shortly.

At this time, Canada's mandate does not permit further negotiations on reform of the First Nations Child and Family Services Program on a national basis. Canada is not currently in a position to engage in any negotiations beyond those with COO and NAN.

Sincerely,

Paul Vickery
Legal Agent and Counsel

cc: Maggie Wente, Jessie Sterling and Ashley Ash – *counsel for the Chiefs of Ontario*
Julian Falconer, Meaghan Daniels and Shelby Percival – *counsel for Nishnawbe Aski Nation*

Canada

Tab 2
NCCC Legal to Justice Canada
January 22, 2025

Scott A. Smith*

*Denotes Law Corporation

Direct: 778.371.2243

ssmith@airdberlis.com

January 22, 2025

Sent by E-mail

Justice Canada
c/o Paul Vickery
50 O'Connor Street, Suite 500
Ottawa, ON K1A 0H8
E-mail: paul.vickery@justice.gc.ca

Dear Mr. Vickery:

Subject: Request for Meeting to discuss Long-Term Reform Negotiations

Liam A. Smith and I have been appointed interim legal counsel to the National Children's Chiefs Commission ("NCCC"). I am writing to you in relation to the January 7, 2025 letter in which you advised that Canada does not currently have a mandate to negotiate a national long-term reform agreement.

The NCCC has recently been established by the First Nations-in-Assembly, which provided the NCCC with the mandate to oversee and move forward with further negotiations in relation to the national long-term reform of the First Nations Child and Family Services Program, federal child and family services, and Jordan's Principle (the "LTR Agreements") on behalf of the First Nations-in-Assembly. The NCCC is the new interface through which Canada will deal with AFN in relation to all matters concerning the LTR Agreements.

In that regard, the NCCC requests that we immediately schedule a meeting with you and your client to discuss the position set out in your January 7 letter, and the path to negotiating new LTR Agreements. As you know, the Canadian Human Rights Tribunal ("CHRT") ordered Canada to consult with, among other groups, the AFN and the First Nations Child and Family Caring Society of Canada on the LTR Agreements. The NCCC has been mandated to undertake this work on behalf the First Nations-in-Assembly in collaboration with the AFN.

In particular, First Nations-in-Assembly directed the establishment of the NCCC in October 2024, through AFN Resolution no. 60/2024. In December 2024, the First Nations-in-Assembly approved in principle the draft terms of reference for the NCCC in AFN Resolution no. 89/2024. Both resolutions were passed by an overwhelming majority of Chiefs and proxies at the Special Chiefs Assemblies. In particular, the First Nations-in-Assembly mandated the NCCC to provide strategic direction and oversight of the negotiations for long-term reform, reporting back to the First Nations-in-Assembly. The

purpose of those negotiations is to eliminate discrimination by Canada against First Nations children and families, ensure it never happens again, promote substantive equality, and uphold First Nations' rights to self-determination.

The NCCC is comprised of: (i) one regional representative, an alternate, and their technician(s) from each of the eleven AFN regions; (ii) one regional representative, an alternate, and their technician(s) for every region not represented by AFN; (iii) an Elder or Knowledge Keeper representative; and (iv) a youth representative. All regions except for Ontario have appointed their NCCC representatives through their regional processes, and the NCCC began to convene regular meetings in December 2024.

In keeping with the sovereign will of the First Nations-in-Assembly to establish the NCCC, dialogue between the NCCC and Canada will be essential to achieving needs-based long-term reform that will eliminate the discrimination identified by the CHRT and ensure the physical, spiritual, emotional and cognitive well-being of First Nations, children, youth and families for generations to come, consistent with the honour of the Crown.

We look forward to your prompt response and to scheduling a meeting as soon as possible.

Sincerely,



Scott A Smith*

Partner

*Denotes Law Corporation

c: Liam A. Smith, Co-Counsel for the NCCC

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Tab 3
Justice Canada to AFN Legal
January 24, 2025



Department of Justice
Canada

Ministère de la Justice
Canada

Civil Litigation Section
National Litigation Sector
50 O'Connor Street, Suite 500
Ottawa, ON K1A 0H8

Section du contentieux civil
Secteur national du contentieux
50, rue O'Connor, bureau 500
Ottawa (ON) K1A 0H8

Telephone/Téléphone:
Fax /Télécopieur:
Email/Courriel: Paul.Vickery@justice.gc.ca

Via Email

January 24, 2025

Stuart Wuttke and Adam Williamson
50 O'Connor Street, Suite 200
Ottawa, Ontario K1P 6L2

Dear Sirs,

Re: Long-Term Reform of the First Nations Child and Family Services Program

We write to advise that we have received correspondence from interim counsel for the NCCC, Scott Smith. His letter dated January 22, 2025 is attached. The letter contains several statements which in our view are somewhat ambiguous. As current counsel of record for the AFN in these CHRT proceedings, we request that the AFN clarify the AFN's current representation in the CHRT proceedings and any associated discussions regarding long term reform of the CFS program.

In particular, the letter indicates that the NCCC is the new interface through which Canada will deal with AFN in relation to all matters concerning the LTR Agreements. It further states that the NCCC has been mandated to undertake this work on behalf the First Nations-in-Assembly in collaboration with the AFN. It is unclear however whether Mr. Smith acts directly for the AFN and whether he is to replace you as counsel in the CHRT proceedings. We would appreciate your confirmation as to these matters.

Sincerely,

Paul Vickery
Legal Agent and Counsel

cc. Scott Smith, Counsel for the National Children's Chiefs Commission

Tab 4
AFN Legal to Justice Canada
January 28, 2025

Assembly of First Nations

50 O'Connor Street, Suite 200
Ottawa, Ontario K1P 6L2
Telephone: (613) 241-6789 Fax: (613) 241-5808
www.afn.ca



Assemblée des Premières Nations

50 rue O'Connor, Bureau 200
Ottawa (Ontario) K1p 6L2
Téléphone: (613) 241-6789 Télécopieur: (613) 241-5808
www.afn.ca

January 28, 2025

Via email: paul.vickery@justice.gc.ca
Department of Justice Canada
Civil Litigation Section
National Litigation Sector
50 O'Connor Street, Suite 500
Ottawa, ON K1A 0H8

Dear Mr. Vickery

Re: Long-Term Reform of the FNCFS Program

I write in reply to your letter of January 24, 2025, seeking clarity as to statements you viewed as ambiguous made in the context of a communication received by Justice Canada from Scott Smith, Counsel for the National Children's Chiefs Commission.

I confirm that I will remain counsel of record for the Assembly of First Nations (AFN) with respect to the Canadian Human Rights Tribunal proceedings at issue, specifically in relation to Court File No. T- 1340/7008. I can also confirm that Mr. Wuttke and Ms. Kassis have withdrawn from this file and that correspondence to that effect was provided to the Tribunal yesterday. In addition, I can advise that Mr. Smith does not act for the AFN, nor is he replacing AFN counsel in the context of the CHRT proceedings.

With respect to any further negotiations related to long-term reform of the FNCFS Program, I can advise that we are currently waiting for instructions from our client.

Yours very truly,

Adam Williamson
Senior In-House Counsel

cc Scott Smith, Counsel for the National Children's Chiefs Commission

Tab 5
NCCC Chair to Canada
January 24, 2025

January 24, 2025

Sent by e-mail

Right Honourable Justin Trudeau
Prime Minister of Canada
80 Wellington St.
Ottawa, ON K1A 0A2
E-mail: pm@pm.gc.ca

Honourable Patty Hajdu
Minister of Indigenous Services Canada
10 rue Wellington
Gatineau, QC K1A 0H4
E-mail: ministresa-ministeris@sac-isc.gc.ca

Honourable Gary Anandasangaree
Minister of Crown Indigenous Relations
and Northern Affairs Canada
10 rue Wellington, Gatineau QC K1A 0H4
E-mail: gary.anandasangaree-p@rcaanc-cirnac.gc.ca

Dear Prime Minister and Ministers Hajdu and Anandasangaree:

RE: Proposal to negotiate a letter of commitment in advance of March 24, 2025

I write in my capacity as Chair of the National Children's Chiefs Commission (the "NCCC") to propose that we work collaboratively over the next two months on a letter of commitment in relation to a national agreement on long-term reform of First Nations child and family services ("**LTR Agreement**") and a process to address Jordan's Principle. We believe that delivering justice for all First Nations children isn't just the right thing to do – it is the necessary thing to do for our children, for our Nations, and for Canada. Doing so is also consistent with the Canadian Human Rights Tribunal's ("**CHRT**") merits decision (*First Nations Child and Family Caring Society of Canada et al v Attorney General of Canada (for the Minister of Indian and Northern Affairs, 2016 CHRT 2)*) and subsequent orders.

The Chiefs, sitting together as the First Nations-in-Assembly, voted overwhelmingly on behalf of rights holders to establish the NCCC and mandated it to oversee further negotiations in relation to the LTR Agreement and Jordan's Principle, all while working collaboratively with the Assembly of First Nations Executive.

The NCCC, which is supported by skilled First Nations technical experts from across Canada, is comprised of: (i) one regional representative, an alternate, and their technician(s) from each of the eleven AFN regions; and (ii) one regional representative, an alternate, and their technician(s) for every region not represented by AFN. All regions except for Ontario have appointed their NCCC representatives through their regional processes, and the NCCC began to convene regular meetings in December 2024. The Commissioners bring considerable expertise in child and family services, Jordan's Principle, governance, inter-governmental relations, and negotiations.

We were pleased to hear the Prime Minister's remarks during Special Chiefs Assembly in December 2024 confirming that the \$47.8B earmarked in the draft final settlement agreement is still there and that Canada remains committed to reaching an agreement. Similar sentiments were echoed by the Minister of Indigenous Services Canada. These remarks confirm our shared interest and duty to ensure that this generation of First Nation children grows up free of all forms of discrimination and is able to live the lives that they wish to have and that their ancestors prayed for.

Canada's public statements in the wake of the AFN Special Chiefs Assembly in October 2024 suggest that the government has questions about: (i) the scale of funding required to satisfy the orders on First Nations child and family services; (ii) whether First Nations would consider a pathway that would, at some point in the future, end the CHRT's jurisdiction; and (iii) whether First Nations outside of Ontario are ready to proceed with a negotiated settlement.

In relation to the first issue, the NCCC is committed to an evidence-informed approach. Our experts have informed us that while there is a need for capacity building funds to ensure First Nations are set up for success and some expenditures such as capital, post-majority services, and band-representative services may need to continue at actuals for a limited time because there is insufficient evidence to project future costs, the overall funding envelope that is required to end discrimination in First Nations child and family services and ensure it never happens again is in the ballpark of what Canada previously proposed. This assumes a fair and equitable distribution among regions related to relevant factors such as the rates of over-representation of First Nations children in care, including in Ontario.

The NCCC is committed to maximizing the value of every dollar to deliver measurable outcomes for our First Nation children, youth, and families. We see important opportunities to re-allocate funding in the draft final settlement agreement in ways that will more directly benefit children and improve accountability to First Nations Leadership.

In relation to the second issue, the NCCC sees a pathway that would, at some point in the future, end the CHRT's jurisdiction.

In relation to readiness, the First Nations-in-Assembly passed clear resolutions directing a reset of negotiations. The NCCC is established and is supported by skilled First Nations technical experts from across Canada. We also benefit from the evidence-based research that has been completed that can inform the way forward. We are ready to discharge the sacred responsibilities we have been entrusted with by First Nations in our respective 11 regions.

The NCCC would like to meet with you, the AFN Executive, and the Caring Society at the earliest opportunity to gauge Canada's interest in entering into a binding letter of commitment before March 24, 2025, to secure existing commitments and to chart a pathway forward to resolve the CHRT proceeding on child and family services. We would

also welcome discussions to set a pathway to address current challenges and the long-term reform of Jordan's Principle. We will send more specific proposals on how we can address the outstanding issues next week to help inform our meeting.

Sincerely,



Chief Pauline Frost
Chair, NCCC

c: NCCC

AFN Executive

Dr. Cindy Blackstock, Executive Director, Caring Society

Pierre Poilievre, Leader of the Conservative Party

Michelle Ferreri, Shadow Minister for Families, Children, and Social Development

Marilyn Gladu, Shadow Minister for Civil Liberties

Larry Brock, Shadow Minister for Justice and Attorney General of Canada

Jagmeet Singh, Leader of the NDP

Niki Ashton, Critic for Indigenous Services

Charlie Angus, Deputy Critic, Crown-Indigenous Relations

Lori Idlout, Critic, Indigenous Services

Yves-François Blanchet, Leader of the Bloc Québécois

Scott A. Smith and Liam A. Smith, interim legal counsel to the NCCC

Jenica Atwin, Parliamentary Secretary for Minister of ISC

Jaime Battiste, Parliamentary Secretary for Minister of CIRNAC

Deliah Bernard, Indigenous affairs advisor office of the Prime Minister of Canada

Tab 6
AFN CEO to NCCC Legal
January 30, 2025

Assembly of First Nations

50 O'Connor Street, Suite 200
Ottawa, Ontario K1P 6L2
Telephone: (613) 241-6789 Fax: (613) 241-5808
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Assemblée des Premières Nations

50, rue O'Connor, Suite 200
Ottawa, Ontario K1P 6L2
Téléphone: (613) 241-6789 Télécopieur: (613) 241-5808
www.afn.ca

January 30, 2025

Via email: ssmith@airberlis.com

Aird Berlis
Attention: Scott Smith
885 West Georgia Street, Suite 1400
Vancouver, Canada V6C 3E8

Dear Mr. Smith:

Re: Your Request to Canada to discuss Long-Term Reform Negotiations

I write in reply to your letter of January 22, 2025, to Paul Vickery of Justice Canada regarding long-term reform (LTR) of the FNCFS Program and Jordan's Principle.

As Chief Executive Officer of the Assembly of First Nations (AFN), under the AFN Finance Policy, I am the only person within the organization that has authority to approve contracts for services. The AFN is concerned with your inference that you have been instructed to act on behalf of the AFN on negotiations, which are implicitly tied to proceedings of the Canadian Human Rights Tribunal (CHRT) to which the AFN is a party, being Court File No. T- 1340/7008. Neither your firm nor Mr. Scott Smith has been retained by the AFN to act on our behalf.

Additionally, with respect to your representation of the National Children's Chiefs Commission (NCCC), your firm appears to be in a direct conflict of interest, having been engaged by Dr. Cindy Blackstock and Mary Teegee to pursue alleged claims of defamation against both the National Chief, as well as the AFN, respectively. The AFN does not waive this conflict. To seek to act in any capacity for the AFN, whether through the NCCC or otherwise, while pursuing potential litigation against the organization and the National Chief is inappropriate.

We request that you correct the record with Justice Canada in that you are not counsel for the AFN, nor do you represent that AFN in any capacity.

Yours very truly,



Andrew Bisson
Chief Executive Officer
Assembly of First Nations

cc AFN Executive Committee

Tab 7
NCCC Chair to AFN CEO
February 18, 2025

February 18, 2025

Sent by e-mail

Andrew Bisson, Chief Executive Officer
Assembly of First Nations
50 O'Connor Street, Suite 200
Ottawa, Ontario K1P 6L2
E-mail: ABisson@afn.ca

Andrew Bisson:

Re: Response to your letter dated January 30, 2025

I write as chair of the National Children's Chiefs Commission ("the Commission") in response to your January 30, 2025 letter addressed to the Commission's interim legal counsel.

We confirm that the letter sent January 22, 2025 from the Commission's interim legal counsel to Justice Canada did not indicate our interim legal counsel was representing the AFN. Rather, our interim legal counsel specifically identified themselves in the opening sentence of the letter as representing the Commission. The letter is clear on this point. Moreover, the letter was reviewed and approved by the Commission before it was sent.

The Commission has taken your concerns seriously that Aird & Berlis, the law firm of one of our interim legal counsel, Scott A. Smith, appears to be in a conflict of interest. We thank you for raising this important concern with us. We took the time to consider and deliberate on it over two meetings. We appreciate you taking steps to ensure that the long-term reform process is healthy, transparent, and free of conflict going forward and that it is free of shadows of doubt and focused on the best possible outcomes for our children and families. The Commission considered our legal counsel, Scott A. Smith's, role and the timelines of his previous limited-scope retainers. Specifically, we have determined that:

- Neither Mr. Smith nor his firm, Aird & Berlis, is pursuing potential litigation against the AFN or the National Chief.
- The previous Aird & Berlis limited-scope retainer brought to our attention ended well before the Commission appointed Mr. Smith as interim legal counsel, and, in any event, did not expose Mr. Smith to any confidential information that would compromise his ability to serve the Commission.
- Mr. Scott A. Smith's extensive experience in this area of law is unparalleled.

Accordingly, based on our review, the Commission has determined there is no conflict of interest that would prevent Mr. Smith from continuing in his role as our interim legal counsel.

Sincerely,

A handwritten signature in black ink, appearing to read "Pauline Frost", with a stylized, cursive script.

Chief Pauline Frost
Chair, NCCC

C: National Children's Chiefs Commission
AFN Executive

Tab 8
MP Singh and MP Idlout to Prime Minister of Canada
February 11, 2025

**JAGMEET SINGH**

DÉPUTÉ | MP, BURNABY SOUTH | BURNABY-SUD

February 11, 2025

The Right Honourable Justin Trudeau
Prime Minister of Canada

Dear Prime Minister Trudeau,

RE: Request by National Children's Chiefs Commission

We urge you to uphold the urgent calls made by Chief Pauline Frost, Chair of the National Children's Chiefs Commission (NCCC), in a January 24, 2025 letter regarding the urgency of First Nations child and family services.

The National Children's Chiefs Commission (NCCC) was established by the First Nations-in-Assembly. Its mandate, set in December, is to oversee further negotiations towards long term reform of First Nations child and family services. The NCCC was recently created to ensure a First Nations lead working relationship toward reconciliation. The long history of discrimination against First Nations children must end and you have an opportunity to start that path.

The context of this letter is simple: the violation of First Nations children's human rights was affirmed by the Canadian Human Rights Tribunal, and your government continues to fail them. Rather than continually fighting against the Tribunal's ruling, we urge you to:

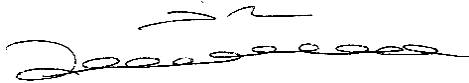
1. Work with the NCCC to co-develop a letter of commitment by March 15, 2025, to implement a process for future negotiations that meet international standards for consultation and cooperation.
2. Return to the negotiation table and end the practice of using the courts to fight against the human rights of First Nations children and families.
3. Offer sufficient resources to the NCCC, which is currently operating on a volunteer basis.
4. End the delays to comply with the CHRT order on Jordan's Principle and take meaningful action to address the backlog.

The Assembly of First Nations voted against the offer put forward by the Liberal government for failing to properly consult and cooperate with rights holders. This is an opportunity for the Liberal government to work with First Nations to support the advancement of human rights for all children as affirmed in the United Nations Declaration on the Rights of Indigenous Peoples.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jagmeet Singh', with a stylized, cursive script.

Jagmeet Singh, M.P. (Burnaby South)
Leader of the New Democratic Party of Canada

A handwritten signature in black ink, appearing to read 'Lori Idlout', with a stylized, cursive script.

Lori Idlout, M.P. (Nunavut)
NDP Critic for Indigenous Services; Northern Affairs; Crown-Indigenous Relations

Tab 9
NCCC Chair to MP Singh and MP Idlout
February 20, 2025

February 20, 2025

Jagmeet Singh
Leader, New Democratic Party of Canada

Lori Idlout
NDP Critic for Indigenous Services

Dear Mr. Singh and Ms. Idlout,

On behalf of the National Children's Chiefs Commission, I would like to express my gratitude for the letter of support you sent to Prime Minister Trudeau on February 11, 2025. Your support for the Commission's work and the urgent needs of First Nations children is deeply appreciated by all of us who are working to uphold our children's rights and wellbeing.

The work of the Commission is vital in addressing the systemic issues that continue to affect First Nations children and their communities. Your commitment to ensuring that these issues remain front and center on the national agenda strengthens our resolve, and your words of encouragement are a reminder of the power of collaboration in bringing about meaningful change.

As Chair of the Commission, I would greatly welcome the opportunity to meet with both of you during my visit to Ottawa the week of February 24, 2025.

Please let us know if a meeting can be arranged during this time. I look forward to the opportunity to further discuss the work of the Commission and the ways in which we can continue to advocate for the children who need our collective support.

Thank you once again for your invaluable support.

Warm regards,



Chief Pauline Frost
Chair, National Children's Chiefs Commission

Tab 10
NCCC Chair to Canada
February 21, 2025

February 21, 2025

Sent by e-mail

Right Honourable Justin Trudeau
Prime Minister of Canada
80 Wellington St.
Ottawa, ON K1A 0A2
E-mail: pm@pm.gc.ca

Honourable Patty Hajdu
Minister of Indigenous Services Canada
10 rue Wellington
Gatineau, QC K1A 0H4
E-mail: ministresa-ministeris@sac-isc.gc.ca

Honourable Gary Anandasangaree
Minister of Crown Indigenous Relations
and Northern Affairs Canada
10 rue Wellington, Gatineau QC K1A 0H4
E-mail: gary.anandasangaree-p@rcaanc-cirnac.gc.ca

Dear Prime Minister and Ministers Hajdu and Anandasangaree:

RE: Follow-up to the NCCC's January 24, 2025 letter proposing to negotiate a letter of commitment in advance of March 24, 2025

I write in my capacity as Chair of the National Children's Chiefs Commission ("NCCC") to follow up with you in relation to the NCCC's January 24, 2025 letter proposing that we work collaboratively on a letter of commitment in relation to a national agreement on long-term reform of First Nations child and family services ("**LTR Agreement**") and a process to address Jordan's Principle.

In our January 24 letter, the NCCC highlighted our views that: (i) the overall funding envelope which is required to end discrimination in First Nations child and family services and ensure it never happens again is in the ballpark of the \$47.8B that Canada previously proposed; (ii) there is a pathway that would, at some point in the future, end the Canadian Human Rights Tribunal's ("**CHRT**") jurisdiction; and (iii) the NCCC is ready, willing, and able to immediately proceed with completing negotiation of a national LTR Agreement.

We closed our letter by requesting a meeting with you, the AFN Executive, and the Caring Society at the earliest opportunity to discuss entering into a binding letter of commitment before March 24, 2025.

The purpose of this letter is to provide you with additional details about what is needed, from the NCCC's perspective, to finalize the LTR Agreement. In this regard, we have enclosed a table which outlines: (i) the ten high-level, outstanding issues with the LTR Agreement which must be addressed before the LTR Agreement is finalized; (ii) Canada's position on each outstanding issue, as set out in the draft LTR Agreement; (iii) the NCCC's proposal on how to resolve each outstanding issue; and (iv) the NCCC's view on whether

each outstanding issue can be readily resolved. The NCCC proposes to use the enclosed table to guide our discussions to develop a binding letter of commitment which secures existing commitments and charts a pathway forward to resolving the remaining outstanding issues in relation to the LTR Agreement.

The enclosed table confirms the NCCC's view that a national LTR Agreement is within reach, and merely requires Canada to return to the negotiation table to work with the NCCC, the AFN Executive, and the Caring Society in good faith to deliver the justice that all First Nation children and families deserve.

The honour of the Crown is paramount in these negotiations. Canada has constitutional and statutory duties, which have been affirmed by the Supreme Court of Canada and enshrined in an *Act respecting First Nations, Inuit and Métis children, youth and families* and the *United Nations Declaration on the Rights of Indigenous Peoples Act* to act honourably, negotiate in good faith, and avoid conduct that undermines reconciliation. This includes respecting the inherent right of self-determination as expressed through First Nations-in-Assembly. Canada cannot unilaterally impose solutions or adopt an intransigent approach, especially when addressing the systemic discrimination the CHRT has determined is occurring here.

Canada's recent conduct in this matter disregards the CHRT's orders, the principles of reconciliation, statutory duties, and the victims' right to participate in the design and implementation of an effective remedy. In particular, Canada's termination of consultations after the First Nations-in-Assembly declined to endorse the draft Final Settlement Agreement raises serious concerns. The First Nations-in-Assembly, exercising their inherent rights, identified legitimate shortcomings with that agreement. Canada's duty was to return to the negotiating table, not to unilaterally end the process.

The NCCC is deeply concerned that Canada's current approach risks perpetuating the injustices that the CHRT's orders, statutory duties, and reconciliation itself are meant to remedy. A return to good-faith negotiations, grounded in the honour of the Crown and a genuine commitment to collaboration, is urgently needed.

We have asked our officials to follow up with your offices to schedule a meeting between us as soon as possible.

Sincerely,



Chief Pauline Frost
Chair, NCCC

c: NCCC

AFN Executive

Dr. Cindy Blackstock, Executive Director, Caring Society

Mark Carney, Candidate for Liberal Leader and Prime Minister

Chrystia Freeland, Candidate for Liberal Leader and Prime Minister

Pierre Poilievre, Leader of the Conservative Party

Michelle Ferreri, Shadow Minister for Families, Children, and Social Development

Marilyn Gladue, Shadow Minister for Civil Liberties

Larry Brock, Shadow Minister for Justice and Attorney General of Canada

Jagmeet Singh, Leader of the NDP

Niki Ashton, Critic for Indigenous Services

Charlie Angus, Deputy Critic, Crown-Indigenous Relations

Lori Idlout, Critic, Indigenous Services

Yves-François Blanchet, Leader of the Bloc Québécois

Scott A. Smith and Liam A. Smith, interim legal counsel to the NCCC

Jenica Atwin, Parliamentary Secretary for Minister of ISC

Jaime Battiste, Parliamentary Secretary for Minister of CIRNAC

Deliah Bernard, Indigenous affairs advisor office of the Prime Minister of Canada

Outstanding issue	Canada's position in the FSA	NCCC's proposal to resolve outstanding issue	Solvable with Minimal Discussion	Elevated Levels of Discussion Potentially Required
1. Funding commitments	1. \$47.8 B over 10 years	1 (a) The overall funding envelope required to end discrimination in First Nation child and family services and ensure it never hovers again is in the ballpark of the \$47.8 B Canada proposed.	✓	
		1 (b) Review of funding in draft FSA for governance. Some of these funds can be moved to the front lines.	✓	
		1 (c) Funding commitments that speak to distinct First Nations circumstances, that will include but are not limited to, remoteness issues, capacity building, actual and evidence-based needs, start-up funding for new agencies	✓	
	2. Actual costs end 3. Subject to annual appropriations and other approval processes required by Canada 4. Canada not required to provide any funding after 10-year term expires 5. The funding methodology does not eliminate the discrimination	2 (a) Capital and post-majority at actuals for another 3 years, subject to review. Recognition that actuals during COVID-19 are not accurate. There are still knowledge gaps on required expenditures which may lead to marginal increases in funding envelope.	✓	
		3. Funding provided through guaranteed process such as statutory measures or special purposes allotments (i.e. not subject to annual appropriations or other federal approval processes).	✓	
		4. Clarification that the funding responsibility does not disappear at the 10 year mark. Canada's obligation is to ensure the discrimination is eliminated and does not re-occur.	✓	
		5. (a) Use of IFSD's measuring-to-thrive framework (see report) as a starting point: needs-based funding approaches that prioritize substantive equality, and which address any adverse effects related to per capita funding approaches consistent with the CHRT's funding principles, including substantive equality, best interests of the child, culturally appropriate, distinct community circumstances	✓	✓
6. Relied on per capita and Indian Registry System (IRS) population-based funding model, similar to the one deemed discriminatory by the CHRT. Prevention services were capped at an arbitrary amount based on incomplete study: --\$2,500 7. Does not apply to First Nation children and families off-reserve	5 (b) Creation of pools of funding for regional approaches and capacity building	✓		
	5 (c) First Nations and Agencies can use surpluses for capacity building based on a workplan and they can become eligible for the capacity building fund as well. This will reduce the exposure for Canada and ensure dispensed funds are able to be put to use. Funding must be sufficient to meet the principles of the Agreement and other legislative and regulatory requirements that are consistent with the principles of this Agreement (e.g., the language Act).	✓		
	6 First Nations and Agencies provide services to children and families wherever they reside (as per C-92 minimum standards). IRS does not capture the entire population served. Funding must not rely solely on the per capita formulas, especially those tied to the IRS. Parties must work towards a population framework, such as a First Nations-led census, to estimate the actual population served.	✓		
	7. Extension of services at similar levels to those children who are First Nations who have been forced off-reserve due to lack of housing and services. See also 5(a).	✓		
2. CHRT's jurisdiction	CHRT jurisdiction ends, including CHRT orders. Dispute Resolution Tribunal does not have jurisdiction to order Canada to fund new components or increase funding for existing ones	Stage I: CHRT baseline orders stay in place and CHRT retains jurisdiction until the later of: (i) 5 years; or (ii) the Dispute Resolution Tribunal is established to monitor implementation of the FSA to ensure discrimination stops and never happens again.	✓	
		Stage II: Upon CHRT jurisdiction ending, Dispute Resolution Tribunal has ability to issue legally binding orders that require Canada to take additional measures (including providing additional funding) and make systemic changes if FSA measures are insufficient to end discrimination and ensure it never happens again. First Nations legal orders and laws must be recognized and incorporated into the dispute resolution process.	✓	✓
3. Governance	1. No decision-making role for Chiefs 2. Membership in National Secretariat is limited to AFN, COO, and NAN 3. Reform Implementation Committee members appointed by parties and required to carry out work in confidential process 4. Continues to rely on ISC to administer program and deliver funds	1. Collapse all proposed committees in the FSA into a <u>National Body comprised of the chiefs</u>	✓	
		2. National technical secretariat, which includes NAC and EAC, to provide to support to the National Body (many of these entities already exist - these do the actual implementation work)	✓	
		3. Regional technical secretariats to support work of National technical secretariat	✓	
		4. This will add to administrative costs. The Nations have existing organizations that can be engaged to support delivery.	✓	
4. Departmental reform	The Expert Advisory Committee is bound by confidentiality and was not sufficiently independent of ISC.	Canada's internal accountability mechanism needs to be reviewed (accountability framework). The work of the EAC in reforming ISC and developing an accountability framework must be transparent and independent.		✓
4. Accountability measures	1. Canada requires FNCFs agencies to co-develop child and community well-being plan with the affiliated First Nation to be submitted to ISC under a deadline and subject to annual updates. There are also provisions that allow ISC to trigger audits, annual reporting, and funding reviews. 2. Canada has a facultative option to report to First Nations and the Reform Implementation Committee on an agency's compliance with the terms in its funding agreement. 3. The Reform Implementation Committee, which is confidential, is the sole entity charged with making recommendations to Canada and is also responsible for overseeing and monitoring the implementation of the reform. It is staffed by ISC.	1. Agreement should respect accountability processes that already exist between First Nations and Agencies and agree to develop an accountability framework including development of planning and measurement provisions that at minimum, ensures the nations are informed of agency activities, promote reciprocal accountability, consistent with the Act.	✓	
		2 (a) See 1, above. Accountability measures in Agreement must also recall that ISC, not Agencies, was held liable for discrimination. Reform must ensure that ISC is accountable to rights holders.	✓	
		2 (b) The Honour of the Crown extends to provincial governments as well on this issue. There can be no actual long-term reform without including accountability to Nations from other service providers (ie. provinces and territories for non-delegated Nations)		✓
		4. National Secretariat/Regional/FNIGC - hold ISC accountable for data collected to ensure compliance. Need solid program evaluation focused on ISC compliance. Governance mechanisms must operate openly and transparently.	✓	
6. Regional variations	Regional variations for Ontario only.	1. Agreement must recognize and allow for funding that matches distinct community circumstances. 2. Cultural appropriateness. 3. Allocation for children's needs above IFSD funding.		✓
		4. Regional Secretariats: ISC will respect regional processes in the governance, administration and delivery of First Nations child and family services as determined by First Nations rights holders, consistent with C92.	✓	
7. C-92, treaty, and self-government	Funding will not be less than what would be provided for services funded under the FSA	1. Canada required to recognize the right to jurisdiction, and Crown responsibilities. Canada must ensure that any agreement (C-92, treaty, or self-government agreement) signed with First Nations discharges Canada's obligation to stop the discrimination and ensure it does not reoccur. 2. Must recognize different pathways to jurisdiction. 3. Canada cannot contract out of its human rights obligation. 4. Canada must discharge its Honour of the Crown		
8. Confidentiality	1. Information from FSA implementation must be kept confidential. 2. Confidentiality extends to discussions and communications surrounding negotiations according to the agreement in principle.	1. AND 2. The starting premise for long-term reform must be openness and transparency. All negotiations and information relating to implementation of an Agreement should be, to the maximum extent possible, transparent. Transparency ensures accountability. Transparency and accountability, together, help end discrimination and prevent its recurrence.	✓	
9. Definitions and Principles	Principles did not include the Honour of the Crown, Intergenerational equity	Add to the Principles and definitions.	✓	
10. Term	Proposal: Canada confirms that the Honour of the Crown applies to the negotiation of long-term reform and the implementation of the ultimate agreement	This should be an evergreen agreement with a statutory basis. It is understood Canada has standard procedures for financial commitments in place. Treaty is by definition not a standard operating procedure.	✓	

Tab 11
Canada Minister of ISC to NCCC Chair
February 25, 2025



Ottawa, Canada K1A 0H4

February 25, 2025

Chief Pauline Frost
National Children's Chiefs Committee
Our Children Our Way Secretariat
200-100 Park Royal South
WEST VANCOUVER BC V7T 1A2

pauline.frost@vgfn.ca

Dear Chief Frost:

Thank you for your correspondence of January 24, 2025, sent to the Right Honourable Justin Trudeau, Prime Minister, the Honourable Gary Anandasangaree, Minister of Crown-Indigenous Relations and Northern Affairs, and myself in relation to a national agreement on long-term reform of the First Nations Child and Family Services Program.

The Agreement-in-Principle on Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle signed by the Assembly of First Nations, Caring Society, Chiefs of Ontario, and Nishnawbe Aski Nation in December 2021, was an evidence-informed approach that provided a foundation for improving the lives of First Nation children and families across the country.

Canada remained committed to a First Nations-led approach to reforming the First Nations Child and Family Services Program, and developed a fully reformed Program in the Final Agreement with the rights holder Parties to the Canadian Human Rights Tribunal's complaint. The robust framework of reforms contained within the Final Agreement would have legally bound Canada to provide \$47.8 billion in stable and predictable funding over ten years for a fully reformed First Nations Child and Family Services Program that would have reduced the number of First Nation children in care and kept children connected to their families, communities, and cultures.

.../2

Canada remains committed to the implementation of the Canadian Human Rights Tribunal's orders, and to ending the discrimination identified by the Tribunal and preventing its recurrence.

There has been confusion regarding the role of the National Children's Chiefs Committee and whether you and the committee are the body that Canada should be working with, as the Assembly of First Nations has yet to clarify their role in relation to long-term reform of the First Nations Child and Family Services Program. Attached is the most recent correspondence from the Assembly of First Nations' counsel indicating that they are awaiting instructions on this issue. I would encourage the National Children's Chiefs Commission to work directly with officials from the Assembly of First Nations with respect to long-term reform of the First Nation Child and Family Services Program to clarify this situation.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'P. Hajdu', with a stylized flourish at the end.

The Honourable Patty Hajdu, P.C., M.P.

Encl.

Tab 12
AFN NC to Canada Minister of ISC
March 4, 2025



March 4, 2025

The Honourable Patty Hajdu, P.C., M.P.
Minister of Indigenous Services
10 Wellington Street
Gatineau, QC K1A 0H4

Dear Minister:

On behalf of the Assembly of First Nations (AFN), I write to you again to urge the Government of Canada to seek a revised mandate to negotiate a Final Agreement regarding the long-term reform of the First Nations Child and Family Services (FNCFS) Program.

As you are aware, the First Nations-in-Assembly provided the AFN with several new mandates on long-term reform by way of resolution in October and December of 2024. These mandates direct a new process for pursuing reform, including a new governance and oversight structure. The resolutions additionally call for extensive engagements, revised negotiation processes, and funding principles to be embedded in the process and revised Draft Agreement. Through these resolutions, we once again call on Canada to obtain a new negotiation mandate aligned with the resolutions, and to provide resources to advance the work.

We also want to be clear that the AFN supports the National Children's Chiefs Commission (NCCC) in its work on advancing the mandates of the First Nations-in-Assembly in relation to negotiating Final Agreements on long-term reform of the FNCFS Program and Jordan's Principle. We therefore also call on Canada to duly consider the NCCC's recent correspondence and take the necessary measures to facilitate the NCCC's critical role in long-term reform, as directed by the Chiefs.

We must continue to collaboratively advance this necessary and critical work for the benefit of First Nations children and families. I trust you remain committed to these efforts and would appreciate an update on the Government of Canada's mandate at your earliest convenience.

Megwetch,

Chuxelhouse.

Cindy Woodhouse Nepinak
National Chief

Cc: AFN Executive Committee
National Children's Chiefs Commission



Tab 13
NCCC Chair to Prime Minister of Canada
March 19, 2025

March 19, 2025

Sent by e-mail

Right Honourable Mark Carney
Prime Minister of Canada
80 Wellington St.
Ottawa, ON K1A 0A2
E-mail: pm@pm.gc.ca

Dear Prime Minister,

I am writing on behalf of the National Children's Chiefs Commission (the Commission) to congratulate you on your victory in the Liberal Party leadership race and your appointment as Prime Minister. I want to take this opportunity to invite you to take immediate action to remedy Canada's discrimination against First Nations children before calling the next federal election.

The First Nations-in-Assembly created the Commission to lead long-term reform of First Nations child and family services (FNCFS) and Jordan's Principle. First Nations across Canada remain deeply committed to ending Canada's discrimination and are dedicated to achieving solutions that are in the best interests of First Nations children and families for generations to come.

The Canadian Human Rights Tribunal ordered Canada to immediately end its discrimination against First Nations children and families in 2016. Since then, First Nations and Canada have been working toward reform rooted in substantive equality and needs-based funding to support cultural continuity. Chiefs of Ontario, Nishnawbe Aski Nation and Canada recently announced a regional agreement to reform FNCFS. Canada now has the opportunity to work with the Commission to reach a national agreement that eliminates Canada's discrimination for all First Nations children. There are steps Canada can take to address immediate issues and create a pathway toward timely resolution of the remaining challenges:

1. Work collaboratively with the Commission and the First Nations Child & Family Caring Society (Caring Society) over the coming days to co-develop a letter of commitment that sets a framework for negotiating a national agreement—independent of the Ontario agreement—on long-term reform of FNCFS that fully eliminates the discrimination identified by the CHRT. Our previous correspondence on this matter is attached for your reference.
2. Work with the Commission and the Caring Society to co-develop urgent measures to meaningfully address the crisis in Canada's implementation of Jordan's Principle that is causing serious harms to First Nations children.

These are swift actions you can take to support First Nations children and families before the next federal election. I urge you to act now to prevent further harm to First Nations children and families and demonstrate your commitment to reconciliation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pauline Frost', with a stylized, cursive style.

Chief Pauline Frost

Chair, National Children's Chiefs Commission

Encl. Previous correspondence re. NCCC letter of commitment

c. National Children's Chiefs Commission

Assembly of First Nations Executive Committee

First Nations Child & Family Caring Society

Assembly of First Nations

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April 4, 2025

By Email

Judy Dubois
Registry Operations
Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, ON K1A 1J4

Dear Ms. Dubois:

I write to you on behalf of the Assembly of First Nations (AFN) in response to the Panel's request for clarity regarding the AFN's structure and recent representations. I respectfully request that the AFN be provided until Monday, April 14, 2025 to deliver its response to your request.

The AFN is continuing discussions on this matter with our Executive Committee and internal leadership as well as securing new legal counsel representation. We appreciate your continued patience as we navigate the current situation. We will seek to provide a further update by April 14, 2025.

In addition, with respect to our March 24 letter, I wish to clarify that Mr. Williamson did not act without instructions or authorization in filing this letter.

Sincerely,

Andrew Bisson
Chief Executive Officer