

I. 09CR01 UNRESOLVED THEFT CHARGES

Allegation “A”: “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.”

Response	Evidence	Citation
Cannot be guilty of “failing to disclose” something that was never required of them to do.	During certification process, candidates are only asked to disclose convictions; not old/new charges or pending cases. I have no convictions so failed to disclose nothing.	Candidate Filing Forms; 2016 Election Ordinance
My Notice of Candidacy filing fully complied with the Election Ordinance’s requirements.	Constitutional standard for disqualifying candidates: NOT whether there is an old/new case against them, but whether the candidate has been convicted of an offense under Article IV, Section 4.	2016 Election Ordinance, Section 1.3 (A). Revised Constitution of the MCT, art. IV, sec.4.

Filing forms only ask if there have been any convictions.	I properly filled out all filing forms; Release form asks candidates if they have ever been convicted; “Conviction” is in bold print; no other question asked, no requests to provide additional information.	Authorization and Release form; obtained from MCT Offices.
I have never been convicted of a felony or lesser theft.	Passed all Criminal Background checks in 2000, 2004, 2008, 2012 and 2016.	Criminal Background Check, 2016
Band may not disqualify candidates based on charges or pending cases; to do so violates Election Ordinance and Constitution	Certifications must follow the Constitution and Election Ordinance, which requires a conviction.	2016 Election Ordinance, Section 1.3 (A). Revised MCT Constitution, Art. IV, sec. 4
Certification requires authorization of background check for criminal history	I signed the authorization and a criminal history background check proved I have no convictions.	2012 and 2016 Background checks

The Band Assembly's 2008 Denial of my certification to run in the Special election was Unconstitutional	The TEC determined in December, 2009, that because I had no convictions, I met the eligibility requirements to run for office in the Special Election.	TEC censure decision letter to former MLB Secretary-Treasurer, 10/28/2009.
The TEC censured an MLB Official for denying my certification when I met the eligibility requirements of Title IV.	The TEC censured a former MLB Secretary-Treasurer for his participation in the decision denying certification of my candidacy.	Letter of Censure to MLB Secretary-Treasurer, 10/28/2009.
In the 2016, if the Certification Committee had denied my certification, the Secretary-Treasurer would have likely faced censure.	I had no convictions in 2008, when the TEC ruled I was eligible to run for office, and had no convictions in 2016.	Letter of Censure to MLB Secretary-Treasurer, 10/28/2009.

The MCT Court of Appeals ruled twice in 2012 that I was eligible to run for office, and the decisions of the court are final.	In 2012, two election challenges were filed challenging my certification. The MCT Court of Appeals determined in both cases that because I did not have a felony, I was eligible to run for office and the Alford Plea did not change that; rulings stated they are final.	2016 Candidate Filing forms and Authorization Release.
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Allegation B: “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.”

Response	Evidence	Citation
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This allegation is false and completely fabricated.	No articles or columns written by me exist in any Band newspapers from 2012-2018 making any statements about tribal court case.	2012-2018 Band newspapers
No quotes exist from me in any Band newspaper over 6 years about the tribal court case or my certification.	Every Band newspaper published since 2012 is on-site and no such quotes exist.	2012-2018 Band newspapers
The 08/2017 article included in the Censure Motion proves this allegation is false.	The article the Secretary-Treasurer submitted in her motion was written by a journalist, not me; there are no quotes or statements from me whatsoever.	August, 2017 Band newspaper

It is false that I used a Band news article in my December court hearing.	I did not submit any Band news articles to the Court in December.	December audio recording/ transcript of Court hearing
A 2010 article from the Mille Lacs Messenger was submitted to the court, but in December but includes no statements from me.	This article only quotes Rjay Brunkow. I was not interviewed.	Mille Lacs Messenger, March, 2010
Brunkow stated the Band would “rather” prosecute in state court than tribal court.	“Elected officials decided they’d rather have an independent entity prosecute the case,” Brunkow said.	Mille Lacs Messenger, March, 2010
The court case was not undisclosed until July 10.	Members of the Band Assembly, current and former, the Band community, and surrounding community knew about the case.	Media reports, Band Assembly actions, T. Matha Litigation/ Removal timeline

Nov. 2009 Band Assembly voted to indefinitely postpone the case.	Two current Band Assembly members participated in that vote.	Litigation/Removal timeline
April, 2012: Band Assembly moved to revive tribal court case at request of Chief Exec.	Current District Rep. sat on that Assembly and was part of the decision. Current Sec-Treas. was Commissioner of Administration	Litigation/Removal timeline
May, 2012: Joint Session moved to hire Special Prosecutor	Current District Rep. sat on that Assembly and voted in this decision so was aware.	Litigation/Removal timeline
June 5, 2012: Private Attorney signed contract with Band	Contract was submitted for ratification to the Band Assembly	Litigation/Removal timeline
June 14, 2012: Band Assembly declines to approve contract to revive the case.	Band Assembly meeting was public and controversial; attended by over 50 Band Members.	Litigation/Removal timeline

I cannot have “failed to disclose” the Band Assembly’s own actions	Secretary-Treasurer is responsible for recording actions of the Band Assembly; documents are kept in the Legislative office.	MLBSA Title 3, Duties of the Secretary-Treasurer
New Members may be unaware of prior actions of body; this does not make it “undisclosed”	Governing bodies are responsible for knowing of their actions	Robert’s Rules of Order
When returning Members forget their previous decisions, it does not make the decision “undisclosed”.	Governing bodies are responsible for knowing of their actions	Robert’s Rules of Order
ST Beaulieu stated on 7/10/17 at TEC that she knew about the case before 7/10	During the break, Sec.Treas. recorded saying she could not be the one to bring it forward, she knew it would come up, and had been getting advice from someone about how to handle it.	Audio Recording during the break from table microphones. See transcript.

The Sec-Treas. Own staff gave the court case to the Band Member who brought it forward to TEC a month earlier.	Audio recording of MLB member telling S.T. Beaulieu that her staff gave her an envelope a month earlier at the June 8 meeting at Eddy's. Besides one CE staff-person, only Legis staff were attending this meeting.	Band Assembly Record from June 08, 2017, at Eddy's Resort. Audio Recording of July 10 TEC meeting
Sec. Treas. Admitted she knew about the case before July 10.	"Cuz I've been talking to someone else about the matter...because I knew it would come up...and this guy suggested that..."	Transcript of break discussion, July 10 TEC meeting.
The presentation of this court case to TEC on July 10 appears to have been staged	The ST and/or her staff engineered this event, apparently to feign having no knowledge of it prior to July 10.	Transcripts from July 10 and July 20 Joint Session at East Lake.

The Sec-Treas. Misled Band Members about her knowledge of the case	<i>“We were never provided this information. I didn’t know this was a pending court case.”</i>	Sec-Trea. Quote speaking at 07/20/17 Joint Session
	<i>“At TEC – because I knew nothing about it – I couldn’t do anything about it.”</i>	Sec-Trea. Quote speaking at 07/20/17 Joint Session
Sec.Treas. back-pedaled when presented with transcript of taped break conversation.	<i>“What I said was I had never SEEN the tribal court case. And then I just went upon my own recommendations from someone.”</i>	Sec-Trea. Quote speaking at 07/20/17 Joint Session
Sec. Treas. Changes her claim to not having “seen” the case but does not deny knowledge of it prior to July 10, 2017. Admitted in her letter to band	<i>“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</i>	C.B. letter to Band Members, August 11, 2017

	<i>Band Court of Central Jurisdiction in 2009.</i>	
All allegations that the case was undisclosed until July 10, 2017, are false.	The Sec-Treas's. own words and evidence, the Band Assembly's actions on the case, current members' participation in those actions and media coverage all prove the case was not undisclosed until July 10, 2017.	Media reports; Litigation/Removal timeline; transcripts from 7/10/17 TEC, 7/20 Joint Session, and C.B.'s letter to Band Members

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.

Response	Evidence	Citation
Nothing in this allegation violates the Constitution	There are no constitutional violations alleged. These are complaints and false claims	Revised Constitution of the MCT, Article IV.
The State court charges were resolved in Mille Lacs county court.	The charges were dismissed after a stay of adjudication.	Mille Lacs County court files.
This quote is made up. I never said my tribal court charges were definitively resolved in Mille Lacs County court.	This quote does not exist in the Band Assembly's minutes of the meeting, nor does it exist in my office's transcript of the meeting.	Band Assembly Record, July 20, 2017; CE Office transcript, July 20, 2017
At July 20 Joint Session, I only used the word "Resolved" once, regarding certification, not the court case.	<i>"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." Melanie Benjamin</i>	CE Office transcript, July 20, 2017

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Allegation D: “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.”

Response	Evidence	Citation
I never said this.	My letter did not include this quote.	August 11, 2017 letter to Band Members

The Sec-Treas. August 11 letter to Band Members misled Band Members	<i>"The TEC ultimately agreed that this matter should have been addressed at the 2012 or 2016 certification of Melanie Benjamin's candidacy". C.B.</i>	The TEC did not agree on anything. It was not on the agenda, there was no vote, and no agreement.
	<i>"We agreed at the MCT TEC level this is an election certification matter that should be dealt with at the Mille Lacs Band level." C.B.</i>	There was no agreement. Only one TEC member spoke up. The Sec-Treas. volunteered to bring it back to the Band Assembly.
My August 11 letter corrected the Sec.Treasurer's misleading statements in her letter.	<i>"There was no vote, no instruction and no agreement from the TEC whatsoever." M.B</i>	M.B. letter to Band Members, August 11, 2017
	<i>"The MCT's attorney then stated that officially, this matter was not even in front of the TEC, and that</i>	M.B. letter to Band Members, August 11, 2017

	<i>'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."</i> M.B.	
It is false that I used Band funds to pay for my August 11 mailing to Band Members.	I did not use Band funds to mail this letter.	No evidence exists that I paid for this with Band funds because I did not.

Allegation H: "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.

Response	Evidence	Citation
Band Assembly Meetings are Public.	No Band Member needs advance permission to attend a Band Assembly meeting, including other Band officials.	MLBSA Titles 1-3
It was urgent I speak with the Band Assembly.	The Governor had just requested an answer regarding law enforcement mediation.	See email from C.E. Staff, 10/25/17
Requesting to know what the Solicitor General was going to speak about t the TEC meeting was not interference.	As one of two TEC members representing the Mille Lacs Band, it was not unusual that I would want to know why our Solicitor General was on the TEC agenda.	See TEC Agenda

I did not state in my 10/17 letter the tribal court case was resolved.	I stated and acknowledged that the case against me was suspended.	10/30/2017 letter to MLB Assembly

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

Allegation: “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. 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.

Response	Evidence	Citation
Todd Matha did respond to the Band Assembly on June 13.	A memorandum was submitted with his opinion that no laws were violated.	T.Matha memo to Band Assembly, June 13, 2017
This is false and misleading	The audit did not conclude wrong-doing occurred.	477 Audit Report
	The report stated administrators relied on federal officials to interpret a confusing federal statute.	477 Audit Report
It is false that I did not act.	I instructed our Solicitor General to conduct an investigation the same day I was notified of concerns.	Sept. 7, 2017 memo to Solicitor General requesting investigation

I acted before the Band Assembly notified me of their intentions.	On 9/17/17, I notified Band Assembly of my 9/07/17 request of the Solicitor General.	9/17/17 memo to the Band Assembly notifying of investigation
I learned of Band Assembly's plan to investigate after I had already launched an investigation.	On 09/20/17, I received an email from the Sec. Treasurer informing me that Band Assembly was doing its own investigation.	09/20/17 memo from Sec-Treasurer.
We agreed as elected officials to a joint investigation	In the Joint Session meeting, we decided to combine investigations. This was collaboration, not interference.	Emails with Admin/OSG regarding combined Investigation
I acted immediately and did not "refuse to address fraud and misappropriation of funds"	There was no fraud. I acted decisively by requesting an immediate investigation.	Email threads with Band Assembly, OSG and Adminisration

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.

Allegation E –F 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.... 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.

Response	Evidence	Citation
Transcription and Minutes are 2 different work products	Transcription is word-for-word recording of discussions, minutes are a record of actions and summary of discussions	Robert’s Rules of Order

I did not hire anyone to write minutes.	The contract was to transcribe audio recordings, not write minutes.	See contract
The contractor does not assist with the duty of compiling minutes.	The transcript of audio recordings is used for reference to ensure accuracy of minutes.	See TEC Minutes and Transcript; they are not similar. Minutes summarize discussions.
Meeting length and frequency have increased and I am responsible for drafting minutes. Stipend does not cover time.	My staff and I compare our notes with MCT Staff. I review and edit minutes multiple times before finalizing and make my own revisions.	Email threads between me and C.E. office staff and with MCT Staff.
Asking a contractor to perform a task that is not a required duty of the Secretary is not a violation of my duties.	The Secretary is not required to make audio recordings and transcribe those recordings, so this cannot be a violation of my duties.	See Duties of the Secretary, MCT ByLaws.

It is not a violation of my duties as Secretary to do <u>more</u> than is required of an officer.	There is nothing in the Constitution or ByLaws prohibiting officers from contributing Band resources to assist the MCT	See MCT Constitution and ByLaws; Secretarial Duties
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IV. UNRESOLVED MATTERS RELATED TO “THE RESIGNATION OF SOLICITOR GENERAL TODD MATHA PRIOR TO HIS ETHICS VIOLATION HEARING SCHEDULED ON APRIL 24, 2018.

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.

Response	Evidence	Citation
The Band Assembly has no legal or administrative authority to “write up” any Executive Branch official or employee.	Under the Mille Lacs Band division-of-powers government, only Executive Branch supervisors may discipline or write up Executive Branch employees.	Mille Lacs Band Statutes, Title 4.
The petition did not seek to resolve anything.	The petition stated that a decision had been pre-decided to issue the punishment of “indefinite suspension without pay”.	See 4/19/2018 petition
Indefinite suspension without pay is illegal in this case, because it is the same as removal	Band Statutes only allow for removal of a Solicitor General by following the statutory Removal processes.	Mille Lacs Band Statutes, Title IV
Band Assembly voted to reject Mr. Matha’s resignation.	It is a violation of numerous federal, state and Band laws to force someone to remain employed, especially without pay. Indentured servitude and slavery	U.S. Constitution; Band Statutes; MCT Constitution

	were outlawed with 13 th amendment.	
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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”.

Response	Evidence	Citation
I strongly objected to convening the Ethics Hearing due to potential harm to the Band.	Mr. Matha was our co-counsel on our federal litigation and the lead attorney negotiating with the U.S. Attorney’s office, the county and various state/federal agencies. Convening an ethics hearing for the purpose of immediately firing	My April 22, 2018 letter to the Band Assembly.

	him jeopardized the Band's legal efforts and work.	
Of course I consulted our federal attorney.	I always consult our federal attorney on all matters impacting the Band regarding our federal litigation and law enforcement issue; Band Assembly's efforts to hastily terminate his co-counsel on the federal litigation without due process seemed worth mentioning.	My April 22 letter to the Band Assembly with quotes from our attorneys expressing grave concern about this decision.

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.”

Response	Evidence	Citation
This allegation is false. The anonymous report was followed up on by all parties.	I immediately forwarded Sec.Treas. Beaulieu’s email to Chief Rice and Solicitor General Matha.	My email dated 2/03/2018 to S.Rice and T. Matha
Chief Rice conducted an investigation with the information available.	Body cam and squad videos indicate police officers arrived on the scene within 4 minutes/ the anonymous report had false information.	See email
Chief Rice met immediately with officers to discuss expectations.	Chief Rice met with Command Staff to address allegations of wearing work-out gear while on duty.	See email

	Chief Rice held a dept. meeting the following Thursday after receiving the anonymous letter and reiterated dept. expectations to ensure understanding among all officers.	See email
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G. “Somehow the petition was given to ‘Ogimaa Giniw’, and he posted it on Facebook [...]...That’s a huge breach of confidentiality [...]”

Response	Evidence	Citation
I did not provide Ogimaa Giniw with the April 19th petition for an ethics hearing.	There is no evidence that I shared this petition with anyone, and I absolutely did not.	My word as Chief Executive; Ogimaa Giniw’s word
It was not a breach of confidentiality for Ogimaa to somehow get the petition.	No provision in the Band Ethics Code states that ethics hearings are confidential. The Ethics Code is	MLBSA Ethics Code

	intended to promote open government and integrity.	
Mr. Matha held the privilege and he did not deem the petition to be confidential.	Confidentiality of employee proceedings is intended to protect employee privacy. Mr. Matha has stated he wanted Band Members to know the injustice that was taking place and illegal actions of the Band Assembly.	See sworn affidavit of Todd Matha re: his understanding of the meeting to be public and not confidential.
The treatment by the Band Assembly of Mr. Matha or any employee in this fashion should be denounced.	These proceedings violated Band law, federal law, Band Statutes, the Ethics Code.	Band Statutes and Federal law.