

IN THE MATTER OF THE *LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT*, S.N.W.T. 1999, C. 22

AND IN THE MATTER OF A COMPLAINT MADE BY RYLUND JOHNSON, MEMBER OF THE NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY, UNDER THE ACT CONCERNING THE CONDUCT OF STEVE NORN, ALSO A MEMBER OF THE NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY;

AND IN THE MATTER OF AN INQUIRY DIRECTED BY THE INTEGRITY COMMISSIONER UNDER SECTION 102(1)(b) OF THE ACT;

AND IN THE MATTER OF THE HONOURABLE R.L. BARCLAY, Q.C. HAVING BEEN DULY APPOINTED JUNE 28, 2021, AS SOLE ADJUDICATOR FOR THE INQUIRY RESPECTING THE MATTERS SUBJECT TO THE TERMS OF REFERENCE DULY APPROVED ON JULY 8, 2021

**DISPOSITION REPORT
OF THE SOLE ADJUDICATOR
THE HONOURABLE R. L. BARCLAY, Q.C.**

NOVEMBER 17, 2021

Counsel:

**Maurice O. Laprairie, Q.C. and
Shawna L. Sparrow**

Steven Cooper and Ronald Halabi

for the Sole Adjudicator

for Steve Norn, MLA

IN THE MATTER OF THE *LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT*,
S.N.W.T. 1999, C. 22

AND IN THE MATTER OF A COMPLAINT MADE BY RYLUND JOHNSON, MEMBER
OF THE NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY, UNDER THE ACT
CONCERNING THE CONDUCT OF STEVE NORN, ALSO A MEMBER OF THE
NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY;

AND IN THE MATTER OF AN INQUIRY DIRECTED BY THE INTEGRITY
COMMISSIONER UNDER SECTION 102(1)(b) OF THE ACT;

AND IN THE MATTER OF THE HONOURABLE R.L. BARCLAY, Q.C. HAVING BEEN
DULY APPOINTED JUNE 28, 2021, AS SOLE ADJUDICATOR FOR THE INQUIRY
RESPECTING THE MATTERS SUBJECT TO THE TERMS OF REFERENCE DULY
APPROVED ON JULY 8, 2021

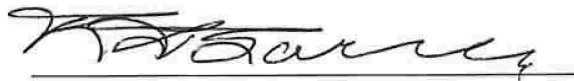
November 17, 2021

To The Honourable Frederick Blake Jr.,
Speaker of the Northwest Territories Legislative Assembly

Pursuant to your Letter of Appointment, dated June 28, 2021, I have completed my Inquiry as
mandated by the Terms of Reference attached thereto.

With this letter I respectfully submit my Disposition Report on the Inquiry.

DATED at Regina, Saskatchewan, this 17th day of November, 2021.



The Honourable Ronald L. Barclay, Q.C. Sole
Adjudicator appointed under the *Legislative
Assembly and Executive Council Act*

Acknowledgments

One of the most important decisions I undertook at the outset of the Inquiry was to appoint capable and qualified legal counsel to work closely with me throughout the various stages of the proceedings.

I am privileged to have been able to appoint Maurice O. Laprairie, Q.C. of the law firm of MLT Aikins LLP to the Inquiry to represent the public's interest at this Inquiry. Mr. Laprairie's considerable experience as a senior trial counsel made him a superior choice as my Counsel. I am grateful for his advice and candour, as well as his insights, professionalism, and sensitivity. He was ably assisted by Shawna Sparrow (associate lawyer) and Jacob Paczko (law student). As it turned out, the public was fortunate in my choices and so was I. My Counsel and his assistants were diligent, fair, thorough and extremely hard working.

I also wish to acknowledge the contributions of Inquiry clerk, Sheila Anderson, and court reporter, Jenna Mearns, whose professionalism greatly assisted the proceedings. I also wish to acknowledge interpreters Dennis Drygeese and Tom Unka who provided simultaneous translation in Chipewyan. I also wish to acknowledge Deputy Clerk Michael Ball and Communications Broadcast Analyst Chris Cartwright who provided technical assistance in broadcasting the Inquiry Hearing. These contributions are greatly appreciated.

TABLE OF CONTENTS

I. HISTORY AND BACKGROUND	7
A. CONSENSUS GOVERNMENT	7
B. MEMBERS OF THE LEGISLATIVE ASSEMBLY (MLAs).....	8
II. PROCEDURAL HISTORY	12
A. APPLICABLE LEGISLATION.....	12
B. MEMBERS’ CODE OF CONDUCT.....	14
C. INTEGRITY COMMISSIONER’S INVESTIGATION	17
D. APPOINTMENT OF SOLE ADJUDICATOR	19
E. TERMS OF REFERENCE	20
F. THE ROLE OF COMMISSION COUNSEL	23
G. NATURAL JUSTICE AND PROCEDURAL FAIRNESS	26
H. PREPARATION FOR THE HEARING.....	32
(a) Interviews.....	32
(b) Information Provided to the Integrity Commissioner, Mr. David Jones, Q.C.	33
III. THE INQUIRY HEARING	38
A. APPEARANCES.....	38
B. HEARING LOCATION	38
C. RULINGS	38
D. WITNESS IMMUNITY.....	42
E. WITNESSES	42
(a) Ollie Williams – Head of Programming and News at Cabin Radio.....	42
(b) Liny Lamberink – Journalist with CBC News North	43
(c) Dennis Marchiori – Director of Compliance and Enforcement Operations.....	44
(d) Brian Thagard – Sergeant-at-Arms for the Legislative Assembly.....	45
(e) Wentworth Robert Braine – Security Guard at the Legislature on April 17, 2021	45

<i>(f)</i> Su-Ellen Dillabough – Friend of Steve Norn	47
<i>(g)</i> Trishia Smith – Former partner of Steve Norn and travel companion to Grande Prairie, Alberta	48
<i>(h)</i> Natasha Schwindt – Former partner of Steve Norn and mother of Siné Norn	49
<i>(i)</i> Stephanie Gilbert – Clinical Coordinator for the COVID Outbreak Incident Command	50
<i>(j)</i> Sheila MacPherson – Law Clerk for Northwest Territories Legislative Assembly	55
<i>(k)</i> Glen William Rutland – Acting Clerk for the Northwest Territories Legislative Assembly	56
<i>(l)</i> Dr. Andy Delli Pizzi – Deputy Chief Public Health Officer for the Northwest Territories	59
<i>(m)</i> Steve Norn – MLA for Tu Nedhé-Wiilideh	62
IV. MATTERS ENGAGING ISSUES OF CONDUCT.....	62
A. CREDIBILITY	62
B. ALLEGATIONS AGAINST STEVE NORN - MLA.....	65
C. ASSESSMENT OF ALLEGATIONS AGAINST STEVE NORN.....	69
V. RECOMMENDATIONS.....	82
A. THE ACT	82
B. RECOMMENDATION AS TO PUNISHMENT	83

TABLE OF APPENDICES

Appendix 1	June 14, 2021 Report of Integrity Commissioner, David P. Jones, Q.C.
Appendix 2	Complaint of Steve Norn on behalf of Caucus
Appendix 3	June 28, 2021 Letter of Appointment
Appendix 4	Terms of Reference fixed on July 8, 2021
Appendix 5	Second Amended Rules of Procedure and Practice dated September 20, 2021
Appendix 6	Decision of the Sole Adjudicator dated September 13, 2021
Appendix 7	List of Exhibits Marked in Inquiry Hearing
Appendix 8	Excerpt from October 4, 2021 Transcript – Emergent Medical Condition
Appendix 9	Excerpt from October 4, 2021 Transcript – Ruling on Exhibit 5
Appendix 10	Excerpt from October 4, 2021 Transcript – Ruling on cross-examination of affidavit of J. Packzo
Appendix 11	List of Documents Produced to Mr. Cooper
Appendix 12	Excerpt from October 5, 2021 Transcript – Ruling on Adjournment Request
Appendix 13	Excerpt from October 5, 2021 Transcript – Ruling on Subpoenas
Appendix 14	Excerpt from October 7, 2021 Transcript – Ruling on Cross-Examination of Mr. Norn
Appendix 15	Excerpt from October 7, 2021 Transcript – Ruling on Facebook Message
Appendix 16	Excerpt from October 8, 2021 Transcript – Ruling on Comments Made During Hearing

I. HISTORY AND BACKGROUND

1. I will begin my Disposition Report (“Report”) by briefly setting out background information concerning the Northwest Territories system of government as well as the relevant legislation.

A. Consensus Government

2. Rather than being based on party politics, the Northwest Territories has a consensus system of government. An overview of consensus government is set out in the document “Consensus Government in the Northwest Territories – Guiding Principles and Process Conventions” tabled by the Northwest Territories Legislative Assembly on March 30, 2021.¹ In a Consensus Government, all Members of the Legislative Assembly (“MLAs”) are elected as independents. Shortly following the election, all MLAs meet as a Caucus to set priorities for that Assembly. The Caucus remains active throughout the term.

3. All MLAs serve as equal members of Caucus and are encouraged to participate in discussions free from Cabinet or Committee solidarity. Caucus meetings are confidential, allowing MLAs to speak openly and honestly and to raise sensitive issues. The Chair and Deputy Chair of Caucus are selected from amongst the group of MLAs not already serving on Cabinet, as Speaker, or as Chair of a House Standing Committee.

4. Unlike a party-based legislature with a majority supporting the government in power, there is no guaranteed outcome for any vote in a consensus government. The Premier and Ministers essentially serve as long as the majority of the Members retain confidence in them.

¹ Consensus Government in the Northwest Territories – Guiding Principles and Process Conventions, August 2020;
See also the NWT Legislative Assembly website: <https://www.ntassembly.ca/visitors/what-consensus>

B. Members of the Legislative Assembly (MLAs)

5. Individual MLAs are accountable to the electorate every four years. Upon their election, MLAs subscribe and swear three oaths before the Commissioner of the Northwest Territories: the Oath of Allegiance, the Oath of Loyalty and the Oath of Office.

6. The Oath of Allegiance is as follows:

I, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, Her Heirs and Successors. So help me God.

7. The Oath of Loyalty is as follows:

I, do swear that I will be loyal to the people of the Northwest Territories; and that, in carrying out my duties, I will honour and respect the treaties signed with Indigenous peoples so help me God.

8. The Oath of Office is as follows:

I, do solemnly swear that I am fully qualified to hold the office of member for the district of (district name), to which I have been elected; and that I have not knowingly contravened the Elections and Plebiscites Act respecting any matter in relation to my election; and that I will faithfully and to the best of my abilities perform the duties and responsibilities of my office and will not allow any direct or indirect monetary or other personal interest to influence my conduct or affect my duties in public matters. I hereby affirm, subscribe to and agree to follow the Code of Conduct adopted by the Legislative Assembly. So help me God.

9. Once elected, the MLAs hold a territorial leadership meeting (the “Leadership Meeting”) at the Legislative Assembly in Yellowknife, NWT.

Speaker

10. The first order of business at the Leadership Meeting is to elect the Speaker by secret ballot.

11. The Speaker assumes the position of highest authority in the Legislative Assembly and represents the Legislature in all its powers and proceedings. The Speaker acts as a spokesperson of the Assembly in its relations with authorities outside the Legislature.

12. The Speaker presides over the sitting of the Assembly and enforces the rules, order and conduct of business. The Speaker controls debates in the Chamber and ensures that Members follow the rules and practices of the Legislative Assembly as they ask or answer questions, debate or vote. The Speaker is impartial and does not take part in debates, ask or answer questions or vote, except to present the Legislative Assembly's budget or to break a tie. All questions and statements during a formal sitting must be directed through the Speaker.

13. The Speaker is also responsible for the daily administration of the Legislative Assembly. Employees of the Legislative Assembly report to the Speaker. In carrying out his or her duties, the Speaker is assisted by the Clerk's Office.

Executive Council

14. The Executive Council is the senior decision-making body of the Government of the Northwest Territories and is made up of the Premier and six Cabinet Ministers.

Premier

15. After electing the Speaker, the next step at the Leadership Meeting is to elect the Premier. Candidates are nominated and given 20 minutes to present their platforms. Following the speeches, the floor is opened up for a limited number of questions from each MLA, and a secret ballot vote is held. It may take multiple ballots before any candidate receives more than 50% of the votes. The Premier can be removed by the passing of a motion of non-confidence in the House.

16. The role of Premier includes chairing Cabinet meetings, assigning portfolios to ministers and disciplining ministers. The Premier also develops consensus with other ministers and serves as their spokesperson on matters that do not fall within individual portfolios.

Cabinet Ministers

17. Following the election of the Premier, six more Cabinet Ministers are elected. Candidates are nominated and outline their platforms in public before a secret ballot vote takes place. After meeting with the team of ministers, the Premier assigns each minister to head up one or more departments.

18. Cabinet requires the votes of three regular members to achieve a majority, and two votes for items considered in Committee of the Whole.

Regular Members

19. The 11 MLAs who are not in Cabinet are referred to as Regular Members and become the “unofficial opposition”. The Regular Members hold the government accountable and responsive to the people of the Northwest Territories through questioning in the House and through the work of standing committees.

20. All legislation, major policies and proposed budgets pass through the Regular Members’ standing committees before coming to the House. This process allows MLAs to make changes to initiatives before they are announced to the public.

21. The Standing Committees include:

- 1) Standing Committee on Accountability and Oversight
- 2) Standing Committee on Government Operations
- 3) Standing Committee on Social Development
- 4) Standing Committee on Economic Development and Environment
- 5) Standing Committee on Rules and Procedures

22. Steve Norn was elected as an MLA in October 2019 and was appointed the Chair of the Standing Committee on Accountability and Oversight that same month.

Standing Committee on Accountability and Oversight

23. The Legislative Assembly website provides the following information about the Standing Committee on Accountability and Oversight:²

² <https://www.ntassembly.ca/content/standing-committee-accountability-and-oversight>

About:

The eleven Regular Members of the Legislative Assembly comprise the Standing Committee on Accountability and Oversight (formerly known as the Standing Committee on Priorities and Planning). The committee's role is to:

1. Review issues which have government-wide implications, including all issues related to Devolution implementation, and the overview of the budget and fiscal framework;
2. Review Government of the Northwest Territories reports on financial and performance results and program and policy evaluations to ensure anticipated outcomes are being achieved and accountability is maximized;
3. Coordinate Sessional business scheduling and planning in cooperation with appropriate Ministerial representatives;
4. Coordinate Committee public consultation efforts with respect to budget and fiscal matters;
5. Coordinate Committee strategic planning efforts;
6. Monitor and evaluate Ministerial performance issues;
7. Consider issues related to land claims and self-government negotiations;
8. Consider issues related to public engagement and transparency efforts by standing and special committees;
9. Consider issues related to federal and international relations;
10. Consider the budgets and financial management of any boards and agencies that are outside the responsibility of any Standing Committee; and
11. Consider any matter referred by the House.

Office of the Clerk

24. The Clerk of the Legislative Assembly has the power, duties and functions of a Deputy Minister managing and administering the Legislative Assembly as described in the *Public Service*

Act, RSNWT 1988, c P-16 and the *Financial Administration Act*, SNWT 2015, c 13. The Clerk acts as chief advisor to the Speaker, Deputy Speaker, Committee Chairpersons and all Members regarding the privileges, rules, practices and procedures of the Assembly.

II. PROCEDURAL HISTORY

A. Applicable Legislation

25. The following sections of the *Legislative Assembly and Executive Council Act*, SNWT 1999, c. 22 (the “Act”) are relevant to this Report:

75. Each member shall

- (a) comply with the provisions of this Act and the Code of Conduct;
- (b) perform the member’s duties of office and arrange his or her private affairs in such a manner as to maintain public confidence and trust in the integrity, objectivity and impartiality of the member;

100. (2) A member or any other person who believes on reasonable grounds that a member or former member has contravened any provision of this Part or the Code of Conduct may file a written complaint setting out these grounds with the Integrity Commissioner.

101. The Integrity Commissioner shall, after giving reasonable notice to the member or former member complained of and the complainant, conduct an investigation into the complaint.

102. (1) After conducting an investigation into the complaint, the Integrity Commissioner shall submit to the Speaker, the member or former member complained of and the complainant, a report, with reasons, advising that the Integrity Commissioner:

- (a) is dismissing the complaint, where the Integrity Commissioner has determined that:
 - (i) the complaint is frivolous or vexatious or was not made in good faith,
 - (ii) there are insufficient grounds to warrant an inquiry,
 - (iii) the complaint does not disclose a contravention of this Part or the Code of Conduct,
 - (iv) a contravention of this Part or the Code of Conduct was minor or was committed through inadvertence or by reason of an error in judgment made in good faith,

(v) the member or former member took all reasonable measures to prevent a contravention of this Part or the Code of Conduct, or

(vi) the public interest would not be served if the complaint proceeded to an inquiry before a Sole Adjudicator; or

(b) is directing that an inquiry be held before a Sole Adjudicator.

103. (1) The Legislative Assembly may, by motion, approve the following for appointment as Sole Adjudicators:

(a) judges or retired judges;

(b) persons who are currently or were formerly serving in a position equivalent to that of the Integrity Commissioner under the legislation of Canada, or a province or territory.

103. (2) Where the Integrity Commissioner has directed the holding of an inquiry before a Sole Adjudicator, the Speaker, on recommendation of the Board of Management, shall appoint as Sole Adjudicator a person approved for such appointment by the Legislative Assembly under subsection (1).

...

106. (1) After conducting an inquiry, a Sole Adjudicator shall submit a disposition report, with reasons, to the Speaker, the member or former member complained of and the complainant advising that:

(a) the complaint is dismissed, where the Sole Adjudicator has determined

(i) that the complaint does not disclose a contravention of this Part or the Code of Conduct,

(ii) that a contravention of this Part or the Code of Conduct was minor or was committed through inadvertence or by reason of an error in judgment made in good faith, or

(iii) that the member or former member took all reasonable measures to prevent a contravention of this Part or the Code of Conduct;

(b) the Sole Adjudicator has found the member to be guilty of contravening a provision of this Part or the Code of Conduct, and is recommending to the Legislative Assembly that one or more of the following punishments be imposed:

(i) a reprimand,

(ii) a fine in an amount not exceeding \$25,000 established by the Sole Adjudicator,

(iii) an order requiring the member to make restitution, in an amount determined by the Sole Adjudicator, or the Government of the Northwest Territories or to a public agency of the Government of the Northwest Territories, or of any gain realized by the member or his or her spouse or dependent child by participating in a transaction in contravention of a provision of this Part,

(iv) an order requiring the member to pay compensation to any person for a loss suffered by that person as a result of the participation of the member or his or her spouse or dependent child in a transaction in contravention of a provision of this Part,

(v) a suspension for a period not exceeding 30 sitting days of the privileges of the member to sit in the Legislative Assembly,

(vi) a declaration that the seat of the member is vacant,

(vii) an order that the member pay costs in an amount determined by the Sole Adjudicator.

B. Members' Code of Conduct

26. Pursuant to s. 74.1 of the Act, the Assembly may adopt a Code of Conduct for Members, which continues in force from session to session until amended or replaced by the Assembly. Section 100 of the Act confers jurisdiction on the Integrity Commissioner to investigate a complaint that a Member has contravened any provision of the Code.

27. The Legislative Assembly has adopted a Code of Conduct for its Members (the "Code") as well as a *Guide to the Rules relating to Conduct of Members* (the "Guide").³

28. The Guide provides for the discipline or censure of a MLA:

Responsibility for disciplining or censuring a Member of the Assembly lies with the Legislative Assembly itself, and is a fundamental aspect of the privileges enjoyed by the Legislative Assembly as a house of parliament. Neither the Code of Conduct nor this Guide impinges upon, restricts or narrows the Legislative Assembly's fundamental right to regulate its internal affairs. Any role assigned to the Integrity

³ Exhibit 11 – Members' Handbook and Code of Conduct.

Commissioner is for the purpose of assisting the Legislative Assembly in exercising this authority.

29. The Complaint which is the subject of this Inquiry refers to the following provisions of the Code and Guide:

Section 2 of the Code:

Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

30. The Guide provides the following commentary to section 2:

Commentary

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Members are expected to hold themselves to a high standard of conduct. While this expectation is largely directed at a Member's public behaviour, Members must recognize that, as elected officials, behaviour in their personal lives will also be closely scrutinized. A Member's integrity is fundamental to maintaining public confidence, both in the individual Member and in the Legislative Assembly as an institution.

The Legislative Assembly will not generally be interested in the personal or private affairs of a Member. However, if a Member's conduct is such that knowledge of it would be likely to impair the public's trust in the institution of the Legislative Assembly, the Legislative Assembly may be justified in taking action. This is particularly so where the conduct in question is unlawful.

Excessive public consumption of alcohol, cannabis or other drugs or intoxicants, particularly where such consumption results in behaviour that could lessen the dignity of the Legislative Assembly, is unacceptable and constitutes a breach of the Code of Conduct.

Violation of certain laws, such as those involving a breach of trust or abuse of a position of trust, authority or intimacy, will be considered to be particularly damaging to the integrity and honour of the Legislative Assembly. This factor will be considered by the Legislative Assembly in deciding what action, if any, is to be taken under the Assembly's power to regulate its internal affairs and discipline Members.

31. Section 4 of the Code provides:
Members must carry out their official duties objectively and without consideration of personal or financial interests and must arrange their personal affairs so as to maintain the trust and confidence of the public.

32. The Guide provides the following commentary to section 4:

Commentary

This section of the Code of Conduct reflects a Member's obligation to avoid conflicts of interest, to declare conflicts that cannot be avoided, and to ensure a Member's actions reflect a commitment to the public interest, and not a Member's own personal or financial interests. The specific obligations of all Members regarding conflicts of interest, contracts and financial matters, gifts and benefits and disclosure are set out in Part 3 of the Legislative Assembly and Executive Council Act.

Members must comply with the provisions of the Legislative Assembly and Executive Council Act and any other statutes, regulations, Board of Management resolutions or decisions of the Integrity Commissioner relating to ethics and conflicts of interest. Where a Member is uncertain about their compliance with conflict of interest rules, a Member should seek the advice of the Integrity Commissioner.

Members must conduct themselves professionally in their dealings with staff and contractors of the Legislative Assembly. Where a personal relationship may exist beyond a Member's professional interactions with an employee or contractor of the Legislative Assembly, Members are expected to make appropriate disclosure of their relationship. What constitutes appropriate disclosure will depend on the circumstances. Where there is any uncertainty regarding the need for disclosure of such relationships, Members are encouraged to consult the Integrity Commissioner for advice.

It is inappropriate for a Member of the Legislative Assembly to use the privileges of their office to seek special benefits or treatment for friends or family members of the Member.

33. Section 8 of the Code provides:

The Code is not designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.

34. The Guide provides the following commentary to section 8:

Commentary

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Public confidence in an individual Member and in the Legislative Assembly as an institution requires that Members hold themselves to a high standard of conduct, in both their personal and professional lives. The Legislative Assembly may at times find it necessary to respond to a Member's conduct that is found to undermine public confidence and trust, even if the provisions of this Code and all applicable laws have been respected.

C. Integrity Commissioner's Investigation

35. Integrity Commissioner for the Northwest Territories, David P. Jones, Q.C. (the "Integrity Commissioner") conducted an investigation into the complaint made by Mr. Rylund Johnson, MLA for Yellowknife North, at the direction of the MLAs' Caucus, regarding the conduct of Steve Norn, MLA for Tu Nedhé-Wiilideh ("Mr. Norn"). The Integrity Commissioner submitted his Report as required under section 102(1) of the Act on or about the 14th of June, 2021. The Integrity Commissioner's Report can be found at Appendix 1.

36. Pursuant to section 102(1)(b) of the Act, the Integrity Commissioner directed that an Inquiry be held before a Sole Adjudicator. As provided for in section 103(2) of the Act, I was, on the 28th of June 2021, appointed Sole Adjudicator. I have conducted the Inquiry requested of me and this is the Disposition Report, with reasons, submitted pursuant to section 106(1) of the Act.

37. The initial complaint was in the form of a letter signed by Rylund Johnson and delivered to the Commissioner on or about May 6, 2021 ("Complaint Letter"). The Complaint Letter is included at Appendix 2.

38. The Complaint Letter alleged that certain actions of Mr. Norn breached the Members' Code of Conduct:

It is alleged that Mr. Norn breached the following sections of the Code of Conduct:

- Section 2 – Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members shall ensure their conduct

does not bring the integrity of their office or of the Legislative Assembly into disrepute.

- Section 4 – Members must carry out their official duties objectively and without consideration of personal or financial interests, and must arrange their personal affairs so as to maintain the trust and confidence of the public.
- Section 8 – The Code is not designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent standard of conduct in order to protect the public interest and to enhance public confidence.

It is alleged that Mr. Norn breached the Code of Conduct by:

- Allegation One – Breaching sections 2(1) and (d) of the Public Health Order – COVID-19 Travel Restrictions and Self-Isolation Protocol – As amended December 1, 2020 (Self-Isolation Order) by:
 - failing to self-isolate for 14 days, in accordance with the self-isolation requirements set out in Appendix A of the Order; and
 - failing to comply with his self-isolation plan.
- Allegation Two – Misleading the public regarding his compliance with the Self-Isolation Order.

39. The Complaint Letter sets out the background to the allegations as follows (footnotes omitted):

Circumstances of Allegation One

Mr. Norn publicly stated that he travelled by car out of the Northwest Territories to Alberta on Thursday, April 1, 2021 for a family emergency. He returned on Sunday, April 4, 2021, crossing the Alberta/NWT border in the late afternoon/early evening. In his statement, Mr. Norn noted that he filed a self-isolation plan on April 1, 2021 identifying he would self-isolate at home. Mr. Norn's isolation period would have ended on April 18, 2021.

On April 17, 2021, while he was subject to the Self-Isolation Order, Mr. Norn left his home, and entered the Legislative Assembly. As the Assembly was not aware he was self-isolating at the time, he was allowed access to the building. Mr. Norn has publicly admitted that he did breach the order by attending the Assembly.

In addition to attending the Legislative Assembly, I seek clarification on whether Mr. Norn may have had contact with other people in violation of the Self-Isolation Order.

Circumstances of Allegation Two

On April 23, 2021 Mr. Norn did an interview with Ollie Williams from Cabin Radio. In the story published by Cabin Radio, Mr. Norn is quoted as saying “I followed all the rules, I was up front with everybody,” and “I stayed home” when referring to residents’ concern about whether isolation rules had been broken.

On May 5, 2021 in a conversation with CBC, Mr. Norn is reported as confirming he broke his two-week isolation period after travelling. It is reported that Mr. Norn said, “Yes, yes, I did. I’ll wear that.” And “If public health wants to do something with that, they can. Absolutely, I’ll own it.”.

40. In his Report, the Integrity Commissioner gave consideration to the unambiguous and mandatory requirements for self-isolation contained in the Public Health Order as well as the provisions contained in section 102(1)(a) of the Act which would permit him to dismiss the Complaint. The Integrity Commissioner determined that none of the provisions applied. The Integrity Commissioner concluded that Mr. Norn’s breach of the mandatory self-isolation period and his inaccurate statements that he had complied with the self-isolation period were sufficient grounds to warrant an Inquiry.

D. Appointment of Sole Adjudicator

41. On June 28, 2021, I was appointed by the Honourable Frederick Blake Jr., Speaker of the Northwest Territories Legislative Assembly as the Sole Adjudicator for an inquiry into the Complaint (the “Inquiry”). The Letter of Appointment was issued pursuant to s. 103(1) of the Act. The Letter of Appointment is included at Appendix 3 and reads as follows:

Letter of Appointment as Sole Adjudicator

The Northwest Territories Legislative Assembly Board of Management has recommended to me your appointment as Sole Adjudicator, pursuant to s. 102(3) of the Legislative Assembly and Executive Council Act. I have accepted the recommendation and hereby appoint you as the Sole Adjudicator in an inquiry into a complaint made by Mr. Rylund Johnson, the Member for Yellowknife North, alleging that Mr. Steve Norn, the Member for Tu Nedhé-Wiilideh, breached the Members’ Code of Conduct.

The Integrity Commissioner for the Northwest Territories, Mr. David Jones, Q.C. has investigated the complaint and directed that an inquiry be held before a Sole

Adjudicator. A copy of Mr. Jones' report is included with this letter of appointment.

The Assembly will pay you an hourly fee of \$400 for your work conducting the inquiry. The Assembly will also pay reasonable disbursements, as well as travel, per diems and accommodations pursuant to the amounts set out in the Government of the Northwest Territories policy on duty travel rates.

The Assembly will also make arrangements for commission of counsel of your choice. Please advise Mr. Glen Rutland, Acting Clerk for the Legislative Assembly of your choice for counsel, and arrangements for a retainer will be organized.

In terms of logistical support for the conduct of the inquiry, the Office of the Clerk is available to assist you. I encourage you to reach out to Mr. Rutland regarding any assistance you may require. Also, someone from the Clerk's Office will be in touch regarding arrangements for submission and payment of your account.

By separate correspondence, I will advise Mr. Johnson and Mr. Norn of your appointment as Sole Adjudicator in this matter.

I appreciate you taking on this appointment and will await your disposition report after the inquiry has been held.

Sincerely,

Frederick Blake Jr.

Speaker

E. Terms of Reference

42. After consultation, on July 8, 2021, the Terms of Reference for the Inquiry were fixed as follows:

1. The Sole Adjudicator, the Honourable Ronald L. Barclay, Q.C. as appointed on June 28, 2021 by Frederick Blake Jr., Speaker of the Northwest Territories Legislative Assembly, on the recommendation of the Northwest Territories Legislative Assembly Board of Management shall inquire into a complaint made by Rylund Johnson, the Member for Yellowknife North as to whether:

Steven Norn ("Mr. Norn"), Member of the Legislative Assembly for Tu Nedhé-Wiilideh performed his duties of office and arranged his personal affairs as required by the Legislative Assembly and Executive Council Act (the "Act")

and/or the following sections of the Members' Code of Conduct ("Code") established by the Act, including the Guide related thereto:

Section 2 – Members must act lawfully and in a manner that will withstand the closest possible scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

Section 4 – Members must carry out their official duties objectively and without consideration of personal or financial interests, and must arrange their personal affairs so as to maintain the trust and confidence of the public.

Section 8 – The Code is not designed to be exhaustive, and there will be occasions on which the Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.

In that it is alleged that Mr. Norn in April, 2021:

- a. breached s. 2(a) and (d) of *Public Health Order – COVID-19 Travel Restrictions and Self-Isolation Protocol as amended December 1, 2020* (the "Order")
- b. failed to self-isolate in compliance with the Self-Isolation plan he filed ("Self-Isolation Plan")
- c. misled the public regarding his compliance with the Public Health Order and/or Self-Isolation Plan;

2. The Sole Adjudicator shall also inquire into the reasons why Mr. Norn left the Northwest Territories in April, 2021, where he went and what he did during the trip to determine whether taking the trip would constitute a breach of the Act and/or Code.

3. The Sole Adjudicator is to inquire into and report his findings on such other related matters which the Sole Adjudicator considers relevant to the Inquiry.

4. The Sole Adjudicator shall, after conducting the Inquiry, submit a disposition report, with reasons, as required by the provisions of section 106 of the Act.

43. The Terms of Reference are attached as Appendix 4.

44. On July 14, 2021 in accordance with my powers under the Act and the *Public Inquiries Act*, RSNWT 1988, c P-14, (the “*Public Inquiries Act*”), I engaged Maurice O. Laprairie, Q.C. as counsel to the Inquiry (my “Counsel”). Also on that date and pursuant to the *Public Inquiries Act*, I further authorized my Counsel to inquire into matters within the jurisdiction of the Inquiry and authorized him to receive all records and property compelled to be produced under the Act for the purposes of the Inquiry.

45. Following my appointment as Sole Adjudicator, and in consultation with my Counsel, on July 14, 2021, I issued *Rules of Procedure and Practice* (the “Rules”) to those parties involved in the Inquiry. The Rules were amended on August 11, 2021 and September 20, 2021. A full copy of the Second Amended Rules are attached as Appendix 5 and will be referenced in the body of this Report when necessary.

46. Following my appointment, I issued a total of 25 Subpoenas to Produce Documents and Testify to individuals that my Counsel and I believed might have relevant records and property relating to Mr. Norn’s Self-Isolation Plan filed with ProtectNWT as well as his visit to the Legislative Assembly on April 17, 2021. My Counsel caused the Subpoenas along with a letter of explanation to be served on the individuals named therein who were located in the Northwest Territories.

47. Thereafter, persons served with the subpoenas began to make reports to my Counsel as to the documents in their possession or control that related to the subject matter of the Inquiry. A number of potential witnesses were interviewed in conjunction with their appearances to produce documents. Witness summaries of all witnesses and transcripts of all interviews pursuant to Rule 21a were provided to Mr. Norn’s counsel.

48. My Counsel reviewed and catalogued the documents produced pursuant to the Inquiry subpoenas. As a result of this review, my Counsel compiled a 631 page compilation of documents titled NWT Public Inquiry Binder (“Inquiry Binder”). The Inquiry Binder contains an index of all documents received pursuant to the Inquiry Subpoenas as well as Witness Summaries and

transcripts of interviews. Mr. Norn’s counsel was provided with the Inquiry Binder and was given copies of all documents listed therein in accordance with the Rules.

F. The Role of Commission Counsel

49. Although made in the context of an inquest, the comments of Steel, J.A. in *Hudson Bay Mining and Smelting Co., Limited v Cummings*, 2006 MBCA 98, 272 DLR (4th) 419 reflect the role of counsel for the Inquiry⁴:

[57] In the advancement of the administration of justice and the public interest, Crown counsel at an inquest should be impartial and neutral. He performs a public duty which requires him to ensure that all available relevant evidence is presented in a fair, impartial and objective manner. The court, in the case of *Cronkwright Transport Ltd. v Porter*, [1983] OJ No. 558 (HCJ) (QL), commented that “[i]t is not the duty of the Crown at an inquest to have an adversary position” (at para 8). This concept is reinforced in The Honourable Mr. Justice T. David Marshall, *Canadian Law of Inquests*, 2d ed (Toronto: Carswell, 1991), when the author states (at p. 99):

...[T]he mandate of the Attorney-General, when the Crown is not a party and there is no *lis inter partes* at an inquest, is only to preserve the general integrity of the law and the administration of justice.

[58] Viewed in this light, Crown counsel does not have a “client”; there are no adversarial parties against whom he must maintain a zone of privacy. As stated earlier, the whole assumption which grounds the doctrine of litigation privilege is that it is related to litigation and the zone of privacy is required to facilitate adversarial preparation. There is no adversary here against whom Crown counsel’s work product needs to be protected.

50. The role of counsel for the Inquiry is to be impartial and neutral and to perform a public duty which requires that all available evidence is presented in a fair, impartial and objective manner.

⁴ Adapted from *Final Report of the Inspection and Inquiry into the R.M. of Sherwood No. 159*, (December 30, 2014) Volume 1 of 2 at pp. 11-14.

51. The role of commission counsel was also articulated by Steel, J.A. in the case of *Southern First Nations Networks v Hughes*, 2012 MBCA 99, [2013] 1 WWR 456 [*Southern*] where she cites with approval the comments of Commissioner Bellamy, a Superior Court Justice in Ontario. She delineated the impartiality of commission counsel in this way in her ruling of October 15, 2003 (as quoted in Professor Ed Ratushny's text, *The Conduct of Public Inquiries: Law, Policy, and Practice* (Toronto: Irwin Law Inc., 2009) at p. 221-22 [*Conduct of Public Inquiries*]):

...Impartiality on the part of commission counsel is not to be confused with a lack of rigour and vigilance in seeking the truth. Commission counsel must still act forcefully whenever necessary to overcome resistance that could obscure truth. This persistence is particularly important wherever the transparency of public inquiries motivates resistance on the part of those with something to hide. What makes commission counsel's role unique is that they must take into consideration the public interest, the interests of all parties, and furthermore, must explore conscientiously all plausible explanations and outcomes regardless of whose interests are advanced. We have now reached a point in the evolution of commission counsel's role where it can be confidently asserted that every task they undertake must be infused with impartiality inseparable in degree from that of the commissioner.

52. Justice Steel also states in *Southern* as follows:

[79] I agree with this view of the role of commission counsel. It is commission counsel who has the primary responsibility to vigorously and completely represent the public interest, including the interests, issues and theories of all parties (Emphasis in original). In order to do so, commission counsel needs to foster effective communication with all of the parties to the Inquiry. By way of illustration, the parties may be able to shed light on information not initially thought to be relevant or suggest additional fields of inquiry. Conversely, commission counsel should ensure that relevant information is getting to the parties on a timely basis, and should be available to discuss issues with other counsel.

[80] Parties granted standing in a commission of inquiry need to be aware of the wide scope of commission counsel's mandate, and should be able to trust and rely upon commission counsel to fulfill that role. As stated by Ratushny (at p. 257):

...The parties granted standing have a "substantial and direct interest" in some aspect(s) of the inquiry's terms of reference. But commission counsel responsible for marshalling the evidence and managing the hearings represents the public interest with respect to all aspects. No other person has the same comprehensive

and intimate knowledge of all of the evidence and witnesses and their interrelationships...

[81] Counsel for parties and intervenors with standing should endeavor to assist commission counsel by communicating any issues that are of concern to them and their clients. This will greatly assist commission counsel in effectively bringing forward the interests, issues and theories of all parties in the public interest. While the courts are available to remedy a breach of procedural fairness, it is important that counsel work together toward the common goal of facilitating the important work of a commission of inquiry.

53. Commissioner Dennis O’Conner, former Associate Chief Justice of the Ontario Court of Appeal, who presided over the Walkerton and Arar Inquiries authored an article entitled, “The Role of Commission Counsel in a Public Inquiry” (2003) 22 *Advocates’ Soc J* at 9-11. In this article, summarized in *Conduct of Public Inquiries* at p. 219, Commissioner O’Conner stated the role of counsel to the Inquiry as follows:

- 1) To provide advice and guidance to the commissioner throughout the process. This includes acting as a “sounding board.”
- 2) To supervise and conduct the investigation into all of the information relevant to the terms of reference including gathering documentation and interviewing witnesses.
- 3) To develop and maintain open communication with all parties and to encourage cooperation in facilitating the disclosure and presentation of evidence.
- 4) To call evidence at the hearings, including witnesses the parties seek to call. Cross-examination by the parties is likely to be limited if the prior examination by commission counsel has been thorough and fair.
- 5) To assist the commissioner in writing the report. This role varies with different commissioners but is easier to accept when commission counsel has acted in an “impartial and even-handed way” throughout the inquiry.
- 6) To serve as media spokesperson for the commission to the media.

54. Commissioner O’Connor also explained the relationship of counsel to the commissioner. He concluded that it is with the commission counsel that the commissioner carries out his or her

mandate investigating the subject matter of the Inquiry, leading evidence and throughout, commission counsel acts on behalf of the commissioner. As the learned author Ratushny states, commission counsel in effect becomes an extension of the commissioner (*Conduct of Public Inquiries* at p. 217).

55. Commissioner O'Connor further went on to say in paras 10 and 12 (as quoted in *Conduct of Public Inquiries* at p. 217):

And this is where the commission counsel play such an important role. Commission counsel are on the very front line of doing much of what is necessary to gain the public confidence about the process and about the integrity and impartiality of the inquiry itself...As a result, commission counsel's role is not to advance any particular point of view, but rather to investigate and lead evidence in a thorough, but also completely impartial and balanced, manner. In this way, the commissioner will have the benefit of hearing all of the relevant facts or evidence unvarnished by the perspective of someone with an interest in a particular outcome.

56. I am more than satisfied that throughout all aspects of this Inquiry, my Counsel performed the duties and played the role outlined by these authorities in the highest traditions of the legal profession.

G. Natural Justice and Procedural Fairness

57. I am conscious of the fact that a significant degree of procedural fairness is owed to those who were called on to testify in these proceedings because of the potential impact on their reputations. I will make some general observations of the law in this regard and then outline specifically how procedural fairness was dealt with in the Inquiry.⁵

(a) Applicable Legal Principles

58. I refer to the comments of Cory, J. in the Supreme Court of Canada decision in *Canada (Attorney General) v Canada (Commissioner of the Inquiry on the Blood System)*, [1997] 3 SCR 440 at para 55:

⁵ Adapted from *Final Report of the Inspection and Inquiry into the R.M. of Sherwood No. 159*, (December 30, 2014) Volume 1 of 2 at pp. 14-16.

The findings of fact and the conclusions of the commissioner may well have an adverse effect upon a witness or a party to the inquiry...It is true that the findings of a commissioner cannot result in either penal or civil consequences for a witness... Nonetheless, procedural fairness is essential for the findings of commissions may damage the reputation of a witness. For most, a good reputation is their most highly prized attribute. It follows that it is essential that procedural fairness be demonstrated in the hearings of the commission.

59. I intend to bring some clarity to the often overlapping administrative law concepts of natural justice and procedural fairness. In this regard I would endorse the commentary of Madam Justice Dawson in *Blass v University of Regina Faculty Association*, 2007 SKQB 470:

[51] “Natural justice” connotes the requirement that administrative tribunals, like courts, when reaching a decision, must do so with procedural fairness. Procedural fairness relates to fairness between the parties and before the Board. Natural justice is “the basic requirement of procedure that one who judges is neither interested nor biased” and “that the parties have enough notice and the chance to be heard”. S.A. DeSmith, *Judicial Review of Administrative Action*, 4th ed. By J.M. Evans (London: Stevens 1980) at 77 and 156.

[52] Natural justice is comprised of two fundamental principles: *audi alteram partem* – that a person must know the case being made against him/her and be given an opportunity to answer it...; and *nemo judiz in sua causa debet esse* - the rule against bias... (p. 204 *Principles of Administrative Law*, Jones De Villars).

[53] The principle of *audi alteram partem* is an imperative, which translated means “hear to other side”. More generally, it refers to the requirement in administrative law that a person must know the case being made against him/her and be able to answer it before the tribunal or agency will make a decision. “Fair hearing” is defined as the “the opportunity to fully answer and defend, adequately state one’s case’ in the *Dictionary of Canadian Law*. The concept of “fair hearing” connotes fairness between the parties or litigants.

[54] Generally, fair hearing refers to a process of fairness, openness and impartiality. Fair hearing requires notice of the hearing, knowing the case to be met, disclosure, the opportunity to hear the other side, the right of reply and the right to cross-examine.

60. The concept of procedural fairness depends upon the nature of the particular hearing. In the decision of the Supreme Court of Canada in *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 [*Baker*], the Court considered whether a decision not to allow a woman to stay in Canada on humanitarian grounds violated procedural fairness. L’Heureux-Dubé,

J. for the majority, agreed that a duty of procedural fairness applied and that the concept of procedural fairness is eminently viable.

61. At paras 23-27 of the *Baker* decision, L'Heureux-Dubé, J. made reference to five factors which could be used to determine the content of the duty of procedural fairness in a particular context. The first factor identified was the nature of the decision being made and the process followed in making it. The more the process resembled judicial decision-making, the more likely that procedural protections closer to the trial model will be required by the duty of fairness. The second factor was the nature of the statutory scheme and the role of the decision within the statutory scheme. Greater procedural protections, for example, will be required when no appeal procedure is provided within the statute or when the decision is determinative of the issue. The third factor to consider is the importance of the decision to the individual affected. The more important the decision is to the lives of those affected and the greater its impact on those persons, the more stringent the procedural protections should be. The fourth factor considers the legitimate expectations of the person challenging the decision. Thus, if the promises or regular practices of a decision-maker lead someone to believe the same practice will be followed, it will generally be considered unfair for the decision-maker to act in contravention of those representations. Finally, the analysis of which procedures the duty of fairness requires should also take into account and respect the choices of procedure made by the agency itself.

(b) Manifestation of Natural Justice and Procedural Fairness

62. In this case the issues of procedural fairness were addressed in a number of ways: (a) through my Terms of Reference; (b) the Rules I promulgated; (c) the Notice of Inquiry which was publicly circulated; the (d) Application To Be Heard made available to those who wish to participate in the Inquiry based on a substantial and direct interest in the subject matter of the Inquiry; (e) the fulsome witness summaries, transcripts and copies of relevant documents that were provided for all witnesses who participated in an interview; and (f) the detailed notice of potential findings of misconduct that was provided where applicable. I will now briefly comment on each of these steps:

a) Terms of Reference

63. My Terms of Reference addressed issues of procedural fairness and natural justice by providing notice to all parties involved as to the specific matters I was inquiring into. Additionally, my Terms of Reference made express reference to the standards set out in the Code of Conduct by which Mr. Norn's conduct was to be assessed.

b) The Rules

64. My Terms of Reference were supplemented by the Rules which I caused to be promulgated and amended for the Inquiry. The specific Rules that can be seen to engage matters relating to natural justice and procedural fairness are reproduced here below.

II. STANDING

10. The Sole Adjudicator may grant standing to any witness, or other person who is able to establish that they have a substantial and direct interest in the subject-matter of the Inquiry. The Sole Adjudicator will determine on what terms and conditions such standing may be granted.

...

12. Those granted standing are deemed to undertake to follow these Rules of Procedure and Practice and will have the privileges and responsibilities outlined herein.

B. Documentary Evidence

20. All materials and documents received by the Sole Adjudicator pursuant to subpoenas or otherwise will be treated as confidential. However, Counsel to the Sole Adjudicator is permitted to produce relevant documents to parties with standing at or prior to the hearing or the examination of any witness.

21. The Sole Adjudicator is permitted to make reference to, and disclosure of, any and all evidence and documents that he deems necessary and appropriate in his final disposition report.

21a. Counsel to the Sole Adjudicator may require by service of a subpoena any person believed to have information and/or documents bearing on the subject matter of the Inquiry to attend and be interviewed on oath or affirmation in advance of the hearing. The

interview(s) will be transcribed and a transcript prepared. The interview(s) may be conducted by audio/visual means. The person so examined is entitled to have counsel.

22. Where practical and in the best interests of facilitating an efficient, thorough and fair process, Counsel to the Sole Adjudicator will make best efforts to provide to witnesses, and parties with standing, the following materials prior to the testimony of a witness:

- a. a brief summary of anticipated evidence;
- b. identification and/or copies of documents that will be referred to during the course of a witness' testimony;
- c. a copy of the transcript of any witness interviewed pursuant to Rule 21a.

23. Where applicable, witnesses and parties with standing are required to notify Counsel to the Sole Adjudicator as soon as reasonably possible if they believe they are entitled to receive a summary of anticipated evidence and any related documents pursuant to these Rules.

24. Witnesses and individuals with standing that receive information and documents pursuant to these Rules shall be deemed to undertake that they will use the documents solely for the purposes of this Inquiry and that they will not disclose or disseminate any such information or evidence to any other person or party, other than to their legal counsel.

...

IV. RIGHT TO COUNSEL

32. Witnesses and parties with standing are entitled, but not required, to have counsel present while testifying in front of the Sole Adjudicator.

...

V. NOTICE OF POTENTIAL FINDINGS OF MISCONDUCT

34. In the event the Sole Adjudicator is considering making a finding of misconduct in relation to the conduct of an individual or party subject to the Inquiry, the Counsel to the Sole Adjudicator shall provide reasonable notice of the substance of such and grant the individual a reasonable opportunity during the Inquiry to be heard in person or by counsel.

35. If an individual or party in receipt of a notice referred to in these Rules feels that it is necessary to adduce additional evidence to respond to potential findings of misconduct in relation to his or her conduct, he or she may apply to the Sole Adjudicator for leave to

call that evidence. Leave may be granted on such terms as imposed by the Sole Adjudicator.

36. Notice of potential findings of misconduct will be delivered on a confidential basis to the individual or party to whom it relates.

37. Supplementary or additional Notices may be delivered from time to time by the Counsel to the Sole Adjudicator as warranted by information disclosed through the course of the Inquiry.

c) Notice of Inquiry

65. Section 7 of the *Public Inquiries Act* provides the basis for standing in a public inquiry:

7(1) Every Board shall accord to any person who satisfies it that he or she has a substantial and direct interest in the subject-matter of an inquiry, an opportunity during the inquiry to give evidence and to call and examine or to cross-examine witnesses personally or by his or her counsel or evidence relevant to his or her interest.

7(2) No finding of misconduct on the part of any person shall be made unless that person has reasonable notice of the substance of the misconduct alleged against that person and was allowed full opportunity during the inquiry to be heard in person or by counsel.

(Emphasis added)

66. In order to comply with the provisions of the *Public Inquiries Act*, my Counsel prepared a public notice regarding the Inquiry (“Notice of Inquiry”). The Notice of Inquiry set out the date, time, location and subject matter of the Inquiry and provided the following notice of rights of interested persons to be heard:

TAKE NOTICE that any person who claims to have a substantial and direct interest in the subject matter of the Inquiry can apply to the Sole Adjudicator to have an opportunity during the Inquiry to give evidence and to call and examine or cross examine witnesses personally or by their counsel on evidence relevant to their interest. The Sole Adjudicator will determine if any person will be heard and, if so, the manner and extent of that participation. Applicants who claim to be heard must complete and submit the attached Application by September 14, 2021 at 4:00 p.m.

d) Application Form

67. The Application Form invited persons, corporations and organizations who claimed to have a substantial and direct interest in the subject matter of the Inquiry to provide their name and contact information as well as to indicate whether they are represented by counsel. The Application also required applicants to articulate why they believe they satisfy the participation criteria:

B. CRITERIA TO BE HEARD

Participation is based on the following criteria:

I have a substantial and direct interest in the subject matter of the Inquiry.

(Please state all reasons why you believe you satisfy this criteria):

68. The Application Form also asked applicants to identify the types of participation they seek – to give evidence, call and examine witnesses and cross-examine witnesses.

69. The Notice of Inquiry and Application Form were advertised in the August 23, 2021 edition of News North and the August 27, 2021 edition of L’Aquila. The Notice of Inquiry was also advertised on the Legislative Assembly’s social media pages and website.

70. No applications for standing were received.

e) Notices of Potential Misconduct

71. Three Notices were served on Mr. Norn in the Inquiry. I am informed by my Counsel that the Notices were served as required and were ‘fulsome’ in that they were composed of over six pages each.

H. Preparation for the Hearing

(a) Interviews

72. Prior to the Hearings, my Counsel interviewed numerous witnesses and prepared witness summaries as contemplated by the Rules. This was an important process in order to further the

efficient operation of the Hearings. The witness summaries and/or transcripts of interviews along with relevant documents were all provided to Mr. Norn's counsel.

BACKGROUND

(b) Information Provided to the Integrity Commissioner, Mr. David Jones, Q.C.

73. In correspondence to the Integrity Commissioner from Mr. Norn's Counsel dated June 7, 2021 in response to the Complaint, it was admitted that Mr. Norn believed his 14-day isolation ended on April 18, 2021:

A. Facts

...

9. Mr. Norn believed that the 14-day isolation included April 4, 2021, as such, Mr. Norn believed his isolation ended on April 18, 2021.⁶

74. As will be seen later in the Report, this account is not consistent with Mr. Norn's testimony on October 7, 2021 that he believed his isolation had ended on April 17th, such that his visit to the Legislature was not offside his isolation plan.

75. In his letter of May 13, 2021, the Integrity Commissioner requested that Mr. Norn provide a copy of his self-isolation plan which he filed with Protect NWT.⁷ Mr. Norn did not provide a copy of the requested plan (a fact noted in the Integrity Commissioner's report⁸) and instead incorrectly stated the same to the Integrity Commissioner in his counsel's letter of June 7, 2021 as follows:

A. Facts:

...

4. Prior to his departure, he filed a self-isolation plan which was to commence on April 5, 2021 and last for 14 days.

76. In actual fact, Mr. Norn's self-isolation plan ("SIP") did not commence on April 5, 2021 but rather on April 4, 2021. In that regard, Exhibit 33, which is Mr. Norn's SIP, shows his plan

⁶ Exhibit 5 – June 7, 2021 Correspondence to Integrity Commissioner from Mr. Norn's Counsel.

⁷ Exhibit 5 – May 13, 2021 Correspondence to Mr. Norn's Counsel from Integrity Commissioner.

⁸ Exhibit 4 – June 14, 2021 Report by Integrity Commissioner at page 6.

commenced on April 4, 2021, not April 5, 2021. The Integrity Commissioner was not able to verify the date of commencement Mr. Norn's self-isolation because Mr. Norn failed to provide the SIP as requested.

77. Mr. Norn's counsel went on to argue in the letter that:

29. Mr. Norn's travel plans did not go precisely as expected because he returned a day earlier than expected. Because of this he ended his isolation a day earlier than the isolation specified.

78. Once again, the Integrity Commissioner could not verify or challenge this inaccurate statement because Mr. Norn did not provide the SIP as requested.

79. Mr. Norn's counsel went on to argue in the June 7, 2021 letter:

What seems to have occurred is that the public and media were not informed that Mr. Norn had returned a day earlier...

80. Once again, the Integrity Commissioner was not in possession of the SIP which would have shown to him that this was not an accurate statement.

81. Most importantly, Mr. Norn did not tell the Integrity Commissioner that he had kissed and hugged his daughter Siné Norn on April 8, 2021 – 4 days into his isolation or that he also hugged his daughter on April 17, 2021.

82. In his counsel's letter of June 7, 2021, Mr. Norn represented as a "fact" that he attended the Legislature "in the evening of April 17, 2021".⁹ In actual fact the visit to the Legislature was in the midafternoon of April 17, 2021 at 2:47 p.m. according to the evidence of Mr. Braine and the Control Access Register for April 17, 2021.¹⁰

⁹ Exhibit 5 - June 7, 2021 Correspondence to Integrity Commissioner from Mr. Norn's Counsel.

¹⁰ Exhibit 21.

(c) Matters Preceding the Hearing

83. On July 15, 2021 my Counsel was informed that Mr. Steven L. Cooper of the Cooper Regel Law Firm of Sherwood Park, Alberta (“Mr. Norn’s Counsel”) would be representing Mr. Norn for the Inquiry. On July 22, 2021 my Counsel informed Mr. Norn’s Counsel by letter that the Inquiry hearing (the “Hearing”) would take place commencing October 4, 2021. From that date forward to the Hearing itself, which did commence on October 4, a continuous and unrelenting barrage of lengthy correspondence was sent by Mr. Norn’s Counsel to my Counsel making a variety of accusations and requests. All of this correspondence required responses from my Counsel which took significant time and resulted in significant cost. I will recite some of these matters so the reader has context.

84. Mr. Norn’s Counsel made repeated allegations that the Inquiry was tainted by conflict of interest and institutional bias due to incidents involving the Office of the Clerk of the Legislative Assembly pre-dating the complaint against Mr. Norn.

85. On September 2, 2021, I heard Mr. Norn’s application for subpoenas to ground a proposed application to halt the Inquiry on the basis of institutional bias. Mr. Norn filed his own and four other substantial affidavits in support of his application as well as a lengthy written submission.

86. On September 13, 2021 I issued a decision concluding that I did not have jurisdiction to issue subpoenas or to entertain an application concerning allegations unrelated to the Terms of Reference.¹¹ The September 13, 2021 decision is included at Appendix 6.

87. The allegations made by Mr. Norn that were unrelated to the Terms of Reference included an allegation that my Counsel had breached confidentiality by notifying the Law Clerk of the Legislative Assembly that subpoenas were being sought against her, the Clerk, the Deputy Clerk, Mr. Rylund Johnson, all members of the Board of Management of the Legislative Assembly of NWT and the Speaker. In my decision of September 13, 2021 I determined there was no merit to such an allegation and I heard the Law Clerk, Ms. Sheila MacPherson, on the application¹². My

¹¹ Appendix 6 – Decision of the Sole Adjudicator dated September 13, 2021.

¹² Appendix 6 – Decision of the Sole Adjudicator dated September 13, 2021 at paras 33, 34.

ruling in that regard did not deter Mr. Norn's Counsel as thereafter he threatened in several pieces of correspondence, to make such matter the subject of a complaint to the Law Society against my Counsel.

88. Mr. Norn's Counsel also sought to have Ms. MacPherson disqualified to appear before me as one of the subpoenas he sought was against her and she was appearing for the Deputy Clerk on the application.¹³ I had no difficulty determining there was no merit to such an objection.

89. In my decision of September 13, 2021 at paragraph 35, I refer to other demands and other matters raised by Mr. Norn and they include a further alleged complaint against my Counsel that he was not registered with the Law Society before beginning work on this case and only became registered a few weeks later. The request was to have my Counsel "... forthwith, removed from his role as Counsel to the adjudicator".¹⁴ This alleged complaint was made repeatedly to me through at least nine pieces of correspondence from Mr. Norn's Counsel and even after I repeatedly directed that this was a matter that could be taken up with the Law Society. At one point Mr. Norn's Counsel argued that I should be disqualified as Sole Adjudicator for continuing to employ my Counsel in light of these matters.¹⁵ None of the foregoing deterred Mr. Norn's Counsel in continuing to lodge complaints with me and in fact the matter was raised by Norn's Counsel at the Hearing itself and during final argument.¹⁶

90. Also in his written argument of September 8, 2021 Mr. Norn's Counsel sought to preclude my Counsel from continuing to act because of his past association with me. In my written decision of September 13, 2021 at paras 26 - 32¹⁷ I clarified the law for Mr. Norn's Counsel so that he would know the true role of Counsel to an Inquiry and dismissed his request to preclude my Counsel from continuing to act. At para 31, I explained the relationship of counsel to the commissioner, specifically that it is with the commission counsel that the commissioner carries out his or her mandate investigating the subject matter of the Inquiry, leading evidence and that throughout, commission counsel acts on behalf of the commissioner.

¹³ Mr. Norn's Counsel's letter of August 30, 2021.

¹⁴ Written Submission made by Mr. Norn dated September 8, 2021.

¹⁵ Email from Mr. Norn's Counsel of August 31, 2021.

¹⁶ Transcript for October 4, 2021 at pages 40-41; Transcript for November 2, 2021 at pages 59 -60.

¹⁷ Decision of the Sole Adjudicator, dated September 13, 2021.

91. Prior to the hearing on September 22, 2021 my Counsel interviewed Mr. Norn under oath and pursuant to Rule 21a. The transcript of the interview was marked as Exhibit 28 at the Hearing. During the interview Mr. Norn refused to answer almost all questions relevant to my Terms of Reference on the basis that the answers “could be used on the basis of self-incrimination”.¹⁸

92. After the interview I instructed my Counsel to send a letter to Mr. Norn’s Counsel informing him that there was no basis for his refusal to answer these questions coupled with a warning that he was required to testify pursuant to the Act.¹⁹ Mr. Norn’s Counsel responded to my Counsel’s letter by his letter dated September 28 and email of October 1 repeating all of the foregoing complaints and objections. So, as we began the Hearing a few days later on October 4, 2021, my Counsel and I were still not sure if Mr. Norn would testify or, if he did, whether he would answer relevant questions. Thankfully, Mr. Norn did testify and did answer questions but his refusal to answer the lawful questions of my Counsel during the interview coupled with a complete reversal of that position at the Hearing was seen by me as a further attempt to obstruct and delay the Inquiry.

93. Prior to the Hearing Mr. Norn’s Counsel requested that the entire hearing be held in-camera because of the personal information about Mr. Norn and his family he thought would be disclosed thereat. I denied this request as I had designated that the hearing would be public.

94. Mr. Norn’s Counsel made suggestions in his correspondence that the timing of the Hearing was potentially politically motivated by me, the suggestions of which I found to be particularly insulting and offensive.²⁰ When such a suggestion was repeated at the Hearing I condemned this suggestion.²¹

95. All of the foregoing is noted here only to give the history of pre-hearing matters and does not form the basis of any finding of misconduct against Mr. Norn. This history however is relevant to how I viewed the request for an adjournment of the Hearing and Mr. Norn’s claim of an “emergent medical condition” as detailed later in this Report.

¹⁸ Transcript of Interview, Exhibit 28 page 16 lines 11-13 and pages 16-18

¹⁹ Correspondence to Mr. Norn’s Counsel from Counsel to the Sole Adjudicator dated September 29, 2021.

²⁰ Mr. Norn’s Counsel’s letter of September 28, 2021.

²¹ See Appendix 12 at page 5.

III. THE INQUIRY HEARING

A. Appearances

96. With the foregoing items completed, the Hearing began on October 4, 2021. In total, 13 witnesses appeared before me over the course of 6 days. A total of 37 documents were entered as exhibits (see Appendix 7 for a complete listing and description).

B. Hearing Location

97. Shortly before the Hearing was scheduled to begin and because of elevated concerns related to COVID-19, the Speaker Frederick Blake Jr. recommended that the Hearing proceed as a blended virtual/in person hearing. Myself and my Counsel attended the Hearing virtually via room-to-room video conference link. Committee Room A of the Legislative Assembly in Yellowknife, Northwest Territories was made available for the court clerk to the Inquiry, Ms. Sheila Anderson, and witnesses required to attend for the purposes of the Hearing. I would like to express my appreciation to the Legislature for the use of those Hearing facilities which proved to be ideal for our purposes. A number of witnesses appeared and gave testimony virtually.

98. In order to be open to the public, the Hearing was live-streamed through the LATV channel, Assembly website, Facebook and Twitter.

99. The testimony of all witnesses was transcribed by Jewell Reporting Inc. and transcripts were provided as required by the Rules.

100. Simultaneous translation of the proceedings in Chipewyan was made available by interpreters to participants in the Inquiry. Public viewing of the proceedings in Chipewyan was made available on the LATV at the end of each day.

C. Rulings

101. During the course of the Hearing I was required to, and did make, several rulings as follows:

(i) **Emergent Medical Condition:**

102. At the outset of the Hearing on October 4, 2021, Mr. Norn's Counsel requested that the Hearing be held in-camera. I made a decision to give Mr. Norn's Counsel an opportunity to make a presentation to me initially in-camera. During the in-camera session, Mr. Norn's Counsel indicated that Mr. Norn was suffering from an "emergent medical condition". I adjourned the Hearing until 2:00 p.m. to give Mr. Norn time to get documentation regarding the medical condition. When the Hearing resumed at 2:00 p.m., Mr. Norn's Counsel indicated he had not been able to connect with Mr. Norn and therefore could not provide an update regarding Mr. Norn's emergent medical condition. At that point, in light of certain matters preceding the Hearing addressed earlier in this Report, I ruled that Mr. Norn's allegation of an emergent medical condition was not supported to date by any evidence. I came to the inescapable conclusion that Mr. Norn's non-appearance and the alleged emergent medical condition were part of a delay tactic that I would not countenance. The portion of the Transcript for October 4, 2021 containing my ruling is included at Appendix 8.

(ii) **Filing of Exhibit 5:**

103. On October 4, 2021, Mr. Norn's Counsel took issue with the filing of Exhibit 5 which contains correspondence dated July 21, 2021 from my Counsel in which he represented himself as counsel to the Sole Adjudicator. Mr. Norn's Counsel argued that my Counsel was not counsel to the Sole Adjudicator until he was admitted to the Law Society of the Northwest Territories on August 6, 2021. I ruled that the matter was represented by Mr. Norn's Counsel to be currently before the Law Society for determination and therefore allowed the admission of Exhibit 5. The portion of the Transcript for October 4, 2021 containing my ruling on the filing of Exhibit 5 is included at Appendix 9.

(iii) **Cross-Examination on the Affidavits of Jacob A. Paczko:**

104. On October 4, 2021, Mr. Norn's Counsel requested to cross-examine Jacob A. Paczko on his affidavits sworn August 20, 2021 which contained excerpts from Hansard. After hearing from counsel, I ruled that I would not allow the cross-examination as it would not assist me and the information contained in the affidavits was uncontroverted and a matter of public record. The

portion of the Transcript for October 4, 2021 containing my ruling on the cross-examination on the affidavits is included at Appendix 10.

(iv) Further Request for Adjournment:

105. Shortly before the Inquiry, Mr. Norn's Counsel sent correspondence to my Counsel requesting an adjournment to go through the disclosure produced in the weeks leading up to the Hearing. I directed my counsel to advise Mr. Norn's Counsel that the Inquiry would proceed as scheduled.

106. On October 4, 2021, Mr. Norn's Counsel requested an adjournment of the Hearing, again due to the volume of disclosure. In his submissions, my Counsel filed a chronology of the disclosure provided to counsel to Mr. Norn's Counsel ("List of Documents"). The List of Documents is included at Appendix 11. On October 5, 2021, I denied the application for an adjournment, finding that the disclosure provided to Mr. Norn's Counsel was both fulsome and timely and that he was not prejudiced in any way. I expressed the view that the evidence was not complex and generally not in dispute. In my ruling, I noted that if Mr. Norn's Counsel had directed his focus to the evidence as it was presented to him instead of diverting his own attention and devoting significant time and effort sending 19 pieces of correspondence which had little to do with the issues, it would have assisted in his preparation. I also stated that the allegation by Mr. Norn's Counsel that the scheduling of the hearing was politically motivated was "insulting, without foundation and entirely false". The portion of the Transcript for October 5, 2021 containing my ruling on the adjournment request is included at Appendix 12.

(v) Request for Subpoenas:

107. On October 4, 2021, Mr. Norn's Counsel requested subpoenas for Chief Public Health Officer Dr. Kami Kandola, Deputy Chief Public Health Officer Dr. Andy Delli Pizzi, Acting Clerk of the Legislative Assembly Glen Rutland and Law Clerk of the Legislative Assembly Sheila MacPherson. I granted the application for a subpoena for Dr. Andy Delli Pizzi to give information on the creation, explanation and promulgation of the COVID-19 rules. I declined to authorize a subpoena for Dr. Kami Kandola because I could not, in the public interest, take her away from her important mandate of leading the response to COVID-19 in the Northwest Territories. I also

authorized a subpoena for Sheila MacPherson to provide evidence on the narrow issue of the training provided to first-term MLAs. I did not authorize a subpoena to issue for Glen Rutland, as I concluded one witness would suffice for the purpose of providing evidence regarding the training of MLAs. In the end result, Glen Rutland did testify and was cross-examined by Mr. Norn's Counsel. The portion of the Transcript for October 5, 2021 containing my ruling on the request for subpoenas is included at Appendix 13.

(vi) Request to Question Mr. Norn in the form of a Cross-Examination:

108. On October 7, 2021, my Counsel requested permission to question Mr. Norn in the form of a cross-examination. I granted my Counsel's request in light of Mr. Norn's refusal to answer relevant questions in the September 22, 2021 interview and because of Mr. Norn's antagonistic comments made toward my Counsel during the hearing on October 5, 2021. I quoted Professor Ed Ratushny with approval in regard to his comments that impartiality on the part of Commission counsel is not to be confused with lack of vigor and vigilance in seeking the truth. Commission counsel must still act forcibly whenever necessary to overcome resistance that could obscure truth. The portion of the Transcript for October 7, 2021 containing my ruling is included at Appendix 14.

(vii) Request to Question Mr. Norn on Facebook message:

109. My Counsel requested permission to question Mr. Norn about an allegedly threatening Facebook message Mr. Norn allegedly sent on the evening before the commencement of the Hearing to members of the Facebook Messenger group "Caucus". The group includes 16 MLAs and two staff members. Mr. Cooper objected to the request. On October 7, 2021, I decided, in fairness to Mr. Norn, that my Counsel would not be permitted to cross-examine Mr. Norn on the alleged message and any documents associated with the message. The portion of the Transcript for October 7, 2021 containing my ruling on the Facebook message is included at Appendix 15. I have not considered this issue in my deliberations.

(viii) **Mr. Norn's Comments During the Hearing:**

110. On October 7, 2021, Mr. Norn's Counsel indicated that he was considering making an application in respect to the Second Amended Notice of Potential Findings of Misconduct, which was amended to include statements Mr. Norn made during the proceedings on October 5, 2021. Mr. Norn's Counsel initially opposed the statements being dealt with as part of the Inquiry. However, on October 8, 2021, Mr. Norn's Counsel indicated that he agreed the statements were properly before me as they are part of the transcript. Mr. Norn's Counsel proposed to examine Mr. Norn with respect to those matters. I agreed to the proposal and stated that I wanted to make sure on the record that Mr. Norn's Counsel was not making an application to exclude the evidence. The portion of the Transcript for October 8, 2021 containing my ruling on Mr. Norn's proposal is included at Appendix 16. As will be addressed later in this Report, in the end result I chose not to consider Mr. Norn's comments in my deliberations.

D. Witness Immunity

111. Subsection 8 of the *Public Inquiries Act*, provides witnesses protection from self-incrimination regarding their testimony:

8(1) A witness at an inquiry shall be informed by the Board of the right of the witness to object to answer any question under section 5 of the *Canada Evidence Act*.

8(2) A witness at an inquiry shall be deemed to have objected to answer any question asked of the witness on the ground that the answer of the witness may tend to incriminate the witness or may tend to establish the liability of the witness to a civil proceeding at the instance of the Crown or of any person, and no answer given by a witness at an inquiry shall be used or be admissible in evidence against the witness in any trial or other proceedings against the witness taking place after the Inquiry, other than a prosecution for perjury in the giving of that evidence.

112. Each witness who testified before me was given the information set out directly above.

E. Witnesses

113. A complete list of witnesses and the dates they testified is provided as follows:

(a) Ollie Williams – Head of Programming and News at Cabin Radio

Appearance: October 5, 2021

114. Ollie Williams (“Mr. Williams”) is head of programming and news at Cabin Radio in Yellowknife, Northwest Territories. Mr. Williams filed an affidavit²² and testified in the proceedings. As he had been covering the allegations that Mr. Norn had breached the Northwest Territories’ mandatory self-isolation period he had a brief conversation with the Member on April 23, 2021. During the conversation Mr. Norn identified his self-isolation period as being between April 4 and 18, 2021 and stated that he stayed home until visiting Taste of Saigon in Yellowknife on April 19, 2021.

115. With respect to his compliance with the self-isolation period, Mr. Norn stated “I stayed home. I followed the rules. I was upfront with everybody.”

116. During this conversation Mr. Norn did not mention having visited the Legislature on April 17, 2021 or the Yellowknife Racquet Club on April 18, 2021.

117. Mr. Williams said Mr. Norn also confirmed that he had tested positive for COVID-19 and a family member also had the disease. The article which Mr. Williams wrote and caused to be published on the Cabin Radio website reflects that he had travelled to the Alberta community of Grand Prairie for a family emergency at the beginning of April. He said he isolated as instructed from April 4 to 18, 2021 before visiting the Taste of Saigon restaurant on April 19, a day after his isolation ended.

(b) Liny Lamberink – Journalist with CBC News North

Appearance: October 5, 2021

118. The other media person that testified was Liny Lamberink (“Ms. Lamberink”). Ms. Lamberink also filed a statutory declaration under compulsion of subpoena.²³ She is a journalist employed by CBC and covered the allegations that Mr. Norn had violated the Territories’ isolation

²² Exhibit 17 – Affidavit of Ollie Williams, affirmed September 10, 2021.

²³ Exhibit 19 – Statutory Declaration of Liny Lamberink, affirmed August 31, 2021.

rules. On May 4, 2021, she asked Mr. Norn if he had in fact broken his isolation period after travelling and his response was that he had by attending the Legislature.

(c) **Dennis Marchiori** – Director of Compliance and Enforcement Operations

Appearance: October 5, 2021

119. Dennis Marchiori (“Mr. Marchiori”) filed an affidavit in these proceedings²⁴ and also testified. He is the Director of Compliance and Enforcement Operations with the Department of Health for the Government of the Northwest Territories. Mr. Marchiori testified with respect to an overview of the process for submitting and approving self-isolation plans for the Northwest Territories. He tendered the SIP filed by Mr. Norn in April 2021 and approved by Protect Northwest Territories (“ProtectNWT”). The office of ProtectNWT enables individuals to understand and comply with the self-isolation requirements, travel restrictions and other requirements under the Public Health Order of the Northwest Territories.

120. In respect to the Notice of Approval to Self-Isolate in a Designated Community (“Notice of Approval”) which was sent to Mr. Norn, the first paragraph reads:

Thank you for submitting a Self-Isolation Plan (SIP) to ProtectNWT. Your SIP has been approved pursuant to paragraph 2 of the *Public Health Order* respecting travel restrictions and self-isolation protocol. Upon arrival in the Northwest Territories (NWT), you are required to complete 14 days of mandatory self-isolation in Yellowknife starting April 4, 2021, up to and including April 18th, 2021. It is your responsibility to ensure you understand and abide by all conditions set out in your SIP and the current Public Health orders.

(Emphasis added)

121. In cross-examination, Mr. Marchiori testified about how to count the 14 days of self-isolation. Mr. Marchiori explained that the day a traveller enters the Northwest Territories is Day 0 and the next day is Day 1 and then add 14 days. After a series of hypothetical questions, Mr. Marchiori clarified that the self-isolation period is 14 full days from the day after a traveller’s

²⁴ Exhibit 20 – Affidavit of Dennis Marchiori, sworn September 14, 2021.

arrival in the Northwest Territories. Mr. Marchiori’s evidence on this point was later corroborated by the testimony of Dr. Delli Pizzi.

122. Mr. Norn’s Counsel submits that the evidence in respect to the calculation of the self-isolation period was confusing. I disagree. Dr. Delli Pizzi, the Deputy Public Health Officer testified that the time of arrival would not make a difference to when the self-isolation period ends and agreed with the previous testimony of Mr. Marchiori that the day of arrival is Day 0. Furthermore, Mr. Norn understood that his isolation period was from April 4th to April 18th and he stated that on numerous occasions.

(d) Brian Thagard – Sergeant-at-Arms for the Legislative Assembly

Appearance: October 5, 2021

123. Brian Thagard (“Mr. Thagard”), the Sergeant of Arms at the Northwest Territories Legislative Assembly filed an affidavit²⁵ and testified. He advised the Sole Adjudicator that the names of all individuals entering the front doors of the Northwest Territories Legislative Assembly building (the “Legislature”) are recorded by the on-duty security guard and the Legislature is equipped with a surveillance camera. It was therefore established that Mr. Norn entered the Legislature at 2:47 p.m. on April 17, 2021.

124. As to the surveillance camera, Mr. Thagard stated in paragraph 5 of his affidavit as follows:
The NWT Assembly is equipped with a surveillance camera that records video footage of everyone entering or leaving the building. On April 17th, 2021, a surveillance camera captured the video footage of Mr. Steve Norn, MLA, entering the NWT Assembly at 2:47 p.m. as well as security guard Mr. Robert Braine. A copy of the recording captured by the security camera (“Surveillance Video”) is attached to this affidavit in a USB stick, and it is marked as Exhibit D.

(e) Wentworth Robert Braine – Security Guard at the Legislature on April 17, 2021

Appearances: October 5, 6, 2021

²⁵ Exhibit 21 – Affidavit of Brian Thagard, sworn September 22, 2021.

125. Wentworth Robert Braine (“Mr. Braine”) is employed as a Security Guard at the Legislature and is a loyal public servant. He has been employed at the Legislature for 11 years and prior to that he worked at Justice in corrections and then as a Sheriff for approximately 10 years. He is familiar with Steve Norn since he was elected as a Member of the Legislative Assembly in October of 2019. Mr. Braine filed as an exhibit, the Legislative Access Control Register for Saturday, April 17, 2021. This document represents each and every person that comes into the building and it is located on the main desk at the left-hand side where the officer sits. The desk is approximately 20 feet from the main door near the main entrance to the Great Hall. The Great Hall is approximately 75 feet long and 45 feet wide. Although the Members of the Legislative Assembly and other legislative employees have a security pass, they are all signed in by the security guard.

126. The Access Control Register reflects that Mr. Norn attended the Legislature at 14:47 and exited at 14:51. The document was initialed by Mr. Braine. Around this time, Mr. Braine noticed a woman and two children that had a bike and a little push cart outside the front door of the Legislature. They were playing with the bike and the push cart by going up and down the main walkway between the Legislature’s front door and the roadway. They were close to the front door of the Legislature. Most of the time the mother was sitting on the bench which was approximately 95 feet from the main door to the Legislature.

127. At around 2:47 p.m. a cell phone rang and Mr. Braine activated the front door of the Legislature to permit Mr. Norn to enter. Mr. Norn proceeded to his office which was on the second floor and Mr. Braine followed him. Since all the offices were locked on Saturday, it was necessary for Mr. Braine to unlock his door as the Members do not have their own keys. Mr. Norn went into his office and retrieved his glasses. Mr. Norn then left his office and Mr. Braine arranged to open the front door so he could exit the premises. When he left he was reasonably close to the two children.

128. After Mr. Norn departed, Mr. Braine did a tour of the Legislature. As mentioned, a video was taken of Mr. Norn’s visit although it does not show Mr. Norn leaving the Legislature.

129. That day after Mr. Braine’s shift ended, he had dinner with his girlfriend and a friend of hers, a retired teacher. Both his friend and the teacher had compromised health systems. One had asthma and the other had part of her lung removed after being treated for cancer.

130. During the next few days Mr. Braine while on duty, was in the presence of a number of individuals, including Cabinet Ministers, Members of the Legislative Assembly and Government officials. There were 221 persons who attended the Legislature between April 20 – April 22, 2021 while Mr. Braine was on duty.

131. On Thursday, April 22, 2021, Mr. Braine did not work a full day as someone in the building had been in contact with COVID-19 and he thereafter was asked to leave. Mr. Braine was given instructions to self-isolate and arrangements were also made for him to be tested for COVID-19. Mr. Braine tested negative for COVID-19.

(f) Su-Ellen Dillabough – Friend of Steve Norn

Appearance: October 6, 2021

132. Su-Ellen Dillabough (“Ms. Dillabough”) is a social worker. She has been a friend of Mr. Norn for 9½ years.

133. On Sunday, April 18, 2021, Mr. Norn attended at Ms. Dillabough’s residence in Yellowknife for the purpose of delivering a package. She said “When I saw him he was standing on my front steps. He then knocked on my door. I opened the door and we conversed and this conversation lasted approximately 15 minutes.” Mr. Norn then handed Ms. Dillabough a package.

134. Subsequently Mr. Norn called Ms. Dillabough with information about his COVID-19 status. The call was made the following Wednesday. Mr. Norn apologized to Ms. Dillabough as he had tested positive for COVID-19. As a result of this conversation Ms. Dillabough called a child protection worker then on call. As she is employed as a social worker she advised her employer that as she had been exposed to COVID-19 she would not be at work the following day.

135. Ms. Dillabough self-isolated and the period of self-isolation was longer than 14 days. She said her oldest daughter had arrived home from University and they self-isolated together.

(g) Trishia Smith – Former partner of Steve Norn and travel companion to Grande Prairie, Alberta

Appearance: October 6, 2021

136. Trishia Smith (“Ms. Smith”) was a partner of Mr. Norn and they lived together for a year from May 2020 to May 2021 in Yellowknife.

137. Ms. Smith travelled with Mr. Norn to Grande Prairie in April of 2021 and as a result of this journey, they filed a self-isolation plan. After filing their plan they received a Notice of Approval from the Government of the Northwest Territories with respect to the self-isolation plan.

138. The Notice of Approval reflects that Mr. Norn and Ms. Smith were required to complete 14 days of mandatory self-isolation in Yellowknife starting April 4, 2021 to and including April 18, 2021. Ms. Smith testified that they self-isolated upon their return. It was Ms. Smith’s understanding that during the period of self-isolation they were not allowed to go to any public place.

139. On April 15, 2021, around midnight, Ms. Smith observed that Mr. Norn was not home, although he did not take his cell phone with him. Mr. Norn subsequently returned but he would not tell her where he had been.

140. After Mr. Norn retrieved his cell phone he again disappeared. Ms. Smith followed him as she thought he was going in the direction of Natasha Schwindt’s residence. Natasha is Mr. Norn’s ex-common-law partner. Natasha’s residence is a block away from where Mr. Norn lives. Ms. Smith then returned home and then attempted to text Mr. Norn. When Ms. Smith woke up the next morning she saw that Mr. Norn was sleeping on the couch downstairs.

141. When Ms. Smith ascertained that Mr. Norn went to the Legislature on April 17, 2021, when he was self-isolating, she became angry. During the period of self-isolation Ms. Smith testified that she reported to the Northwest Territories authorities on days 2, 4, 6 and 10 as required.

(h) Natasha Schwindt – Former partner of Steve Norn and mother of Siné Norn

Appearance: October 6, 2021

142. Natasha Schwindt (“Ms. Schwindt”) is employed with the Federal Department of Justice in Yellowknife. Ms. Schwindt testified that she had been in a common-law relationship with Mr. Norn for 13 years and they had a daughter together. Her name is Siné and her date of birth is in August, 2011.

143. Siné had been on a ski trip to British Columbia with family except for her mother. They left around March 31, 2021 and returned on April 8, 2021. She flew home by herself. Ms. Schwindt picked her up at the airport.

144. On her way home they stopped at Mr. Norn’s residence on Williams Avenue. His residence is one block away from where Ms. Schwindt and her daughter reside. Siné had not seen her father for some time as she had been in British Columbia. When they stopped, their original intention was to restrict their visit to a wave as Ms. Schwindt thought Mr. Norn had been in isolation for a day. However, once Mr. Norn came outside Siné rolled down the window of the car and kissed him.

145. Ms. Schwindt was aware that as her daughter had recently returned from British Columbia she was required to self-isolate.

146. During the interaction with her father Siné said “Daddy, I love you.” Ms. Schwindt advised Public Health about this visit that occurred on April 8, 2021.

147. On April 17, 2021, Mr. Norn texted Ms. Schwindt and advised her that he wished to retrieve some clothing and other personal items. Ms. Schwindt placed a bag for Mr. Norn on the outside step entrance. Ms. Schwindt never saw Mr. Norn retrieve the bag, although it was picked up that day.

148. Between April 8 and April 17, 2021, there was no other contact between Mr. Norn and Ms. Schwindt. Ms. Schwindt testified that she was not aware of Mr. Norn coming to her residence in the early hours of April 15, 2021 and that he did not have keys to her residence at that time. Therefore, there is insufficient evidence to conclude that Mr. Norn entered Ms. Schwindt's residence or otherwise breached the Public Health Order on the early morning of April 15, 2021.

149. As a result of a COVID-19 announcement by Public Health with respect to the waste water advisory, Ms. Schwindt and her daughter were tested for COVID-19 on April 22, 2021 and they both tested positive.

(i) Stephanie Gilbert – Clinical Coordinator for the COVID Outbreak Incident Command

Appearance: October 6, 2021

150. Stephanie Gilbert (“Ms. Gilbert”), the Clinical Co-ordinator for the COVID Outbreak Incident Command in Yellowknife and a Registered Nurse that manages a team that responds to the COVID outbreak. She has been involved in approximately 600 investigations.

151. When a patient tests positive for COVID-19 their office has a mandate under the *Public Health Act* to report that diagnosis as well as following up with case management. As COVID-19 is a deadly disease, their office has a prompt turnaround time. They try to notify patients of their positive status as soon as they are able to. They then notify the Chief Public Health Office so they are aware of a positive status and a new case. Within 24 hours their office must complete and report a completed case investigation.

152. Ms. Gilbert testified that when they are investigating a case it is necessary to ascertain the exposure history of the patient. If Ms. Gilbert is investigating a case she needs to find out their exposure history, normally 14 days of events and activities to ascertain who would have been exposed to COVID-19 during their communicable period. After this has been accomplished, Ms. Gilbert testified that they must notify the contacts and then give them public health advice with respect to isolation, testing, symptom monitoring and safety precautions.

153. The symptoms would reflect as to how the investigator was to provide appropriate intervention, such as seeing a physician, having a virtual assessment or attending emergency at the hospital.

154. Although the investigation usually takes about 45 to 60 minutes to talk on the telephone, there are situations where an investigation might take a little longer and this usually occurs where the person has a complicated exposure history.

155. Outside of the communicable period (14 days), Ms. Gilbert testified that they do examine activities up to 14 days prior and that assists them to determine how the case might have themselves been infected. They would ascertain how that person tested positive and whether they transmitted the disease to other members of the community.

156. Ms. Gilbert went on to say that on occasion the investigation could be quite lengthy if the person is very busy or has contact with many individuals. When the investigation becomes more complicated, an epidemiologist may be asked to participate in the investigation.

157. In Ms. Gilbert's examination counsel filed as an exhibit, the Visit Reports and a COVID-19 Exposure Investigation Form for Mr. Norn.²⁶ In Mr. Norn's case the Contact Tracing Investigation (the "Investigation") was initiated by Registered Nurse, Rielle Nakehk'o. It became clear that numerous conversations with Mr. Norn would be necessary in order to complete an accurate timeline of Mr. Norn's activities.

158. Ms. Gilbert testified that a conference call was arranged to re-interview Mr. Norn. An epidemiologist was also present during the call as it was her practise to have this official involved with the investigation when her team feels they are missing information. It was a very lengthy phone call with Mr. Norn as there were missing details of Mr. Norn's exposure timeline and the team could not make a proper decision about who was exposed or not. This occurred because of the numerous calls from the public self identifying as potential risks.

²⁶ Exhibit 27 – Visit Records for Steve Norn; Exhibit 28 – COVID-19 Exposure Investigation Form for Steve Norn.

159. The investigator's Exposure Investigation Form is compiled during the investigation of the patient's activities during the 14 days before the positive test result. Mr. Norn received his positive test result for COVID-19 on April 21, 2021 at 2:10 p.m. during a telephone consultation with registered nurse Rielle Nakehk'o. According to the Visit Record of that telephone consultation, Mr. Norn denied having contact with all other people within the isolation timeframe and stated that he remained at home.

160. Ms. Gilbert testified that the Investigation took several days and involved multiple resources due to Mr. Norn's changing timeline. Ms. Gilbert stated the investigation became complicated because she and other members of her team had to revisit multiple times in order to clarify the investigation and establish an accurate timeline.

161. An example of Mr. Norn's misleading representations to Ms. Gilbert was his visit to the Legislature on April 17, 2021. Ms. Gilbert received a report from the Acting Clerk of the Legislative Assembly, Glen Rutland, that Mr. Norn attended at the Legislature on that date. However, Mr. Norn initially told Ms. Gilbert that he stayed home on April 17, 2021. After speaking to Mr. Rutland, Ms. Gilbert spoke to Mr. Norn to clarify his timeline. During the conference call with the epidemiologist, Mr. Norn falsely advised that it was on April 18, 2021 that he was at the Legislature.

162. These false statements as to when Mr. Norn attended the Legislature caused confusion and interference with the due diligence performed by Ms. Gilbert and her office in clarifying a resident's activities.

163. In her testimony Ms. Gilbert states:

So on April 23rd, Glen Rutland called and reported to us about the Legislative Assembly being a visit on April 17th. So – and I just want to double check at what day Mr. Norn told me that he was at the Legislative Assembly. Like, which happened first, I suppose. Let's look.

So on that day of April 17th, he had originally told Rielle that he was home. And then when he was interviewed by Julie on – what day did they interview each other? That would have been April 22nd, that he still said that on that day he was at home. So when we have spent that many hours re-interviewing someone about their dates and time and then we find out the next day, you know, we feel like we have done our due diligence to clarify people's activities. So when it – after multiple attempts doesn't match what the

index case is telling us, it causes confusion because we have to determine whether what the index case is telling us is accurate or not.

So that's confusing, and it gives us – it's hard for us to know what actions to take and have we given incorrect advice to people who were in the building or not.

Like so I know you want me to specifically tell you why that was difficult and why Mr. Norn's specific actions would have made it difficult and it's not that he specifically did something. It's that he did not tell us.

164. Mr. Norn also misled Ms. Gilbert with respect to his visit to the Racquet Club in Yellowknife. He falsely told her that he went to the Racquet Club on April 19, 2021. When he was confronted by Ms. Gilbert with respect to this, he then admitted that the date was actually April 18, 2021.

165. Ms. Gilbert in her testimony described the extra duties that were necessary by her office when Mr. Norn made misleading or false statements as to his whereabouts during his period of isolation. Ms. Gilbert emphasized that when somebody is not able to give an accurate account of their activities it puts others at risk because investigators lose time in terms of notifying contacts who do not realize they have the potential to expose others to COVID-19.

166. Ms. Gilbert also emphasized the importance of being able to rely on a patient to participate in interviews. Ms. Gilbert explained that the investigation was difficult because Mr. Norn did not share information unless specifically asked about that information.

167. Although Mr. Norn attended the Racquet Club on April 18, 2021, he advised the authorities that it was on April 19, 2021.

168. As to the Racquet Club's attendance, Ms. Gilbert testified as follows:

Q What action did you undertake as a result of information that Mr. Norn was at the Racquet Club on April 19th?

A So when we know that there is a COVID exposure in a public place or in a workplace, we have to notify that business or that building or that – whoever is in charge of that space, so whether it's a boarding home or it's the Racquet Club or it's another gym, we have to notify them of that exposure right away so that they can, number one, do an assessment of who was in the building at the time; number two,

look at what staff were there and what safety risks to the people that work in the building are. We also then alert the Chief Public Health Office who helps facilitate us providing a letter or a specific action plan for that place.

So in the case of the Racquet Club, that required somebody notifying the Racquet Club of the exposure with the date and time so that they could compile a list of who was using the gym at the time, who was the staff working in the facility at the time, as well as put out a public health advisory, because sometimes you can track exactly who is where in a building and sometimes you can't. So the public health advisory goes out as a supplement so that people have the opportunity to self-identify as a risk.

Q And did you –

A – so that's the action we take. Which is why it's important to know if it's the 18th or the 19th and what time.

Q And you had undertaken all of those activities before you received a suggestion that the date was wrong?

A Yes, because we have to promptly notify the public of risk when we know about it.

169. A further falsehood occurred when Mr. Norn told Ms. Gilbert that he had a visit with his daughter and his former spouse, Natasha Schwindt. Ms. Gilbert testified that Mr. Norn initially told her that he had seen his daughter through the window of a vehicle and that the visit was contactless. When Ms. Gilbert re-interviewed Mr. Norn to clarify if there had been any contact, Mr. Norn then disclosed that on April 8, 2021, he might have hugged and kissed his daughter. The Visit Record for April 23, 2021 quotes Mr. Norn as stating, "I saw her again, you know" in relation to Siné when he disclosed that he hugged his daughter on April 17, 2021 after dropping off a bag.

170. Mr. Norn again misled Public Health by advising that on April 19, 2021, he delivered two parcels. The first parcel was left outside Tim Horton's. The mother of his daughter's friend picked it up and the second parcel was delivered to social worker Su-Ellen Dillabough. However, Ms. Gilbert later received information from Ms. Dillabough that the delivery took place on April 18, 2021. Although the parcels were delivered on April 18, 2021, Mr. Norn again told a falsehood by stating they were delivered on April 19, 2021.

171. It is obvious that Mr. Norn’s motive for making several false statements that he had complied with the mandatory self-isolation requirement was to convince the health authorities and the public in the Northwest Territories that he was in compliance with the order.

172. Mr. Norn’s Counsel takes issue with the testimony of Ms. Gilbert, alleging that some of her evidence was hearsay and that she did not author the entire COVID-19 Investigation Report. The fact is Ms. Gilbert authored almost the entire Report with the exception of the notes from the conference call by epidemiologist Julie Miller and the April 21 Visit Records by Rielle Nakehk’o. These documents are properly admissible as business records and they are the type of records that are relied upon by these medical professionals as the basis of their investigation. I find the documents to be highly reliable.

173. I was very impressed with Ms. Gilbert. She is the consummate professional. As the Clinical Co-ordinator for the COVID Outbreak Incident Command, she has a grave responsibility to the residents of the Yellowknife region as COVID-19 is a deadly disease. Ms. Gilbert is very knowledgeable and experienced and exercises good judgment in her discipline. She is a woman of integrity and honesty and I have no hesitation in accepting her evidence.

(j) **Sheila MacPherson** – Law Clerk for Northwest Territories Legislative Assembly

Appearance: October 8, 2021

174. Sheila MacPherson (“Ms. MacPherson”), since 1998, has served as Law Clerk for the Legislative Assembly. She is a partner in the law firm Lawson Lundell and in that capacity acts as consultant to the Northwest Territories Legislature.

175. Ms. MacPherson has had a stellar professional career. She has held many prestigious positions including President of the Federation of Law Societies for Canada.

176. As Law Clerk, her main mandate is to advise the Members on a variety of legal issues.

177. The legal services are non-partisan. Ms. MacPherson provides services to Members that include interpreting statutes, assisting in drafting legislation for private Members’ bills or amendments to Government bills that are before the House. Ms. MacPherson also provides legal

services to the members of a general nature. She acts as legal counsel to the Legislative committees and to the Speaker, the Clerk and the Officer.

178. Ms. MacPherson played a critical role in advising Members during their orientation when they were initially elected to the Legislature. The orientation for the 19th Assembly (2019), was a challenge in view of the large number of new Members that were elected. Ms. MacPherson testified that she reviewed the orientation material in advance of the meetings. She said the Members' Code of Conduct was a subject she focused on and she reviewed the material that was used to explain the Code.

179. Ms. MacPherson paid tribute to the Integrity Commissioner for the Northwest Territories Legislature, David Jones, Q.C. and said he played an important role in advising Members as to conflicts and ethics. He not only was available for advice, he did meet with each Member once a year as required by statute.

180. The Members of the Legislature were fortunate to have all this assistance on a variety of issues.

181. I was very impressed with Ms. MacPherson. She is very knowledgeable and experienced and assisted me in determining the training a Member of the Legislative Assembly received after being elected.

(k) Glen William Rutland – Acting Clerk for the Northwest Territories Legislative Assembly

Appearances: October 8 and 28, 2021

182. Glen William Rutland ("Mr. Rutland") is now the Acting Clerk of the Legislative Assembly for the Northwest Territories. Prior to that he served on a contract basis as Deputy Law Clerk and Law Clerk to the Assembly.

183. At University, Mr. Rutland obtained degrees in Political Science and Law (University of Saskatchewan).

184. Mr. Rutland was the Acting Clerk of the Assembly in April of 2021. On April 21, 2021, Mr. Norn telephoned Mr. Rutland and advised him that he had been diagnosed with COVID-19. After being tested he advised Mr. Rutland that he had been self-isolating in an isolation centre in Yellowknife. After speaking to Mr. Norn, Mr. Rutland shared this information with the Deputy Clerk of the Legislature and the Sergeant-at-Arms (Mr. Thagard). He asked Mr. Thagard to ascertain whether Mr. Norn had been in the Legislature during this period. This conversation occurred on April 22, 2021. Mr. Rutland indicated that he took these steps as he was of the view that it was his responsibility to conduct due diligence. He then ascertained from Mr. Thagard that Mr. Norn attended at the Legislature on April 17, 2021. Once he acquired this information he instructed Mr. Braine to leave the building and to arrange for a COVID-19 test.

185. Mr. Rutland testified that under the Exposure Control Program for the Legislature where there is a report of COVID-19 exposure, the Sergeant-at-Arms investigates and then the Legislative Assembly communicates with the Department of Health to ensure the appropriate measures were taken.

186. Mr. Rutland spoke to a public health nurse about what he had learned from Mr. Norn. He advised her that Mr. Norn had attended the Legislature on April 17. The official had inquired who was in the building and Mr. Rutland responded by stating that there was a security log which reflected the attendance of anyone who had attended the building. The official was advised there was only one person present and that was Mr. Braine who was sent home and instructed to have a COVID-19 test. The official Mr. Rutland believes he spoke to was Stephanie Gilbert.

187. On the evening of April 22, 2021, Mr. Rutland received a call from Mr. Norn who informed Mr. Rutland that he had been advised by the Premier's Office they were receiving media requests from CBC that he had tested positive with COVID-19 and they wished to run a story to that effect.

188. The discussion with Mr. Norn was whether he should prepare a media statement in advance of the story being published.

189. After Mr. Rutland ascertained that Mr. Norn wished to issue a media statement he asked him a number of questions in relation to the circumstances surrounding his travel, his isolation and what he wanted to say in the media statement. Mr. Norn falsely advised Mr. Rutland that he was

in isolation from April 4, 2021 to April 18, 2021, when in fact he did attend at the Legislature on April 17, 2021.

190. Mr. Norn wanted assistance from Mr. Rutland in writing a media statement and Mr. Rutland said he would prepare a draft. There was a conversation about what Mr. Norn wanted to say. This led to a disagreement as Mr. Norn wanted to include in the media statement that he “followed all the rules” which was false. Mr. Rutland made it clear to Mr. Norn that he could not make that statement as he had been in the Legislature on April 17, 2021.

191. Mr. Rutland then prepared a draft media statement and he made it crystal clear that all the information in the release must be accurate. Mr. Norn was insistent that the media statement include the comments “that he was not showing any symptoms”.

192. Mr. Norn’s Counsel argued that the April 23, 2021 media statement²⁷ was really in effect a joint effort by Mr. Rutland and Mr. Norn and I accept that argument. As a result I don’t find anything in it to be misleading though it was certainly incomplete. Reference should have been made to Mr. Norn attending the Legislature on April 17th.

193. Despite his conversation with Mr. Rutland, in an interview with Ollie Williams, head of news at Cabin Radio on the morning of April 23, 2021, Mr. Norn again was dishonest as he advised Mr. Williams that he “followed all the rules” and he was “upfront” with everybody.

194. As a result of this comment, Mr. Rutland called Mr. Norn and reminded him that he had specifically told him not to make that statement because he had been at the Legislature on April 17th. He asked Mr. Norn whether he wanted to correct that comment, however, Mr. Norn advised he would be making no further statements.

195. Mr. Norn expressed frustration with Cabin Radio’s reporting on their conversation.

196. Mr. Norn told Mr. Rutland that he attended the Legislature on April 18, 2021 and when he was confronted by Mr. Rutland that the security register reflected his attendance was on April 17,

²⁷ Exhibit 36 - Media Statement of Steve Norn dated April 23, 2021.

2021, Mr. Norn then stated that he had a “political exemption”. Both these statements are false. Mr. Rutland made it abundantly clear that Mr. Norn did not have a “political exemption”. He observed that Mr. Norn, as Chair of the Assembly’s AOC, would have been aware that other Members of the Legislative Assembly were previously denied exemptions.

197. In Mr. Rutland’s role as Acting Clerk, he cares for the Members of the Legislative Assembly and was always available to give advice. It is indeed unfortunate that Mr. Norn did not accept Mr. Rutland’s advice with respect to not making the statement that he “followed all the rules”. Mr. Rutland is very knowledgeable and experienced. He gave his evidence in a very forthright manner and even after a lengthy cross-examination by experienced counsel, there were no material changes in his testimony. He was an honest witness and I have no hesitation in accepting his testimony.

(l) Dr. Andy Delli Pizzi – Deputy Chief Public Health Officer for the Northwest Territories

Appearance: October 28, 2021

198. Dr. Delli Pizzi has been the Deputy Chief Public Health Officer since 2019. Dr. Delli Pizzi was a family physician in Manitoba from 1999 to 2015 before pursuing a public health residency at the University of Calgary.

199. As Deputy Chief Public Health Officer, Dr. Delli Pizzi’s main duty is to support Dr. Kandola, the Chief Public Health Officer, for consultation. Dr. Delli Pizzi explained that, in regard to COVID-19, the Chief Public Health Office contributes to surveillance efforts through the gathering, analysis and interpretation of information which is then disseminated to health care providers. Dr. Delli Pizzi testified the Chief Public Health Office also updates the communicable disease manual to provide specific guidance for health care workers on the management of COVID-19.

200. Dr. Delli Pizzi explained that as Chief Public Health Officer, Dr. Kandola is responsible for drafting legislation related COVID-19 protocols. Dr. Delli Pizzi testified that he is also

minimally involved in consulting Dr. Kandola in the process of drafting public health orders and legislation.

201. Dr. Delli Pizzi provided a brief overview of how COVID-19 is transmitted. Dr. Delli Pizzi explained that most cases of COVID-19 are transmitted through direct contact with respiratory droplets from respiratory passages. In specific situations, particularly when the patient has a high viral load, COVID-19 can also be transmitted through airborne means. Dr. Delli Pizzi testified that the likelihood of COVID-19 being spread through surfaces is very low.

202. Dr. Delli Pizzi testified that while it is possible that severely ill patients with a high viral load may be more likely to transmit the virus, transmission can also occur from an asymptomatic person infected with COVID-19.

203. Dr. Delli Pizzi testified that the communicable period of the virus can last up to 10 days after the onset of symptoms in the case of a mild illness. Those with a more severe illness can transmit for up to 14 days. Dr. Delli Pizzi also explained that while individuals can still test positive for the virus for many weeks after getting COVID-19, that does not infer communicability.

Dr. Delli Pizzi explained the December 2020 Public Health Order mandates 14 days of self-isolation for travellers returning to the Northwest Territories because it can take up to 14 days after a COVID-19 exposure for people to develop their illness. Due to the 14-day incubation period, there is a risk that people may transmit COVID-19 without knowing they have the illness. Dr. Delli Pizzi testified that other jurisdictions have similar travel restrictions that include a 14-day period of self-isolation.

204. During his testimony, Dr. Delli Pizzi was presented with a hypothetical situation of a traveller entering the Northwest Territories on April 1 at 10:00 a.m. and was then asked when that individual's self-isolation would end. Dr. Delli Pizzi explained that ProtectNWT provides specific advice on when the self-isolation ends in the letter it sends upon the approval of a self-isolation plan. In the case of the hypothetical example, Dr. Delli Pizzi testified that the self-isolation would end at the end of the 14th day, which would be April 15. Dr. Delli Pizzi clarified that the time of arrival would not make a difference to when the self-isolation period ends and agreed with the previous testimony of Dennis Marchiori that the day of arrival is Day 0.

205. Dr. Delli Pizzi testified that after a single dose of the Moderna vaccine, there is a reduced risk in acquiring a COVID-19 infection. Mr. Norn had one dose of Moderna prior to his trip to Grande Prairie. Dr. Delli Pizzi clarified that the risk of transmission of COVID-19 is reduced after 2 doses of the vaccine, but he could not say with certainty that the risk of transmission would be reduced by a single dose of the vaccine.

206. Dr. Delli Pizzi testified that masks reduce transmission as a means of source control as the respiratory droplets collect on the mask rather than being distributed to the environment.

207. Mr. Norn's counsel presented Dr. Delli Pizzi with a number of hypothetical situations and asked him to assess the level of risk of transmitting COVID-19. Dr. Delli Pizzi testified that if an asymptomatic individual hugged and kissed their child on Day 5 or 6 of self-isolation, there is some chance that they could have COVID-19 and transmit the virus to their child. Dr. Delli Pizzi testified that the risk factors of transmission include the incidence of COVID-19 from the area the person has returned from and the protective measures in that place when travelling.

208. In response to a question about the Great Hall in the Legislative Assembly, Dr. Delli Pizzi testified that if two people were in a large room wearing masks and socially distancing for less than 10 minutes, there would be a low risk of transmission. Dr. Delli Pizzi also testified that there would be a low risk of transmission where 2 people were talking outside because there is unlimited ventilation outdoors.

209. Dr. Delli Pizzi testified that while he believes there can be some confusion regarding self-isolation protocols, he is not aware of how often people are unsure when they can leave self-isolation. Dr. Delli Pizzi testified that the Chief Public Health Office has used a wide array of communication strategies to empower the public to protect themselves from COVID-19.

210. I found Dr. Delli Pizzi's testimony to be very helpful in understanding how COVID-19 is transmitted. His testimony was also useful in that it confirmed previous testimony provided by Dennis Marchiori that a traveller's date of entry in the Northwest Territories is Day 0 with the next day being Day 1 of the 14 day self-isolation period.

(m) **Steve Norn** – MLA for Tu Nedhé-Wiilideh

Appearances: October 7-8, 2021

Steve Norn’s testimony will be assessed in-depth later in this Report.

IV. MATTERS ENGAGING ISSUES OF CONDUCT

A. Credibility

a) *The Legal Principles*

211. It is evident that credibility has become a central issue to this Inquiry. I addressed this issue at length in the Final Report of the Inspection and Inquiry into the R.M. of Sherwood No. 159²⁸ and will adopt those comments.

212. The law with respect to credibility is accurately stated in the case of *Faryna v Chomy*, [1952] 2 DLR 354 (BCCA) at 356-57, where O’Halloran J.A. states:

If a trial Judge’s finding of credibility is to depend solely on which person he thinks made the better appearance of sincerity in the witness box, we are left with a purely arbitrary finding and justice would then depend upon the best actors in the witness box. On reflection it becomes almost axiomatic that the appearance of telling the truth is but one of the elements that enter into the credibility of the evidence of a witness. Opportunities for knowledge, powers of observation, judgment and memory, ability to describe clearly what he has seen and heard, as well as other factors, combine to produce what is called credibility, and cf. *Raymond v Bsanquet* (1919), 50 DLR 560 at 566, 59 SCR 452 at p. 460, 17 Own 295. A witness by his manner may create a very unfavourable impression of his truthfulness upon the trial Judge, and yet the surrounding circumstances in the case may point decisively to the conclusion that he is actually telling the truth. I am not referring to the comparatively infrequent cases in which a witness is caught in a clumsy lie.

The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably subject his

²⁸ *Final Report of the Inspection and Inquiry into the R.M. of Sherwood No. 159*, (December 30, 2014) Volume 1 of 2 at pp. 123-126.

story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions. Only thus can a Court satisfactorily appraise the testimony of quick minded, experienced and confident witnesses, and of those shrewd persons adept in the half life and of long and successful experience in combining skilful exaggeration with partial suppression of the truth. Again a witness may testify what he sincerely believes to be true, but he may be quite honestly mistaken. For a trial Judge to say 'I believe him because I judge him to be telling the truth', is to come to a conclusion on consideration of only half the problem. In truth it may easily be self direction of a dangerous kind.

The trial Judge ought to go further and say that evidence of the witness he believes is in accordance with the preponderance of probabilities in the case and, if his view is to command confidence, also state his reasons for that conclusion. The law does not clothe the trial Judge with a divine insight into the hearts and minds of the witnesses. And a Court of Appeal must be satisfied that the trial Judge's finding of credibility is based not on one element only to the exclusion of others, but is based on all the elements by which it can be tested in the particular case.

213. As to credibility there is no universally applicable formula, but there are some general principles that judges impart to juries. The 2005 report of The Honourable Madame Justice Denise E. Bellamy, *Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry*, September 12, 2005 (Vol. 1) sets out those principles. They are:

- How well was the witness able to observe the events?
- How good is the witness's memory?
- How well can the witness describe what he or she saw?
- Is the witness's evidence internally consistent?
- Is the witness's account consistent with other reliable information?
- Does the witness's story change at all under cross examination?
- Is the witness evasive or hostile?
- Has the witness earlier said something different from his or her testimony?
- Is the witness's evidence consistent with common sense?
- Does the witness have a reason to lie?

214. In Saskatchewan, the Queen's Bench Judges who are presiding over a jury trial usually use the following principles in instructing a jury on credibility. They are:

- a) When you go to your jury room to consider the case, use the same common sense that you use every day in deciding whether people know what they are talking about and whether they are telling the truth. There is no magic formula for deciding how much or how little to believe of a witness' testimony or how much to rely on it in deciding this case. But here are a few questions you might keep in mind during your discussions:
- b) Did the witness seem honest? Is there any reason by the witness would not be telling the truth?
- c) Did the witness have an interest in the outcome of the case, or any reason to give evidence that is more favorable to one side than to the other;
- d) Did the witness seem able to make accurate and complete observations about the event? Did she/he have a good opportunity to do so? What were the circumstances in which the observation was made? What was the condition of the witness? Was the event itself unusual or routine?
- e) Did the witness seem to have a good memory? Does the witness have any reason to remember the things about which she/he testified? Did the inability or difficulty that the witness had in remembering events seem genuine, or did it seem made up as an excuse to avoid answering questions?
- f) Did the witness seem to be reporting to you what she/he saw or heard, or simply putting together an account based on information obtained from other sources, rather than personal observation?
- g) Did the witness' testimony seem reasonable and consistent as she/he gave it?
- h) Did any inconsistencies in the witness' evidence make the main points of testimony more or less believable and reliable? Is the inconsistency about something important, or a minor detail? Does it seem like an honest mistake? Is it a deliberate lie? Is the inconsistency because the witness said something different, or because she/he failed to mention something? Is there any explanation for it? Does the explanation make sense?
- i) What was the witness' manner when she/he testified? How did she/he appear to you? Do not jump to conclusions, however, based entirely on how a witness has testified. Looks can be deceiving. Giving evidence in a trial is not a common experience for many witnesses. People react and appear differently. Witnesses come from different backgrounds. They have different abilities, values and life experiences. There are

simply too many variables to make the manner in which a witness testifies the only or most important factor in your decision.

- j) These are only some of the factors that you might keep in mind when you go to your jury room to make your decision. These factors might help you decide how much or little you will believe of and rely upon a witness' evidence. You may consider other factors as well.

215. I have employed all the foregoing in my assessment of credibility that has become a vital aspect of my Report.

B. Allegations Against Steve Norn - MLA

(a) Background

216. Mr. Norn was raised in Fort Resolution in the Northwest Territories where he lived with his grandparents, the Mandevilles, although he was born in Yellowknife. At age 4 he was adopted by the Mandevilles. Mr. Norn's employment career was very rewarding.

217. Prior to his being elected as a member of the Northwest Territories Legislative Assembly in 2019 representing the constituency of Tu Nedhé-Wiilideh, Mr. Norn was associated with the Public Prosecution Service of Canada as a Crown Witness Co-ordinator. Previous to that position he had a number of careers including an insurance broker, an RCMP Constable and a Constituency Assistant in the Northwest Territories' Government. He also was employed part-time as a firefighter. He also worked as a Corrections Officer and in the diamond mines.

218. As to education, after graduating from Diamond Jenness Secondary School in Hay River, he attended the University of Lethbridge where he studied chemistry and psychology.

219. After being elected, Mr. Norn was chair of the Accountability and Oversight Committee ("AOC") for the Legislature of the Northwest Territories. While he was chair, he conducted numerous meetings in 2020.

220. It is important to underscore that the mandate of the AOC in 2020, according to Mr. Norn, was to provide oversight into the response of the Government to COVID-19 and in particular the impact of the virus on the community.

221. The AOC performed an important role in the fight against COVID-19 and Dr. Kandola, the Chief Public Health Officer for the Northwest Territories, appeared before the Committee on numerous occasions.

222. Mr. Norn's public role as a leading proponent of the fight against COVID-19 in the Northwest Territories is well-documented.

223. In 2020-21 in the months leading up to his trip to Grand Prairie on April 1, 2021 and his self-isolation, April 4, 2021 to April 18, 2021, Mr. Norn played a leadership role in showing support for the fight against COVID-19 and the importance of self-isolation. He did this through his position as chair of the AOC, his social media posts and his statements made in the Legislature.

(b) Chair of Committee on Accountability and Oversight ("AOC")

224. In his testimony, Mr. Norn agreed that part of the committee's role is to provide oversight into the government's response to COVID-19 and to offer suggestions on how to best respond to the impacts of the virus on communities, families and individuals. The AOC was assigned to take a lead role in the review of the Northwest Territories Government response to COVID-19.

225. The AOC, under the chairmanship of Mr. Norn, conducted numerous public briefings in 2020. Dr. Kandola appeared several times before the AOC. Dr. Kandola is a medical expert and was invited to attend the meetings so that the AOC would have the best information possible at any given moment to make the right decisions at any given time. The AOC met in 2020 on dates that included the following: April 15, April 22, May 13, September 24 and December 1. Issues related to COVID-19 were raised frequently with the AOC. The AOC meetings were available for the public to observe online.

(c) Mr. Norn's Social Media Posts

226. Mr. Norn's social media posts in 2020 and 2021 related to COVID-19 were collected and marked as an exhibit at the Hearing.²⁹

227. Mr. Norn posted a Facebook video to Facebook on April 3, 2020 which was marked as an exhibit³⁰ and played during the Hearing. The video was a way for him to communicate with the public.

228. The video was transcribed and what appears below is an excerpt from that transcription. Excerpts from the video are:

...[M]y name is Steve Norn. I am for Tu Nedhé-Willideh in NWT....

It's important to continue to practice safe hygiene practices, social physical distancing, instructions from your, the Chief Public Health Office, Dr. Kandola and her staff, your physician, doctors, nurses, public health nurse, local health nurse. Um, these are unprecedented times that we are all experiencing.... We work together we will get through this. It's going to take discipline and patience above all else....

This COVID-19 is no joke. It's bigger than politics, doesn't see through family lines or social status. It infects indiscriminately and we need to treat it with respect.... If you have an isolation plan, please follow it religiously. Listen to it, they're there for a reason. They're there to protect us.... I ask again that we be patient, we'll get through this together....

This is going to take cooperation and teamwork with each other. I ask that of all of us. Be patient with our medical staff, they are being bogged down right now and we ask that we be patient with them and all our front line staff for that matter.

With that, I want everybody to spread the message out there to look after each other, use common sense, be respectful....

229. On March 25, 2020, Mr. Norn retweeted the message of Dr. Kandola as follows:

²⁹ Exhibit 32 – Social Media Posts of Steve Norn.

³⁰ Exhibit 14 – Exhibit B to the Affidavit of Jacob Pazcko, sworn August 20, 2021.

If you were asked to create a detailed list of the places you've been and people you had been in contact with over the last 14 days, could you? #Social Distancing is critical in reducing transmission of COVID -19. Ask yourself: Am I doing my part?

230. On May 17, 2020, Mr. Norn tweeted: “#COVID-19 has been a thought provoking, forced staycation for all of us. We still need to exercise patience and discipline until a vaccine completely stops this thing...” Attached was a copy of the Emerging Wisely Plan of the Northwest Territories.

231. On November 18, 2020, Mr. Norn retweeted Dr. Kandola's message regarding the then current Public Health Advisory: “With #COVID 19 surging in Canada and trends in household transmission, we have updated our self-isolation rules. We know it's not easy, but let's keep doing our part to keep each other safe”.

(d) Statements Made by Mr. Norn in the Legislative Assembly of the Northwest Territories

232. Mr. Norn made statements in the Legislative Assembly relative to COVID-19. Here are excerpts from a few of those recorded statements by Mr. Norn:

March 12, 2020—Member's Statement on COVID-19 Concerns in the Northwest Territories

Marsi cho, Mr. Speaker. Today, I would like to share some remarks regarding the ongoing situation on COVID-19, and I just want to add a little bit to what my colleague from Nunakput has already said regarding that. It is a pandemic, yes, and we need to be proactive as a government....

However, Mr. Speaker, for all people in the NWT, they must remain vigilant and be cognizant and accepting of the fact that cases of this COVID-19 could very well occur in the NWT.....

Overall, Mr. Speaker, I just want to reiterate to the public that it is important to remain calm and not to panic. As a territory, as a country, as a global community, we will hopefully get through this together....

March 29, 2020—Member Statement on Emerging Wisely

Marsi cho, Mr. Speaker. I want to talk about GNWT's Emerging Wisely Plan today. This document, which was released last spring in May, laid out the government's plan in how

to deal with the pandemic response. First off, I want to say what a great job our medical teams have done in mitigating the spread of this virus and a big marsi cho to all our residents who have done their part by following all the current restrictions. At the moment, we have zero active cases, and this is definitely something to be very proud of.

Mr. Speaker, since last spring, a lot has happened. This pandemic is a fluid situation, and there are new developments happening daily. Over the last year, we have made some great strides in terms of vaccination development and delivery. However, we also now have to worry about the variant strains of this disease that emerged around the world.

C. Assessment of Allegations Against Steve Norn

(a) Self-Isolation Plan For Mr. Norn

233. Mr. Norn and Trisha Smith travelled to Grande Prairie, Alberta for compassionate family reasons and returned to the Northwest Territories on April 4, 2021. The reason for this trip was and should remain confidential. I have satisfied myself by reviewing sworn evidence gathered before the Hearing that this trip was for compassionate family reasons and I am satisfied that nothing related to the trip would constitute a breach of the Act and/or Code.

234. Although there is some confusion in the evidence, I am satisfied that Mr. Norn's self-isolation plan was such that he was required to complete 14 days of mandatory self-isolation in Yellowknife starting April 4, 2021 to and including April 18, 2021. He and Ms. Smith received a Notice of Approval letter from ProtectNWT approving their self-isolation plans.

235. Furthermore, Mr. Dennis Marchiori, the Director of Compliance and Enforcement Operations testified as to the manner in which the dates are calculated. He said that the date a traveller enters the Northwest Territories is Day 0 and the next day is Day 1. He then said you are to add 14 days for the purpose of calculation. In cross-examination he clarified that the isolation period is 14 full days from the day after a traveller's arrival in the Northwest Territories. Dr. Delli Pizzi corroborated the testimony of Mr. Marchiori. I believe this also was Mr. Norn's understanding of his self-isolation period.

236. Mr. Norn testified that he received an email from ProtectNWT at 2:04 a.m. on April 18, 2021 indicating that his self-isolation had ended. A screenshot of the email, marked as Exhibit 35, states the following:

Hello Steven, according to your date of arrival, this is day 14 since entering the NWT. You must confirm whether or not you are experiencing any symptoms. If your date of arrival 04/04/21 has changed, you must contact ProtectNWT.

237. Mr. Norn's Counsel argues that on April 18, 2021, Mr. Norn was operating on the reasonable but erroneous belief that his self-isolation period was complete based on the email set out above. However, there is nothing in the email to indicate that Mr. Norn's self-isolation was complete as of 2:04 a.m. on April 18, 2021. Rather, as Ms. Gilbert testified, the email signals that April 18th is Mr. Norn's final full day of self-isolation. In his testimony, Mr. Norn admitted to having read the Notice of Approval, marked as Exhibit 34. The Notice of Approval states in clear and unambiguous language that the 14 days of self-isolation included April 18, 2021. Moreover, Mr. Norn told Ollie Williams, Glen Rutland and registered nurse Rielle Nakehk'o that his self-isolation period was between April 4 and April 18, 2021. He admitted the same to the Integrity Commissioner during his investigation.

238. As to the breaches by Mr. Norn of his self-isolation period, there is little dispute as to the facts.

Legislative Assembly

239. Mr. Norn attended the Legislature on April 17, 2021. Robert Braine, the Security Guard, activated the front door to permit Mr. Norn to enter. Mr. Norn proceeded to his office on the second floor to retrieve his glasses and then left. On April 21, 2021, Mr. Norn tested positive for COVID-19. Dr. Delli Pizzi testified that the risk of transmission between two masked, socially-distanced individuals in a large room for under ten minutes would be low. However, the risk of transmission still exists. It is not without significance that Mr. Braine, during the next few days while on duty was exposed to a number of individuals including the Premier, Cabinet Ministers, Members of the Legislative Assembly and Government officials. There were 221 persons who attended the Legislature during that period.

Racquet Club

240. Mr. Norn also attended the Racquet Club on April 18, 2021. Ms. Smith testified that on the afternoon of April 18, 2021, Mr. Norn told her that he was going to the Racquet Club. Ms. Gilbert testified that on April 21st, Mr. Norn initially told her he went to the Racquet Club on April 19th between 1:30 and 2:00 p.m. Ms. Gilbert testified that the Chief Public Health Office notified her that they had video footage of Mr. Norn's visit on April 18, 2021 and asked her to clarify the date with Mr. Norn. Ms. Gilbert testified that the Visit Record for April 22, 2021 indicates that during the conference call with epidemiologist Julie Miller, when prompted, Mr. Norn disclosed that he went to the Racquet Club on April 18th between 3:54 and 4:45 p.m.

In-Person Contact with Siné Norn

241. Other breaches include a visit with his daughter and his former spouse, Natasha Schwindt on April 8. Ms. Schwindt and Siné parked in front of Mr. Norn's house on the way from the airport. When his daughter rolled down the window of their car, they hugged and kissed.

242. In argument, Mr. Norn's Counsel described this interaction with Siné as the "emotional response from a father seeing his daughter" and characterized the breach as a "brief lack of good judgment". The evidence shows that Siné subsequently tested positive for COVID-19 along with other family members who attended the ski-trip to British Columbia. This development underscores the importance of fully complying with self-isolation protocols, even in relation to family members. Many Northwest Territories citizens have been deprived of the opportunity to hug family members during the pandemic and have exercised self-restraint in order to protect their loved ones from COVID-19. It is unfortunate that Mr. Norn failed to practice his self-isolation plan "religiously" as he advised his constituents to do in his Facebook public service announcement of April 3, 2020. It is also noteworthy that the breach took place only 4 days into Mr. Norn's self-isolation period.

243. Mr. Norn also breached his self-isolation period again on April 17, 2021, when he hugged Siné while retrieving some clothing and other items from Ms. Schwindt's residence. In argument, Mr. Norn's Counsel contended there was no evidence that Mr. Norn saw Siné on April 17, 2021. However, that argument ignores the testimony of Ms. Gilbert who recorded Mr. Norn as saying

“I saw her again, you know, I just remembered” during the telephone consultation of April 23, 2021 when Mr. Norn self-disclosed he saw Siné on April 17, 2021 and hugged her. During another telephone consultation on April 23, 2021 at 4:10 p.m., Mr. Norn confirmed to Ms. Gilbert that he saw his daughter on April 17, 2021.³¹

244. I find these admissions by Mr. Norn to Ms. Gilbert to be highly reliable as they were spontaneous and a declaration against his interest. Ms. Gilbert had no reason to not accurately record these admissions, the first of which she put in quotation marks.

Su-Ellen Dillabough

245. Another breach occurred on April 18, 2021, when Mr. Norn attended at his friend, Su-Ellen Dillabough’s residence and delivered a package.

246. Ms. Dillabough has been a friend of Mr. Norn for approximately 9 and a half years. Ms. Dillabough is employed as a child protection worker. Ms. Dillabough testified that on the afternoon of Sunday, April 18, 2021, Mr. Norn attended her residence to deliver a package for Ms. Dillabough’s daughter. Ms. Dillabough testified that Mr. Norn knocked on her door and when Ms. Dillabough opened the door she saw Mr. Norn standing on the second of around five steps of her front steps. Ms. Dillabough testified she stood in her open doorway and proceeded to have an approximately 15 minute long conversation with Mr. Norn. During the conversation, Mr. Norn reached forward with outstretched arms to hand Ms. Dillabough a package and Ms. Dillabough took the package with outstretched arms. Ms. Dillabough described the package as a small box. Ms. Dillabough testified that Mr. Norn backed up down the stairs after he handed her the package.

247. Ms. Dillabough testified that she is certain her interaction with Mr. Norn took place on Sunday, April 18th because she was at work on Monday, April 19, 2021.

³¹ Exhibit 27 at pages 8 and 9.

(b) Allegations of Misleading the Public

248. The second allegation is even more serious as Mr. Norn's actions in misleading the public regarding his compliance with the self-isolation order are unethical and highly inappropriate as they violate the public trust reposed in him. Again there is little dispute as to the facts. The Complaint alleges that Mr. Norn misled the public regarding his compliance with the self-isolation order. Although the Complaint refers specifically to Mr. Norn's misleading comments to the media, I consider the phrase "the public" to be broad enough to include public health officials. In any event, the Notice of Potential Findings of Misconduct includes allegations that Mr. Norn misled representatives from the Northwest Territories Health and Social Services Authority by failing to report an accurate timeline of his activities between April 4 and April 18, 2021.³²

249. The evidence adduced that Mr. Norn was guilty of this complaint is overwhelming. Mr. Norn misled Ms. Gilbert and Nurse Rielle Nakehk'ó during his interviews. He was dishonest with both of them. Ms. Gilbert was the Clinical Co-ordinator for the COVID-19 outbreak Incident Command in Yellowknife and a registered nurse. Ms. Nakehk'ó was also a registered nurse and an associate of Ms. Gilbert.

250. There were a series of false statements involving Mr. Norn's attendance at the Legislature on April 17, 2021. Mr. Norn initially told nurse Rielle Nakehk'ó that he was at home that day. He also made the same statement to one of her colleagues. After being confronted with Ms. Gilbert's conversation with Glen Rutland that Mr. Norn was at the Legislative Assembly on April 17, 2021, Mr. Norn again deliberately lied by advising the epidemiologist that it was on April 18, 2021 that he attended the Legislature.

251. These actions by Mr. Norn in falsely advising the public health officials as to his whereabouts during his self-isolation period are reprehensible. Mr. Norn, as a Member of the Legislative Assembly and chair of the AOC whose mandate included supervising the Government's response to COVID-19, had a leadership role in the fight against this deadly disease. He betrayed this trust to the community and to his constituents.

³² Second Amended Notice of Potential Findings of Misconduct dated October 3, 2021 at paras 9-11.

252. Ms. Gilbert described how Mr. Norn's misleading and false statements affected their mandate. She said the investigation with Mr. Norn took several days and involved multiple resources due to Mr. Norn's changing timelines. For very selfish reasons Mr. Norn misled the public health officials by making these false statements. His motive was to convince the health authorities that he had complied with the mandatory self-isolation requirements.

253. Another example of a serious falsehood that Mr. Norn made to the health authorities was his statement that he attended the Racquet Club on April 19, 2021 when the visit was on April 18, 2021. He again was dishonest with Ms. Gilbert which caused serious repercussions. This falsehood required a health official to notify the Racquet Club of the exposure with the date and time so they could supply a list of who was using the gym along with names of their employees. The officials then made a public health advisory to track exactly who was in the facility so those affected would have an opportunity to self-identify as a risk. Tragically the officials would undertake those activities before they ascertained that Mr. Norn had given the wrong date.

254. Other examples of false and misleading statements made by Mr. Norn during this period are:

(a) He misled the public by advising Ollie Williams of Cabin Radio in Yellowknife, on April 23, 2021, that he "stayed home" and "followed all the rules" during his self-isolation period of April 4, 2021 to April 18, 2021. He made this comment knowing it would likely be reported to the public by Cabin Radio. Mr. Norn told Mr. Williams that he "followed all the rules" even though Mr. Rutland had advised him only the night before not to include the phrase "I followed the rules" in his media statement because Mr. Norn had breached his self-isolation period by attending the Legislature on April 17, 2021.

(b) A further falsehood occurred when Mr. Norn told Ms. Gilbert that he had a visit with his daughter and his former spouse, Natasha Schwindt. He initially told her that he had seen his daughter through the window of a vehicle and that the visit was contactless. When Ms. Gilbert, in a second interview, attempted to clarify if there had been contact, Mr. Norn then admitted he hugged and kissed his daughter. He again saw her on April 17, 2021, when they hugged.

(c) Mr. Norn again misled public health by falsely stating that on April 19, 2021, he delivered two parcels. The first parcel was left outside Tim Horton's. The mother of his daughter's friend picked it up and the second parcel was delivered to a social worker. However, Ms. Gilbert later received information from the social worker that the delivery took place on April 18, 2021.

255. During Mr. Norn's evidence he testified that as a result of his trip to Grande Prairie and testing positive for COVID-19, he was subject to a media firestorm. Although he had some supporters, most of the populace were very critical of his activities as he had breached the mandatory self-isolation requirements and misled the public with respect to his compliance with the Public Health Order. Mr. Norn said he was subject to much vitriol and threats. He characterized his position as being "under siege". In my opinion, that is unfortunate but is not an answer to the allegations.

256. Mr. Norn said he did not lie knowingly. However, he did emphasize that he was not in the best mental state, was tired and exhausted and was under siege. I do not accept his explanation nor do I believe him.

257. Throughout the argument of Mr. Norn's Counsel, he relied on the alleged medical complaints of exhaustion and extreme stress to excuse Mr. Norn's inaccurate statements to the public. I was never presented with any medical evidence whatsoever to support this allegation, even though I invited that evidence on the first day of the Hearing. At the outset of the Hearing Mr. Norn did not appear and his counsel suggested that Mr. Norn's non-appearance was due to an "emergent medical condition" and he should be granted an adjournment. I refused the application and in my decision I stated as follows:

Mr. Cooper, I have now considered your request and it appears that Mr. Norn's non-appearance and allegations of an emergent medical condition is not supported, to date, by any evidence that you have submitted and leads me to the inescapable conclusion that this is a further delaying tactic that I will not countenance.

It is clear from all the background of these proceedings that Mr. Norn is not only well aware of all the issues but did take part in giving you instructions on a series of very very complex matters.

By way of example, on September the 2nd, Mr. Norn appeared before me and participated in a very complex legal argument involving allegations of institutional bias. And very recently, on September the 22nd, he was examined by my counsel under oath for one and a half hours and answered a series of questions, many of which were very complex.

Also, over the course of two and a half months, you wrote approximately 19 letters demanding matters which he would have had to give you instructions. These included multiple requests to delay these proceedings, including attempts to have my counsel disqualified and have me removed.

Mr. Cooper, you have made repeated allegations that this Inquiry is tainted by conflict of interest and institutional bias due to allegations there was a toxic atmosphere in the Legislative Assembly and the Clerk's office. These alleged incidents pre-dated the complaint of Mr. Norn.

In support of Mr. Cooper's application to stay the proceedings on the basis of institutional bias, an application for subpoenas was made to me. They included the Clerk, and Acting Deputy Clerk Glen Rutland, Member Rylund Johnson, the Speaker, and Members of the Board of Management of the Legislative Assembly, and a series of affidavits and briefs were filed by Mr. Norn, including a very lengthy affidavit by Mr. Norn in support of the application.

I issued a lengthy judgment concluding that I did not have jurisdiction to issue subpoenas as the allegations were unrelated to the Terms of Reference.

I now feel that all of this leads me to the inescapable conclusion that Mr. Norn's non-appearance is simply a further delay tactic that I will not countenance. This Inquiry will now proceed.

258. As a result of my decision, Mr. Norn appeared the next day in person and not only was he able to instruct counsel, he actively took part in the proceedings. It was as if nothing had happened.

259. Mr. Norn testified that he believed his isolation period was completed on April 17, 2021. Why would he falsely inform the public health officials that he attended the Racquet Club on April 19, 2021, when he was there on April 18, 2021? The obvious reason for this dishonest and false statement was he knew his isolation period did not end until April 18, 2021. Furthermore, Mr. Norn's contention that he believed his isolation period was over on April 17, 2021 is contradicted

by his representation through his counsel to the Integrity Commissioner that he "believed his isolation ended on April 18, 2021".³³

260. Section 2 of the Code reads:

Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

261. The Guide provides the following commentary to section 2:

Commentary

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Members are expected to hold themselves to a high standard of conduct. While this expectation is largely directed at a Member's public behaviour, Members must recognize that, as elected officials, behaviour in their personal lives will also be closely scrutinized. A Member's integrity is fundamental to maintaining public confidence, both in the individual Member, and in the Legislative Assembly as an institution.

The Legislative Assembly will not generally be interested in the personal or private affairs of a Member. However, if a Member's conduct is such that knowledge of it would be likely to impair the public's trust in the institution of the Legislative Assembly, the Legislative Assembly may be justified in taking action. This is particularly so where the conduct in question is unlawful.

Excessive public consumption of alcohol, cannabis or other drugs or intoxicants, particularly where such consumption results in behaviour that could lessen the dignity of the Legislative Assembly, is unacceptable and constitutes a breach of the Code of Conduct.

Violation of certain laws, such as those involving a breach of trust or abuse of a position of trust, authority or intimacy, will be considered to be particularly damaging to the integrity and honour of the Legislative Assembly. This factor will be considered by the Legislative Assembly in deciding what action, if any, is to be taken under the Assembly's power to regulate its internal affairs and discipline Members.

262. Section 4 of the Code reads:

³³ Exhibit 5 – June 7, 2021 correspondence to the Integrity Commissioner from Mr. Norn's Counsel at para 9.

Members must carry out their official duties objectively and without consideration of personal or financial interests, and must arrange their personal affairs so as to maintain the trust and confidence of the public.

263. Section 8 of the Code reads:

The Code is not designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.

264. The Guide provides the following commentary to section 8:

Commentary

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Public confidence in an individual Member and in the Legislative Assembly as an institution requires that Members hold themselves to a high standard of conduct, in both their personal and professional lives. The Legislative Assembly may at times find it necessary to respond to a Member's conduct that is found to undermine public confidence and trust, even if the provisions of this Code and all applicable laws have been respected.

265. In assessing the allegations against Mr. Norn that he failed to self-isolate for 14 days in accordance with the self-isolation requirements of the Public Health Order and failing to comply with his self-isolation plan and that he misled the public regarding his compliance with the plan, I followed the standard prescribed by the Supreme Court of Canada in *F.H. v McDougall*, 2008 SCC 53, [2008] 3 SCR 41. The Supreme Court followed the balance of probabilities standard that "evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test" (at para 46). This is the standard to which I have subjected all evidence that engages issues of conduct and thus potential findings of misconduct. I am satisfied that both of the allegations have been substantiated and therefore Mr. Norn is guilty of breaching sections 2 and 8 of the Members' Code of Conduct.

266. During his testimony, Mr. Norn apologized for attending the Legislature on April 17, 2021. However, the apology came with the disclaimer that Mr. Norn only realized in hindsight that attending the Legislature on April 17, 2021 was a breach of his self-isolation. Mr. Norn attributed the breach to his miscounting of the 14 days and characterized the breach as an "error" or "oversight" on his part. In making this purported apology, Mr. Norn minimized his actions and

failed to take responsibility for the breach. Given the fact that Mr. Norn chaired a series of AOC public briefings on COVID-19 protocols, it is implausible that Mr. Norn believed his self-isolation ended on April 17, 2021. Furthermore, his explanation is inconsistent with the evidence of Ollie Williams and Glen Rutland who both testified Mr. Norn told them his self-isolation period was between April 4 and April 18, 2021. As noted above, Mr. Norn’s explanation directly contradicts his representation to the Integrity Commissioner that he believed his isolation ended on April 18, 2021.³⁴

267. I must observe that the purported “apology” comes not early in the proceedings, but at the very latest opportunity. Mr. Norn has been dealing with these allegations since May 2021 when they were first brought before the Integrity Commissioner and has never once offered an apology of any sort until he did so on the second last day of the Hearing. The timing of this “apology” is suspicious and leads me to believe it is made to garner sympathy with me as the Sole Adjudicator and was not made in good faith.

Allegation One (1)

268. I therefore find that Mr. Norn, by breaching sections 2(1) and (d) of the Public Health Order COVID-19 Travel-Restriction and Self-isolation period by: failing to isolate for 14 days in accordance with the self-isolation requirements of the order and failing to comply with his isolation plan, has breached sections 2 and 8 of the Code of Conduct for the Members of the Legislative Assembly for the Northwest Territories.

Allegation Two (2)

269. I therefore find that Mr. Norn by misleading the public regarding his compliance with the self-isolation order has breached sections 2 and 8 of the Code of Conduct for the Members of the Legislative Assembly for the Northwest Territories.

³⁴ Exhibit 5 – June 7, 2021 correspondence to the Integrity Commissioner from Mr. Norn’s Counsel at para 9.

Section 4 of the Code of Conduct of the Legislative Assembly

270. I am dismissing the allegations that Mr. Norn breached section 4 of the Code of Conduct in both Allegation 1 and Allegation 2 as this section pertains to conflicts of interest and has no relevance to each of the allegations against Mr. Norn.

Violation of the Act

271. I also find Mr. Norn has breached the following subsections of s. 75 of the Act:

75. Each member shall

- (a) comply with the provisions of this Act and the Code of Conduct;
- (b) perform the member's duties of office and arrange his or her private affairs in such a manner as to maintain public confidence and trust in the integrity, objectivity and impartiality of the member;

272. In breaching s. 2 and s. 8, Mr. Norn has not complied with the Code of Conduct as required by s. 75 of the Act. In breaching the mandatory self-isolation period and misleading the public regarding his compliance, Mr. Norn has not performed his duties of office in such a manner as to maintain public confidence and trust in his integrity.

Statements by Mr. Norn During the Hearing

273. On the second day of the Hearing Mr. Norn displayed antagonism toward me and my Counsel and also to a witness to these proceedings.

274. In particular, after I delivered my decision and refused the application of Mr. Norn's Counsel for an adjournment, Mr. Norn exclaimed that my judgment was a "legal farce". As to my Counsel, Mr. Norn did on several occasions, demand that my Counsel refrain from speaking when he was addressing the Sole Adjudicator. In particular, Mr. Norn stated on more than one occasion that he did not want to hear his voice, and he was to stop talking. He also advised my Counsel that he was good at interrupting on one occasion when the court officials were having difficulty with the equipment. In an insulting manner, Mr. Norn turned to the Sole Adjudicator and exclaimed "can you guys not get your crap together?" He also called a witness to these proceedings, Ollie Williams of Cabin Radio during his evidence, a "liar".

275. I inquired from Mr. Norn's Counsel as to whether he had any objection to this evidence, and in complete fairness he advised that after consulting with Mr. Norn, those statements are properly before me as they appear in the transcript.

276. When questioned by his counsel about the comments, Mr. Norn apologized to myself and my Counsel. However, I cannot accept Mr. Norn's apology as I find it somewhat disingenuous. Mr. Norn explained that he made the impugned statements because he felt like he was "under attack" and that he felt he should have been excused from the proceedings to take care of his family. In my view, Mr. Norn has offered excuses for his comments rather than actually apologizing for his behavior.

277. These comments by Mr. Norn reflect that he does not have any respect for the participants in this Inquiry and for the Rule of Law which is such an integral component of a democratic society. Mr. Norn, by making these statements, may be in breach of section 2 of the Members' Code of Conduct. This section provides that the conduct of a member shall not bring the integrity of their office or of the Legislative Assembly into disrepute.

278. Although Mr. Norn may be in breach of section 2 of the Members' Code of Conduct, I am not satisfied that the two allegations against Mr. Norn are within my Terms of Reference. As the distinguished law professor Ed Ratushny in his text *Conduct of Public Inquiries* at p. 130 stated in part:

The entire life of a commission is dictated by its terms of reference, which are legally binding. They establish the jurisdiction of the commission. The boundaries of that jurisdiction dictate what the commission must do and what it cannot do.

279. Here the Terms of Reference dictate that the Sole Adjudicator shall inquire into a complaint made by Rylund Johnson, a Member of the Legislative Assembly, with respect to allegations that Mr. Norn failed to isolate in compliance with his COVID-19 self-isolation plan and did mislead the public regarding his compliance with the plan. This does not seem to cover the offensive statements made by Mr. Norn during the hearing.

280. In complete fairness to Mr. Norn, I did not consider the offensive statements when deliberating with respect to my findings of his breaches of the Code and the Act.

V. RECOMMENDATIONS

A. The Act

281. As I have now made a finding that Mr. Norn is guilty of breaching his mandatory self-isolation plan, misleading the public regarding his compliance with his plan and breaching the Act, it is now my responsibility as prescribed by section 106(1)(b) of the Act to make recommendations as to punishment. Section 106(1)(b) reads:

106.(1) After conducting an inquiry, a Sole Adjudicator shall submit a disposition report, with reasons, to the Speaker, the member or former member complained of and the complainant, advising that:

...

(b) the Sole Adjudicator has found the member to be guilty of contravening a provision of

this Part of the Code of Conduct, and is recommending to the Legislative Assembly that one

or more of the following punishments be imposed:

(i) a reprimand,

(ii) a fine in an amount not exceeding \$25,000 established by the Sole Adjudicator,

(iii) an order requiring the member to make restitution, in an amount determined by the Sole Adjudicator, to the Government of the Northwest Territories or to a public agency of the Government of the Northwest Territories, of any gain realized by the member or his or her spouse or dependent child by participating in a transaction in contravention of a provision of this Part,

(iv) an order requiring the member to pay compensation to any person for a loss suffered by that person as a result of the participation of the member or his or her spouse or dependent child in a transaction in contravention of a provision of this Part,

(v) a suspension for a period not exceeding 30 sitting days of the privileges of the member to sit in the Legislative Assembly,

(vi) a declaration that the seat of the member is vacant,

(vii) an order that the member pay costs in an amount determined by the Sole Adjudicator.

B. Recommendation as to Punishment

Allegation One (1)

282. In the Complaint, it is alleged that Mr. Norn breached the Code of Conduct by breaching sections 2(a) and (d) of the Public Health Order by failing to self-isolate for 14 days and by failing to comply with his self-isolation plan.

283. I have found that Mr. Norn, by breaching sections 2(1) and (d) of the Public Health Order COVID-19 Travel-Restriction and Self-isolation period by: failing to isolate for 14 days in accordance with the self-isolation requirements of the order and failing to comply with his isolation plan, is guilty of breaching sections 2 and 8 of the Code of Conduct for the Members of the Legislative Assembly for the Northwest Territories.

284. In argument, Mr. Norn's Counsel submitted that Mr. Norn's breaches of the self-isolation period should be viewed as minor or inadvertent. I disagree. The global COVID-19 pandemic is an ongoing health emergency and the biggest threat this generation has faced. In his April 3, 2020 Facebook public service announcement,³⁵ Mr. Norn cautioned that COVID-19 "infects indiscriminately" and needs to be treated with respect. Mr. Norn exhorted Northwest Territories residents to follow self-isolation plans "religiously" because "they're there to protect us". Unfortunately, Mr. Norn did not practice what he preached. Mr. Norn displayed a cavalier attitude by breaching the self-isolation plan, not once, but five times within the 14-day isolation period.³⁶

285. Mr. Norn's first breach of his self-isolation plan came a mere four days into his isolation period when he kissed and hugged his daughter. Although Mr. Norn testified that the physical contact with his daughter was "spontaneous" and that he immediately realized his mistake, he went

³⁵ Exhibit 14 – Exhibit B to the Affidavit of Jacob Paczko re: Facebook Video, sworn August 20, 2021.

³⁶ April 8 and April 17 in person visit with Siné Norn; April 17 visit to the Legislature; April 18 package delivery to Su-Ellen Dillabough; April 18 visit to the Yellowknife Racquet Club.

on to make the same mistake on April 17, 2021 when he saw Siné again and hugged her. Mr. Norn did not “remain vigilant” as he advised others to do during his member’s statement in the Legislative Assembly on March 12, 2020.³⁷

286. Mr. Norn’s Counsel argued that I must not consider the “theoretical risk” of the transmission of COVID-19 resulting from Mr. Norn’s breaches of the self-isolation plan, but the “real risk”. There was a “real risk” of Mr. Norn transmitting COVID-19 to his daughter Siné, Robert Braine, the two children playing outside the Legislature, Su-Ellen Dillabough and patrons of the Yellowknife Racquet Club because Mr. Norn had COVID-19 during his period of self-isolation. I accept the evidence of Dr. Delli Pizzi that the risk of Mr. Norn transmitting COVID-19 during these encounters was low. However, a low risk is still a “real risk”.

287. For example, there was enough of a “real risk” for Robert Braine to be sent home mid-shift on April 22, 2021. As a close contact of Mr. Norn, Robert Braine was required to self-isolate to avoid potentially exposing others. However, by the time he was sent home, Mr. Braine had signed in 221 individuals to the Legislature, including the Premier, the Chief Public Health Officer along with several MLAs, Cabinet Ministers and media representatives. On the evening of April 17, 2021, Mr. Braine also potentially exposed his two dinner companions who were both medically vulnerable.

288. In argument, Mr. Norn’s Counsel used an analogy of a personal injury claim to suggest that I should not consider the “what-ifs” regarding possible transmission but should rather confine my analysis to what actually happened. I disagree. This is not an Inquiry into pecuniary loss. This is an Inquiry into Mr. Norn’s conduct. In assessing his conduct, it is relevant to consider the potential risk he created to others by breaching the self-isolation plan. Although Mr. Braine thankfully tested negative for COVID-19, there was a risk, albeit a low one, that he could have contracted COVID-19 from Mr. Norn. There was a further risk that Mr. Braine could have transmitted COVID-19 to many high-ranking government officials, which would have been catastrophic for the people of the Northwest Territories. Furthermore, although the source of their

³⁷ Exhibit 12 – Affidavit of Jacob Paczko re Hansard excerpts of Mr. Norn, sworn August 20, 2021.

infections cannot be determined with certainty, it is not insignificant that Siné Norn and Natasha Schwindt did test positive for COVID-19 following Siné's contact with Mr. Norn.

289. After having chaired several AOC public briefings, Mr. Norn was well-aware of the importance of self-isolation in preventing COVID-19. Mr. Norn was returning from Grande Prairie, which in April 2021 had a much higher rate of COVID-19 than the Northwest Territories.³⁸ Despite the foregoing, Mr. Norn potentially exposed hundreds of people due to his cavalier attitude towards the mandated self-isolation period. In doing so, Mr. Norn did not protect the public interest as required by s. 8 of the Code.

290. In repeatedly breaching self-isolation, Mr. Norn breached the Public Health Order and therefore did not act lawfully as required by s. 2 of the Code of Conduct.

291. During his member's statement in the Legislature on March 29, 2020, Mr. Norn thanked residents "who have done their part by following all the current restrictions".³⁹ Mr. Norn did not do his part. In breaching the very protocols he endorsed, Mr. Norn's actions do not withstand public scrutiny and do not uphold the integrity and honour of the Legislative Assembly as required by s. 2 of the Code of Conduct. By failing to model the practices he publicly championed, Mr. Norn did not protect the public interest and failed to enhance public confidence and trust as required by s. 8 of the Code of Conduct.

292. In light of the foregoing, I find Mr. Norn's breaches of the self-isolation period to be serious. If the Complaint only contained Allegation One (1), I would have found the appropriate penalty to be a suspension for a period of 30 days pursuant to s. 106(1)(b)(v) of the Act. However, the seriousness of Allegation Two (2), as discussed below, elevates the necessary punishment to another level.

Allegation Two (2)

293. In the Complaint, it is alleged that Mr. Norn misled the public regarding his compliance with the Public Health Order.

³⁸ Exhibit 15 – Affidavit of Jacob Paczko re Background of COVID-19 in Grande Prairie, sworn August 20, 2021.

³⁹ Exhibit 12 – Affidavit of Jacob Paczko re: Hansard excerpts of Mr. Norn, sworn August 20, 2021.

294. In regard to Allegation Two, the complaint is even more serious. Mr. Norn's actions in misleading the public regarding his compliance with the self-isolation order are highly unethical and dishonest as they violate the public trust reposed to him.

295. COVID-19 is a deadly disease and without restrictions and supervision by the Government of the Northwest Territories, cases surge. With the potential dangers to the public if a resident is exposed to COVID-19, the community in the Northwest Territories relies on their Members of the Legislative Assembly to provide leadership and to be role models with respect to this horrific pandemic and to keep their most vulnerable citizens safe.

296. In my decision I have found that Mr. Norn misled the public health officials with respect to the dates he attended the Legislative Assembly and the Racquet Club. These officials are the public's first line of defence against the spread of COVID-19. These false statements affected the mandate of the public health officials and undermined their efforts. As a result of these misleading and dishonest statements, the investigation with Mr. Norn took several days and involved multiple resources due to Mr. Norn's changing timelines. Mr. Norn misled the public health officials for selfish reasons as his motive was to convince the health authorities that he had complied with the mandatory self-isolation requirements. When asked how Mr. Norn's investigation compared to the other approximately 600 investigations she had been involved in, Ms. Gilbert stated that Mr. Norn's investigation was longer, more complicated and at times stressful and difficult because of his changing timelines.

297. The public has the right to expect that everyone would cooperate with these health officials in doing their important work. However, the public has the right to demand that MLAs cooperate with these health officials who have sworn to be loyal to the public they serve and who agree to hold themselves to a high standard of conduct.

298. In his April 3, 2020 Facebook public service announcement, Mr. Norn asked his constituents to engage in "cooperation and teamwork" and to be "patient with our medical staff" who were being bogged down.⁴⁰ During his member's statement in the Legislature on March 29,

⁴⁰ Exhibit 14 – Exhibit B to the Affidavit of Jacob Paczko, sworn August 20, 2021.

2020, Mr. Norn praised medical teams for “mitigating the spread of this virus”.⁴¹ By failing to provide an accurate timeline of his self-isolation activities, Mr. Norn did not cooperate with the investigating nurses. Rather than assisting the investigating nurses’ efforts to mitigate the spread of the virus, Mr. Norn’s changing timeline frustrated their efforts to alert the public to potential exposures at the Legislature and the Racquet Club.

299. Mr. Norn also made misleading and false statements with respect to his conversation with Ollie Williams of Cabin Radio, his visits with his daughter and the delivery of the parcels to Su- Ellen Dillabough, a social worker and friend of Mr. Norn. In misleading the public, Mr. Norn’s conduct brought the integrity of his office into disrepute contrary to s. 2 of the Code of Conduct. Mr. Norn made false statements to Mr. Williams knowing that he was likely to publish those statements to the public. In doing so, Mr. Norn diminished public confidence and trust contrary to s. 8 of the Code of Conduct.

300. Mr. Norn’s Counsel alleges that, due to all the mitigating circumstances, the appropriate recommendation would be a reprimand. He made that submission on the basis that Mr. Norn had already suffered so much by being subject to the process of the Inquiry. I disagree. Mr. Norn has betrayed the trust and confidence of the public contrary to s. 8 of the Code of Conduct. His conduct has brought the integrity of his office into disrepute as he has failed to uphold its honour as required by s. 2 of the Code of Conduct. Mr. Norn’s actions fall far below the standard set out in the Code of Conduct.

301. I am comforted by the comments of Justice J. Z. Vertes as to the tests to be applied with respect to the power to discipline a Member of the Legislative Assembly for unfit behaviour. In *Morin v Crawford*, 14 Admin LR (3d) 287, 1999 CanLII 6802 (NWT SC), he cites with approval the comments of former Chief Justice McLachlin in *Harvey v New Brunswick (Attorney General)*, [1996] 2 SCR 876, 1996 CanLII 163 (SCC) [*Harvey*]. She states that the power to discipline is a fundamental aspect of a legislature’s ability to maintain its integrity. At p. 913 (paras. 61 and 62 CanLII) she states in part:

⁴¹ Exhibit 12 – Affidavit of Jacob Paczko re: Hansard excerpts of Mr. Norn, sworn August 20, 2021.

If democracies are to survive, they must insist upon the integrity of those who seek and hold public office. They cannot tolerate corrupt practices within the legislature.... If they do, two consequences are apt to result. First, the functioning of the legislature may be impaired. Second, public confidence in the legislature and the government may be undermined. No democracy can afford either.

When faced with behaviour that undermines their fundamental integrity, legislatures are required to act. That action may range from discipline for minor irregularities to expulsion and disqualification for more serious violations. Expulsion and disqualification assure the public that those who have corruptly taken or abused office are removed. The legislative process is purged and the legislature, now restored, may discharge its duties as it should.

302. Here, the actions of Mr. Norn are serious violations as his behaviour fundamentally undermines the integrity of the Legislature and compromises the health, safety and trust of the people of the Northwest Territories. In *Harvey* at para 77, McLachlin, J. (as she then was) concluded that expulsion may be justified to enforce discipline within the House and “to remove those whose behavior has made them unfit to remain as members”.

303. The combined findings I have made on Allegation One (1) and Allegation Two (2) mean that I have found that Mr. Norn is guilty of breaching every aspect of both sections 2 and 8 of the Code of Conduct.

304. As to section 2, I have found that Mr. Norn acted “unlawfully” by breaching the Public Health Order on multiple occasions. I have also found that Mr. Norn acted in a manner that clearly would not withstand “the closest public scrutiny” and that in his actions and omissions he did not “uphold the integrity and honour of the Legislative Assembly and its Members”. I have further found that his conduct did bring the “integrity of their office or of the Legislative Assembly into disrepute”.

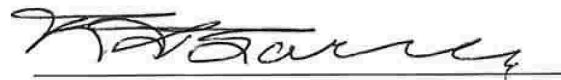
305. As to section 8 which speaks to there being “occasions” when members will find it necessary to adopt “more stringent standards of conduct”, I find that this global COVID-19 pandemic is just such an occasion. I find that Mr. Norn’s conduct undermined, as opposed to “protect[ing]” the “public interest” and his conduct eroded, as opposed to “enhance[ing] the public’s confidence and trust”.

306. For all the foregoing reasons I find that Mr. Norn has also breached s. 75(a) and (b) of the Act in that he has not complied with the Act and the Code of Conduct, and has performed his duties of office “in a manner so as to maintain public confidence and trust” in the integrity of the member.

307. Mr. Norn’s actions in breaching the self-isolation period and misleading the public regarding his compliance have irreparably damaged public confidence and trust. Mr. Norn’s actions in deliberately misleading the public, particularly public health officials, make him unfit to remain as a member. In my view, when Allegation One, Allegation Two and the breach of the Act are considered together, expulsion is the only appropriate remedy.

308. In accordance with section 106(1)(b)(vi) of *Legislative Assembly and Executive Council Act*, SNWT 1999, c 22, I recommend that the Legislative Assembly of the Northwest Territories declare that the seat of Steve Norn is vacant.

DATED at Regina, Saskatchewan, this 17th day of November, 2021.



The Honourable Ronald L. Barclay, Q.C.
Sole Adjudicator appointed under the
*Legislative Assembly and Executive Council
Act*

14 June 2021

Our File No. 5758-10

The Honourable Frederick Blake, Jr., Speaker
Legislative Assembly of the Northwest Territories
Box 1320, 4570-48th Street,
Yellowknife, NT X1A 2L9

By email

Dear Mr. Speaker:

Investigation into a complaint made by Mr. Rylund Johnson, MLA for Yellowknife North, at the direction of the MLAs' Caucus alleging that Mr. Steve Norn, MLA for Tu Nedhé-Wiilideh, has breached the Members' Code of Conduct

On Thursday, May 6, 2021, I received a written complaint from Mr. Rylund Johnson, MLA for Yellowknife North, made at the direction of the MLAs' Caucus, alleging that certain actions of Mr. Steve Norn, MLA for Tu Nedhé-Wiilideh, breached the Members' Code of Conduct by:

Allegation One

Breaching sections 2(a) and (d) of the Public Health Order - COVID-19 Travel Restrictions and Self Isolation Protocol - As amended December 1, 2020 (Self-Isolation Order) by:

- *failing to self-isolate for 14 days, in accordance with the self isolation requirements set out in Appendix A of the Order; and*
- *failing to comply with his self-isolation plan.*

Allegation Two

Misleading the public regarding his compliance with the Self-Isolation Order.

The complaint letter refers to sections 2, 4 and 8 of the Code of Conduct (reproduced below).

... 2

In addition to the complaint letter (Attachment A to this report), Mr. Johnson provided a copy of a Media Statement issued by Mr. Norn on April 23, 2021 (Attachment B), as well as copies of media articles about this matter which were published during the period from April 23, 2021 to May 4, 2021 (Attachment C), as well as a link to the relevant Public Health Order (Attachment D).

Background to the complaint

The complaint described the background to the complaint as follows (footnotes omitted):

Circumstances of Allegation One

Mr. Norn publicly stated that he travelled by car out of the Northwest Territories to Alberta on Thursday April 1, 2021 for a family emergency. He returned on Sunday April 4, 2021, crossing the Alberta/NWT border in the late afternoon/evening. In his statement, Mr. Norn noted that he filed a self-isolation plan on April 1, 2021 identifying that he would self-isolate at home. Mr. Norn's isolation period would have ended on April 18, 2021.

On April 17, 2021, while he was subject to the Self-Isolation Order, Mr. Norn left his home, and entered the Legislative Assembly. As the Assembly was not aware he was self-isolating at the time, he was allowed access to the building. Mr. Norn has publicly admitted that he did breach the order by attending the Assembly.

In addition to attending the Legislative Assembly, I seek clarification on whether Mr. Norn may have had contact with other people in violation of the Self-Isolation Order.

Circumstances of Allegation Two

On April 23, 2021, Mr. Norn did an interview with Ollie Williams from Cabin Radio. In the story published by Cabin Radio, Mr. Norn is quoted as saying "I followed all the rules, I was up front with everybody," and "I stayed home" when referring to residents' concern about whether isolation rules had been broken.

On May 5, 2021 in a conversation with CBC, Mr. Norn is reported as confirming he broke the two-week isolation period after travelling. It is reported Mr. Norn said, "Yes, yes, I did. I'll wear that." And "if public health wants to do something with that, they can. Absolutely, I'll own it."

Investigation of the complaint

As required by section 101 of the *Legislative Assembly and Executive Council Act* (the “Act”), on May 7, 2021, I gave notice to Mr. Norn and Mr. Johnson that I would conduct an investigation into the complaint to determine whether it should be dismissed or referred to an inquiry by a Sole Adjudicator. I provided Mr. Norn with copies of all of the material which I had received from Mr. Johnson, and asked for his response to the complaint.

In addition, I asked Mr. Norn to provide (1) a detailed description of the reasons why he had left the Northwest Territories, where he went, and what he did during the trip referred to in the complaint; (2) a copy of the self-isolation plan which he filed with Protect NWT; and (3) a copy of the positive COVID-19 test results he had received.

Mr. Norn’s response to the complaint

Mr. Norn’s legal counsel provided Mr. Norn’s response on June 7, 2020 urging that the complaint should be dismissed for the following reasons:

1. *The contravention was minor or was committed inadvertently or due to an error in judgment made in good faith; and*
2. *Mr. Norn took all reasonable measures to prevent a contravention of the Code of Conduct.*

The response then describes the facts as follows:

A. Facts

3. *On April 1, 2021, Mr. Norn left the Northwest Territories and travelled to Grande Prairie, Alberta. His presence was required for a non-COVID-19 related medical emergency concerning an immediate family member.*
4. *Prior to his departure, he filed a self-isolation plan which was to commence on April 5, 2021, and last for 14 days.*
5. *Mr. Norn’s immediate presence was required to deal with the medical emergency. [REDACTED] accompanied Mr. Norn for emotional support.*

6. Mr. Norn and [REDACTED] expected to remain out of the Northwest Territories from April 1, 2021, and return the morning of April 5, 2021.
7. On April 4, 2021, Mr. Norn and [REDACTED] returned to the Northwest Territories and began their 14-day self-isolation at home.
8. Mr. Norn and [REDACTED] remained in the same home to finish out the 14-day isolation. [REDACTED], was also in the home and was required to quarantine for 14 days.
9. Mr. Norn believed that the 14-day isolation included April 4th, 2021, as such, Mr. Norn believed his isolation ended on April 18, 2021.
10. On the evening of April 17, 2021, Mr. Norn attended the Legislative Assembly. The only person present was a sole security guard who granted access to Mr. Norn. Both Mr. Norn and the security guard were wearing masks during their brief encounter.
11. Mr. Norn retrieved his glasses and some work files from his office, then immediately left the Legislative Assembly.
12. [REDACTED] and [REDACTED] both submitted themselves for testing. [REDACTED] tested negative while [REDACTED], tested positive.
13. [REDACTED] resided with [REDACTED] and, unbeknownst to Mr. Norn, broke [REDACTED] quarantine by attending evening bonfires.
14. The lone security guard that was present at the Legislative Assembly, when Mr. Norn attended on April 18, 2021 [sic: should be April 17, 2021], received a negative test result.
15. On April 18, 2021, Mr. Norn attended the Yellowknife Racquet Club. No COVID-19 cases resulted from this visit.
16. On April 19, 2021, Mr. Norn ordered and picked up meals at Taste of Saigon, a local restaurant in Yellowknife. No COVID-19 transmission resulted from this visit.

17. *After a COVID-19 wastewater advisory alert in Yellowknife, Mr. Norn submitted himself for testing and received a positive test result on April 21, 2021. Mr. Norn then, immediately, proceeded to isolate in an isolation hotel.*
18. *On May 7, 2021, Mr. Norn received a letter from your office indicating that a complaint has been filed against him for breach of the Code as set out in ss. 101 and 102 of the Legislative Assembly and Executive Council Act (“the Act”).*
19. *At or around April 4, 2021, an unknown resident tested positive for COVID-19. This resident returned to the Territories from an international destination and is suspected of contracting the virus during their travels.*

I note that Mr. Norn did not provide the additional information I had requested, namely (1) a detailed description of the reasons why he had left the Northwest Territories, where he went, and what he did during the trip referred to in the complaint; (2) a copy of the self-isolation plan which he filed with Protect NWT; and (3) a copy of the positive COVID-19 test results he had received.

The response for Mr. Norn contains the following analysis:

- The Public Health Order does not provide a definition of essential travel. “Essential travel” would include attending a seriously ill immediate family member who required Mr. Norn’s presence.
- Mr. Norn actually returned to the NWT a day earlier than expected, so he ended his isolation period a day earlier than his isolation plan specified.
- Mr. Norn erroneously but honestly believed that the day he returned to NWT (April 4) would be included in the 14-day self-isolation period.
- Alternatively, if Mr. Norn’s visit to the Legislative Assembly on April 17 and to the Racquet Club on April 18 took place within the required 14-day self-isolation period, he nevertheless substantially complied with spirit of the self-isolation period.
- There is no evidence Mr. Norn acted in bad faith.
- There is no evidence that anyone contracted COVID-19 as a result of Mr. Norn’s “ending his isolation mere hours before the date set out in his isolation plan”.

- The political context in which a complaint is made is relevant, including the history between the complainant and Mr. Norn—politically-motivated complaints are not made in good faith.
- Accordingly, legal counsel submitted that the complaint should be dismissed.

The Members' Code of Conduct

Amendments to the *Legislative Assembly and Executive Council Act* (the “Act”) that came into force on October 1, 2019 provide that the Assembly may adopt a Code of Conduct (the “Code”) for Members, which continues in force from session to session until amended or replaced by the Assembly (section 74.1). In addition, the Act confers jurisdiction on the Integrity Commissioner to investigate a complaint that a Member has contravened any provision of the Code (section 100).

The Legislative Assembly has adopted a Code of Conduct for its Members (the “Code”) as well as a *Guide to the Rules relating to Conduct of Members* (the “Guide”), both of which can be found at: <https://www.ntassembly.ca/meet-members/accountability>.

The Guide contains the following statement:

Responsibility for disciplining or censuring a Member of the Assembly lies with the Legislative Assembly itself, and is a fundamental aspect of the privileges enjoyed by the Legislative Assembly as a house of parliament. Neither the Code of Conduct nor this Guide impinges upon, restricts or narrows the Legislative Assembly's fundamental right to regulate its internal affairs. Any role assigned to the Integrity Commissioner is for the purpose of assisting the Legislative Assembly in exercising this authority.

and:

The Guide to the Rules and amendments to it are approved by resolutions of the Legislative Assembly. This Guide therefore carries the full authority of the Legislative Assembly.

The complaint letter refers to the following provisions in the Code and Guide:

- Section 2 of the Code

Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

The Guide provides the following commentary to section 2:

Commentary

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Members are expected to hold themselves to a high standard of conduct. While this expectation is largely directed at a Member's public behaviour, Members must recognize that, as elected officials, behaviour in their personal lives will also be closely scrutinized. A Member's integrity is fundamental to maintaining public confidence, both in the individual Member and in the Legislative Assembly as an institution.

The Legislative Assembly will not generally be interested in the personal or private affairs of a Member. However, if a Member's conduct is such that knowledge of it would be likely to impair the public's trust in the institution of the Legislative Assembly, the Legislative Assembly may be justified in taking action. This is particularly so where the conduct in question is unlawful.

Excessive public consumption of alcohol, cannabis or other drugs or intoxicants, particularly where such consumption results in behaviour that could lessen the dignity of the Legislative Assembly, is unacceptable and constitutes a breach of the Code of Conduct.

Violation of certain laws, such as those involving a breach of trust or abuse of a position of trust, authority or intimacy, will be considered to be particularly damaging to the integrity and honour of the Legislative Assembly. This factor will be considered by the Legislative Assembly in deciding what action, if any, is to be taken under the Assembly's power to regulate its internal affairs and discipline Members.

- Section 4 of the Code

Members must carry out their official duties objectively and without consideration of personal or financial interests and must arrange their personal affairs so as to maintain the trust and confidence of the public.

The Guide provides the following commentary to section 4:

Commentary

This section of the Code of Conduct reflects a Member's obligation to avoid conflicts of interests, to declare conflicts that cannot be avoided, and to ensure a Member's actions reflect a commitment to the public interest, and not a Member's own personal or financial interests. The specific obligations of all Members regarding conflicts of interest, contracts and financial matters, gifts and benefits, and disclosure are set out in Part 3 of the Legislative Assembly and Executive Council Act.

Members must comply with the provisions of the Legislative Assembly and Executive Council Act and any other statutes, regulations, Board of Management resolutions or decisions of the Integrity Commissioner relating to ethics and conflicts of interest. Where a Member is uncertain about their compliance with conflict of interest rules, a Member should seek the advice of the Integrity Commissioner.

Members must conduct themselves professionally in their dealings with staff and contractors of the Legislative Assembly. Where a personal relationship may exist beyond a Member's professional interactions with an employee or contractor of the Legislative Assembly, Members are expected to make appropriate disclosure of the relationship. What constitutes appropriate disclosure will depend on the circumstances. Where there is any uncertainty regarding the need for disclosure of such relationships, Members are encouraged to consult the Integrity Commissioner for advice.

It is inappropriate for a Member of the Legislative Assembly to use the privileges of their office to seek special benefits or treatment for friends or family members of the Member.

- Section 8 of the Code

The Code is not designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.

The *Guide* provides the following commentary to section 8:

Commentary

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Public confidence in an individual Member and in the Legislative Assembly as an institution requires that Members hold themselves to a high standard of conduct, in both their personal and professional lives. The Legislative Assembly may at times find it necessary to respond to a Member's conduct that is found to undermine public confidence and trust, even if the provisions of this Code and all applicable laws have been respected.

The Integrity Commissioner's role in investigating a complaint that a Member has breached the Code of Conduct

Section 101 of the Act requires the Integrity Commissioner to investigate a complaint alleging that a Member has breached the Code.

Section 102 of the Act provides that the Integrity Commissioner may then either (a) dismiss the complaint, or (b) direct it to an inquiry by a Sole Adjudicator.

102. (1) *After conducting an investigation into the complaint, the Integrity Commissioner shall submit to the Speaker, the member or former member complained of and the complainant, a report, with reasons, advising that the Integrity Commissioner*

(a) is dismissing the complaint, where the Integrity Commissioner has determined that

(i) the complaint is frivolous or vexatious or was not made in good faith,

- (ii) *there are insufficient grounds to warrant an inquiry,*
 - (iii) *the complaint does not disclose a contravention of this Part or the Code of Conduct,*
 - (iv) *a contravention of this Part or the Code of Conduct was minor or was committed through inadvertence or by reason of an error in judgment made in good faith,*
 - (v) *the member or former member took all reasonable measures to prevent a contravention of this Part or the Code of Conduct, or*
 - (vi) *the public interest would not be served if the complaint proceeded to an inquiry before a Sole Adjudicator; or*
- (b) *is directing that an inquiry be held before a Sole Adjudicator.*
- (2) *The Speaker shall deliver a copy of the report to each member of the Legislative Assembly and to the Clerk.*
- ...
- (4) *The Speaker shall, at the first opportunity, lay a copy of the report before the Legislative Assembly.*

Accordingly, my task is a gate-keeper to decide whether the complaints should be dismissed or directed to an inquiry by a Sole Adjudicator.

Conclusions from the Investigation

After considering the information I have received during my investigation, I have concluded that the complaint cannot be dismissed and must be directed to an inquiry before a Sole Adjudicator.

In making this decision, I have considered the unambiguous and mandatory requirements for self-isolation contained in the Public Health Order.

In addition, I have carefully considered the provisions contained in section 102(1)(a) of the Act which would permit me to dismiss the complaint, and have concluded that none of them applies to this situation for the following reasons:

(i) The complaint is not frivolous, vexatious or made in bad faith

A complaint that a Member has breached a mandatory public health order which has the force of law, and has issued an inaccurate or misleading public statement about being in compliance with the order, cannot be characterized as being frivolous or vexatious. There is no evidence whatever that the complaint, which was made at the direction of the MLAs' caucus, was made in bad faith.

(ii) The facts in the public record are sufficient grounds to warrant an inquiry

The facts in the public record establish that Mr. Norn's required self-isolation period would not have ended until 14 days *after* his return to the NWT late on April 4—that is, *after* April 18. The public record includes numerous statements by Mr. Norn that his isolation period was from April 4 to April 18, and that he had complied fully with the required 14-day self-isolation period. However, it also includes Mr. Norn's subsequent admission that he had gone to the Legislative Assembly on April 17 before the end of the 14-day self-isolation period,¹ which is inconsistent with his previous statements.

The public record also indicates that Mr. Norn went to the Racquet Club on April 18, which was prior to the expiry of his self-isolation period.

The public record also contains Mr. Norn's inaccurate statements that he had complied with the mandatory self-isolation requirement.

Both Mr. Norn's breach of the mandatory self-isolation period, and his inaccurate statements that he had complied with that obligation, are sufficient grounds to warrant an inquiry.

¹ In his conversation with the CBC on May 5, 2021 which is referred to in the complaint:

“Yes, yes, I did. I'll wear that,” he said. “If public health wants to do something with that, they can. Absolutely, I'll own it.”

(iii) The facts in the public record disclose a contravention of the Code

The Code requires Members to comply with the law, hold themselves to a high standard of conduct, act with integrity, and not do anything to impair public trust either in the Member or the Legislative Assembly.

Mr. Norn's breaching the mandatory self-isolation period, and his making statements that he had complied with that obligation when he had not done so, both fall short of the standards contained in the Code.

(iv) The contraventions of the Code cannot be characterized as being minor, or committed through inadvertence or by reason of an error of judgment made in good faith

In my view, one cannot characterize Mr. Norn's contraventions of the Code as being minor, or committed through inadvertence or by reason of an error of judgment made in good faith.

Leaving self-isolation prior to the required 14 days is not a trivial or minor matter. The public health order was mandatory; the self-isolation requirement was well known; Mr. Norn knew about it, as evidenced by his filing his self-isolation plan. Going to the Legislative Assembly on April 17 was a major deviation from his obligation to stay isolated at his home for the required 14 days. So was his going to the Racquet Club on the following day, April 18, which was still within the self-isolation period. Neither of these was a case of going a few metres outside of his home lot, which might perhaps be considered a minor infraction.

Similarly, neither of these breaches was committed through inadvertence; both breaches of the self-isolation requirement were intentional.

With respect to making an error in judgment in good faith, even if Mr. Norn made an error in thinking that the self-isolation period included *all* of April 4 (the date he crossed the Alberta/NWT border late in the afternoon or early in the evening) so that April 17 would have been the last day of his required self-isolation, he nevertheless went to the Legislative Assembly on April 17 when he was still required to be isolated at home. That is not simply an error of judgment.

With respect to Mr. Norn's incorrect media statements after he tested positive that he had complied fully with the 14-day self-isolation requirement with references to the period from April 4 to 18 (not 17), he made those statements even though he knew that he had gone to the Legislative Assembly on April 17 (although that was not yet known to the public) and the Racquet Club on April 18. Knowingly making inaccurate statements cannot be characterized as minor contraventions of the Code, or ones which were made inadvertently, or were errors of judgment made in good faith.

- (v) **There is no evidence that the Member took any measures to prevent a contravention of the Code**
- (vi) **The public interest would not be served by dismissing the complaint instead of proceeding to an inquiry before a Sole Adjudicator.**

In my view, the public interest requires this matter to go to an inquiry. The complaint raises serious questions about the actions of Mr. Norn. Dismissing the complaint at this stage would undermine the integrity, reputation and stature of all Members, and the public's estimation of the Legislative Assembly as an institution. To dismiss the complaint would make the Code ineffective.

Although breach of the mandatory self-isolation requirement and his inaccurate statements justify sending the complaint to a Sole Adjudicator, I note that Mr. Norn's failure to respond to my request for a detailed description of the reasons why he had left the Northwest Territories, where he went, and what he did during the trip referred to in the complaint, means that I cannot determine whether the taking the trip itself would constitute a breach of the Code. That matter must also be directed to the Sole Adjudicator.

Unlike my function as a gate keeper, the function of a Sole Adjudicator is to conduct an inquiry during which Mr. Norn will have full opportunity to present evidence about his actions, make submissions about whether his actions do constitute a breach of the Code (paragraph (iii) above) or can be excused (paragraphs (iv) or (v) above). The Sole Adjudicator will make definitive determinations about these matters. In addition, if the Sole Adjudicator were to sustain the complaint, the Sole Adjudicator has the ability to impose a fine or recommend other sanctions to the Legislative Assembly.

Next steps

I am sending a copy of this report to Mr. Norn (via his legal counsel) and to Mr. Johnson.

Section 102(2) of the Act provides that the Speaker will deliver a copy of this report to each member of the Legislative Assembly and to the Clerk.

Section 102(4) requires the Speaker to lay a copy of the report before the Legislative Assembly at the earliest opportunity.

Pursuant to section 103(2), the Board of Management will recommend to the Commissioner of the NWT the appointment of the Sole Adjudicator from the list of names which the Legislative Assembly has previously approved pursuant to section 103(1).

Yours sincerely,



David Phillip Jones, Q.C.
NWT Integrity Commissioner

cc: Mr. Steve Norn, MLA c/o Mr. Steven Cooper
Mr. Rylund Johnson, MLA

Attachments

- Appendix A: Complaint letter from Mr. Rylund Johnson, MLA for Yellowknife North, made at the direction of the Members' Caucus.
- Appendix B: Media Statement on April 23, 2021 from the Member for Tu Nedhé-Wiilideh
- Appendix C: Various media articles from April 23, 2021 to May 4, 2021 about Mr. Norn and COVID-19.
- Appendix D: Public Health Order COVID-19 Travel Restrictions Self-Isolation Protocol, amended December 1, 2020.

MR. DAVID P. JONES, Q.C.
INTEGRITY COMMISSIONER

“Caucus” is where all 19 Members of the Legislative Assembly meet as equals, free of normal position, to set broad strategic direction for a Legislative Assembly and discuss matters of widespread importance to the Northwest Territories as they arise. Caucus is intended to provide a venue where Members can share their views freely and confidentially, without those comments being repeated or disclosed.

Further, pursuant to the Consensus Government Process Conventions¹, Caucus’ mandate includes the Code of Conduct for Members of the Northwest Territories Legislative Assembly (Code of Conduct)², and discipline of Members.

It is important to note that Caucus is not a decision-making body, but can provide direction. In this case, Caucus has directed that I, the Caucus Chair, file a complaint with you against Mr. Steve Norn, the MLA for Tu Nedhé-Wiilideh, for breaches of the Code of Conduct. In filing this complaint, I have used publicly available information. I have not disclosed Caucus discussions.

It is alleged that Mr. Norn breached the following sections of the Code of Conduct:

- Section 2 – Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members

¹ Northwest Territories Legislative Assembly, “TD 373-19(2) Consensus Government in the Northwest Territories – Guiding Principles and Process Conventions”, Tabled on March 30, 2021, https://www.ntassembly.ca/sites/assembly/files/td_373-192.pdf, retrieved May 5, 2021.

² Northwest Territories Legislative Assembly, “Members’ Accountability”, <https://www.ntassembly.ca/meet-members/accountability> Retrieved on May 5, 2021.

shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

- Section 4 - Members must carry out their official duties objectively and without consideration of personal or financial interests, and must arrange their personal affairs so as to maintain the trust and confidence of the public.

.../2

- Section 8 - The Code is not designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.³

It is alleged that Mr. Norn breached the Code of Conduct by:

- Allegation One - Breaching sections 2(a) and (d) of the Public Health Order - COVID-19 Travel Restrictions and Self-Isolation Protocol - As amended December 1, 2020 (Self-Isolation Order)⁴ by:
 - failing to self-isolate for 14 days, in accordance with the self-isolation requirements set out in Appendix A of the Order; and
 - failing to comply with his self-isolation plan.
- Allegation Two - Misleading the public regarding his compliance with the Self-Isolation Order.

CIRCUMSTANCES OF ALLEGATION ONE

Mr. Norn publicly stated that he travelled by car out of the Northwest Territories to Alberta on Thursday April 1, 2021 for a family emergency. He returned on Sunday April 4, 2021, crossing the Alberta/NWT border in the late afternoon/early evening.⁵ In his statement, Mr. Norn noted that he filed a self-isolation plan on April 1, 2021 identifying he would self-isolate at home. Mr. Norn's isolation period would have ended on April 18, 2021.

On April 17, 2021, while he was subject to the Self-Isolation Order, Mr. Norn left his home, and entered the Legislative Assembly. As the Assembly was not aware he was self-isolating at the time, he was allowed access to the

³ *Ibid.*

⁴ Government of the Northwest Territories, "Public Health Order – Travel Restrictions and Self-Isolation Protocol – As Amended December 1, 2020", 12/01/2020 <https://www.gov.nt.ca/covid-19/en/public-health-order-%E2%80%93-travel-restrictions-and-self-isolation-protocol-amended-december-1-2020> retrieved May 5, 2021.

⁵ Norn, Steve. "Statement by Mr. Steve Norn, the MLA for Tu Nedhé-Wiilideh", issued April 23, 2021 (attached).

building. Mr. Norn has publicly admitted that he did breach the order by attending the Assembly.⁶

In addition to attending the Legislative Assembly, I seek clarification on whether Mr. Norn may have had contact with other people in violation of the Self-Isolation Order.

.../3

-3-

CIRCUMSTANCES OF ALLEGATION TWO

On April 23, 2021 Mr. Norn did an interview with Ollie Williams from Cabin Radio. In the story published by Cabin Radio, Mr. Norn is quoted as saying “I followed all the rules, I was up front with everybody,” and “I stayed home” when referring to residents concern about whether isolation rules had been broken.⁷

On May 5, 2021 in a conversation with CBC, Mr. Norn is reported as confirming he broke his two-week isolation period after travelling. It is reported that Mr. Norn said, “Yes, yes, I did. I’ll wear that.” And “If public health wants to do something with that, they can. Absolutely, I’ll own it.”

APPLICATION OF THE CODE OF CONDUCT

Sections 2 and 8 of the Code of Conduct

Both allegations are believed to be breaches of Code of Conduct. As noted in the Guide to the Code of Conduct:

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Members are expected to hold themselves to a high standard of conduct. While this expectation is largely directed at a Member’s public behaviour, Members must recognize that, as elected officials, behaviour in their personal lives will also be closely scrutinized. A Member’s integrity is fundamental to maintaining public confidence, both in the individual

⁶ CBC News, “NWT MLA’s broken isolation leads to integrity complaint”, May 5, 2021, <https://www.cbc.ca/news/canada/north/steve-norn-integrity-commissioner-1.6014145>, retrieved May 5, 2021.

⁷ Cabin Radio. “Steve Norn says he and family member are this week’s YK cases.” April 23, 2021. <https://cabinradio.ca/60772/news/yellowknife/steve-norn-says-he-and-family-member-are-this-weeks-yk-cases/> Retrieved on May 5, 2021.

Member and in the Legislative Assembly as an institution.

The Legislative Assembly will not generally be interested in the personal or private affairs of a Member. However, if a Member's conduct is such that knowledge of it would be likely to impair the public's trust in the institution of the Legislative Assembly, the Legislative Assembly may be justified in taking action. This is particularly so where the conduct in question is unlawful.

[...]

.../4

-4-

Violation of certain laws, such as those involving a breach of trust or abuse of a position of trust, authority or intimacy, will be considered to be particularly damaging to the integrity and honour of the Legislative Assembly. This factor will be considered by the Legislative Assembly in deciding what action, if any, is to be taken under the Assembly's power to regulate its internal affairs and discipline Members.⁸

Mr. Norn's violation of the Self-Isolation Order, if confirmed, is an offence under section 49 of the *Public Health Act*, and as such would be a breach of a territorial law. Mr. Norn has failed to hold himself to the lawful standard of conduct, let alone the higher or more stringent standards of conduct required as a Member to protect the public interest and to enhance public confidence and trust.

Throughout the pandemic, the Self-Isolation Order has been the single most-effective tool in protecting the Northwest Territories from the spread of COVID-19. Similarly, since the beginning of the pandemic, the Chief Public Health Officer has recommended against all non-essential travel outside of the Northwest Territories. This message has been underscored repeatedly by the Government and Members.

⁸ *Supra*, note 2.

Since the identification of a cluster of cases associated with Mr. Norn, additional positive tests have been identified, with a new cluster of 20 confirmed cases, many young children, and more than 1000 close contacts now self-isolating.⁹ While a direct link between the two clusters has not been identified publicly, Public Health officials have ruled out community transmission.¹⁰

People have made many sacrifices to keep the Territories safe over the past 14 months. A failure to self-isolate in accordance with the Self-Isolation Order, questions the integrity of Mr. Norn, and the institution, as it makes it appear that those same sacrifices do not apply to Members.

Mr. Norn's breach has been the subject of extensive news coverage and public comment, drawing attention to the Legislative Assembly, and having an effect on all Members. A copy of the news coverage relating to Mr. Norn, as of May 5, 2021 is included with this complaint, as Appendix A.

.../5

-5-

Mr. Norn is reported to have publicly provided false information about his compliance with the Self-Isolation Order. As a Member's integrity is fundamental to maintaining public confidence, this causes great concern.

Section 4 of the Code of Conduct

Mr. Norn's failure to organize his personal affairs and responsibilities, including complying with the Self-Isolation Order, is a breach of the Code of Conduct. As noted in the Guide to the Code of Conduct:

This section of the Code of Conduct reflects a Member's obligation to avoid conflicts of interests, to declare conflicts that cannot be avoided, and to ensure a Member's actions reflect a commitment to the public interest, and not a Member's own personal or financial interests.¹¹

⁹ CBC News, "Yellowknife has 20 active cases of COVID-19, no community transmission so far", May 4, 2021, <https://www.cbc.ca/news/canada/north/yellowknife-covid-19-cases-1.6013927>, retrieved May 5, 2021.

¹⁰ *Ibid.*

¹¹ *Supra*, note 2.

This section deals with ethics and conflict of interests. In not following the Self-Isolation Order, Mr. Norn's actions failed to reflect a commitment to the public interest. During this pandemic, the public interest in the Northwest Territories has been for everyone to comply with the Public Health Orders to protect each other from COVID-19.

I am available at Rylund_Johnson@ntassembly.ca or (867) 767-9143, ext. 12173 if you have questions regarding this complaint.

A handwritten signature in black ink, appearing to read 'Rylund Johnson', with a long horizontal flourish extending to the right.

Rylund Johnson
MLA, Yellowknife North

Attachment

- c. Members of the Legislative Assembly
Acting Clerk of the Legislative Assembly

From: [LA PAC](#)
To: [Glen Rutland](#)
Subject: FW: Media Statement: Statement from the Member for Tu Nedhe-Wiilideh/Déclaration aux médias du député de Tu Nedhé-Wiilideh, Steve Norn
Date: April 23, 2021 10:40:08 AM
Attachments: [image001.png](#)

French version has been distributed.

Nicole

From: LA PAC
Sent: April 23, 2021 10:39 AM
Subject: RE: Media Statement: Statement from the Member for Tu Nedhe-Wiilideh/Déclaration aux médias du député de Tu Nedhé-Wiilideh, Steve Norn



Yellowknife, le 23 avril 2021 – M. Steve Norn, député de Tu Nedhé-Wiilideh, a fait la déclaration suivante :

« J'ai décidé d'informer le public que c'est moi qui, cette semaine, ai reçu un résultat positif à un test de dépistage de la COVID-19. Le deuxième cas confirmé annoncé aujourd'hui est un membre de ma famille, qui est actuellement en auto-isolement.

J'ai quitté les Territoires du Nord-Ouest en voiture le 1^{er} avril 2021 pour me rendre en Alberta pour une urgence familiale. À mon retour, le 4 avril 2021, j'ai traversé la frontière en début de soirée.

Conformément aux exigences, j'ai rempli un plan d'isolement le 1^{er} avril 2021, dans lequel j'ai précisé que j'allais m'isoler à la maison.

En soirée le lundi 19 avril 2021, l'administratrice en chef de la santé publique a signalé la présence du virus de la COVID-19 à Yellowknife grâce à une analyse des eaux usées, et a demandé à toute personne qui était en auto-isolement ou en autosurveillance entre le 14 avril et le 17 avril 2021 de passer un test de dépistage de la COVID-19.

Comme je m'auto-isolais ces jours-là, le mardi 20 avril 2021, je suis allé passer un test de dépistage, même si je ne présentais aucun symptôme. Le jour suivant, le mercredi 21 avril 2021, le Service de santé publique m'a informé que le résultat de mon test était positif à la COVID-19. Je suis immédiatement retournée en auto-isolement.

J'aimerais remercier tous les professionnels de la santé du ministère de la Santé et des Services sociaux et de l'Administration des services de santé et des services sociaux des Territoires du Nord-Ouest qui travaillent pour nous protéger.

Étant donné que je suis une personnalité publique, j'ai décidé d'informer la population de

ce qui s'est passé. Toutefois, à partir de maintenant, j'aimerais demander à la population de respecter ma vie privée et celle des membres de ma famille. Mes adjoints de circonscription sont disponibles pour répondre à toute question concernant la circonscription Tu Nedhé-Wiilideh. »

From: LA PAC

Sent: April 23, 2021 9:30 AM

Subject: Media Statement: Statement from the Member for Tu Nedhe-Wiilideh



YELLOWKNIFE (April 23, 2021) - Mr. Steve Norn, the MLA for Tu Nedhe-Wiilideh, has issued the following statement:

“I have chosen to identify myself as the positive COVID test result this week. The second confirmed test announced today is a member of my family, and is self-isolating.

I travelled by car to Alberta in response to a family emergency. I left the Northwest Territories on Thursday April 1, 2021 and returned on Sunday April 4, 2021, crossing the border in the late afternoon/early evening.

I filed a self-isolation plan on April 1, 2021 as required, identifying that I would isolate at home.

On the evening of Monday April 19, 2021, the Chief Public Health Officer identified that wastewater testing had identified the presence of the COVID-19 virus in Yellowknife, and asked that any person who was self-isolating or self-monitoring from April 14 - 17, 2021 get tested.

As I was self-isolating on those days, I went and had a COVID-19 test on Tuesday April 20, 2021, even though I had no symptoms. The next day, on Wednesday April 21, 2021, I was notified by public health that I had tested positive for COVID-19 and immediately returned to self-isolation.

I want to thank all the health professionals at the Department of Health and Social Services and the Northwest Territories Health and Social Services Authority for their work in keeping us safe.

Given my public role, I have chosen to identify myself, however I do ask that people respect my family's privacy as we move forward.

My team of Constituency Assistants is available to take calls for constituency matters.”

French to follow.



Public Health Order – COVID-19 TRAVEL RESTRICTIONS AND SELF-ISOLATION PROTOCOL – AS AMENDED DECEMBER 1, 2020

WHEREAS the Minister, upon the recommendation of the Chief Public Health Officer, has declared a Public Health Emergency in the Northwest Territories effective March 18, 2020;

AND WHEREAS the Public Health Emergency has been subsequently renewed and remains in force;

AND WHEREAS the Chief Public Health Officer may take certain actions including issuing directions or orders for the purpose of protecting the public health under the authority of the *Public Health Act*, S.N.W.T. 2007, c.17 (hereinafter the “Act”);

AND WHEREAS the Chief Public Health Officer issued an order dated July 16, 2020 entitled “COVID-19 Travel Restrictions and Self-Isolation Protocol - As amended July 16, 2020” (the “July 16, 2020 order”);

AND WHEREAS the Chief Public Health Officer now wishes to amend the July 16, 2020 order, including but not limited to the following amendments: (i) the elimination of the exemptions applying to travellers from Nunavut; (ii) a revision to the self-isolation protocols; (iii) a revision to the COVID-19 symptoms; and (iv) the addition of new self-isolation requirements for persons sharing accommodations in the Northwest Territories with a person who has travelled across an interjurisdictional border;

The Chief Public Health Officer, in accordance with subsection 42(e) of the *Act* hereby amends the July 16, 2020 order as follows:

TRAVEL PROHIBITION AND EXEMPTIONS

1. Pursuant to section 33(1) of the Act, and in order to prevent, combat, or alleviate the effects of the Public Health Emergency, all persons are prohibited from travel within the Northwest Territories that originated from across any inter-jurisdictional border with the following exceptions, which are subject to further conditions in this order:
 - a. Northwest Territories residents, which include students temporarily residing in the Northwest Territories to attend an educational facility, college, or trade school (“Residents”);
 - b. Persons providing services in the course of importation/exportation of goods and other supply chain transportation workers, including movers



- and carriers, and those persons who are necessary to maintain supply chain transportation services (hereinafter “Supply Chain Workers”);
- c. Flight crews and airline employees (hereinafter “Flight Crew Workers and Airline Employees”) arriving in the Northwest Territories;
 - d. Persons providing essential services in the Northwest Territories, including but not limited to:
 - (i) health and social service providers;
 - (ii) postal service workers;
 - (iii) peace officers and others employed for the preservation and maintenance of the public peace;
 - (iv) emergency responders;
 - (v) employees of and persons engaged by the Department of National Defence;
 - (vi) municipal enforcement officers;
 - (vii) community government essential service workers;
 - (viii) federal and territorial parks officers; and
 - (ix) correctional workers engaged in the transportation of inmates to a correctional facility.(hereinafter “Essential Services Workers”)
 - e. Persons providing child and dependent care to Essential Services Workers (hereinafter “Support Workers”) in the Northwest Territories;
 - f. A person from outside the Northwest Territories who has an Aboriginal or treaty right to harvest in an area of the Northwest Territories while exercising that right within the Northwest Territories, provided those persons do not travel to a community or populated area of the Northwest Territories or have any contact with persons in the Northwest Territories;
 - g. Transient workers employed at a work camp where work is being done in relation to the mineral and petroleum resources industry in the Northwest Territories;
 - h. Persons engaged in work on the construction of public and Indigenous infrastructure projects. This includes:
 - i. Persons attending remote work camps in the Northwest Territories where workers reside at the workplace for the duration of their rotation; and
 - ii. Persons attending open, non-remote workplaces in the



Northwest Territories where workers interact with community residents during work and when off shift (hereinafter “Non-Remote Infrastructure Workers”).

- i. Persons being transported to a correctional facility in the Northwest Territories;
- j. Persons traveling through the Northwest Territories in transit to another jurisdictional destination (hereinafter “Persons in Transit”); and
- k. Persons traveling within the Northwest Territories to pursue the gaining of a livelihood (hereinafter “Non-Resident Worker”);
- l. Persons moving to and taking up residence in the Northwest Territories which includes students moving to and taking up residence in the Northwest Territories to attend an educational facility, college, or trade school (hereinafter “New Residents”);
- m. Persons whose travel originates in Alberta east of and including Peace Point, west of and including Hay Camp, and north of but not including the community of Fort Chipewyan and terminates in the vicinity of Fort Smith. Notwithstanding anything in this Order, persons exempt under this section may not be required to self-isolate and shall apply to a Public Health Officer in Fort Smith before traveling within the Northwest Territories and comply with further direction issued; and
- n. Persons otherwise granted prior approval by the Chief Public Health Officer for reasons including but not limited to compassionate or family reunification. To request approval the person must contact Protect NWT at protectnwt@gov.nt.ca or by calling 1-833-378-8297, prior to traveling within the Northwest Territories.

NORTHWEST TERRITORIES RESIDENTS AND NEW RESIDENTS

- 2. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19, Residents and New Residents entering the Northwest Territories from across an inter-jurisdictional border, who are not subject to other exemptions herein, shall:
 - (a) Self-isolate for 14 days, in accordance with the self-isolation requirements set out at Appendix A of this Order, immediately



following entry into the Northwest Territories in one of Yellowknife, Inuvik, Hay River or Fort Smith (“the Four Designated Communities”);

- (b) Within 24 hours of entering the Northwest Territories complete and submit a [resident self-isolation plan](#) to ProtectNWT@gov.nt.ca or by calling 1-833-378-8297. Self-Isolation plans must be approved by Protect NWT;
- (c) Stay at home or in one residence until a Self-Isolation Plan has been approved;
- (d) Upon approval of the Self-Isolation Plan, comply with the Self-Isolation Plan;
- (e) Complete and submit the symptom check form to Protect NWT online or by calling 1-833-378-8297 on each of the 2nd, 6th, 10th and 14th days following entry into the Northwest Territories;
- (f) Contact a local health care provider if they exhibit any symptoms of COVID-19 including fever, new or worsening cough, shortness of breath or difficulty breathing, generally feeling unwell, chills, muscle aches, fatigue or weakness, sore throat, congestion or runny nose, headache, diarrhoea, nausea or vomiting, abdominal pain, loss of appetite, loss of sense of taste, loss of sense of smell, skin changes or rashes (hereinafter “symptoms of COVID- 19”);
- (g) Residents of the Northwest Territories, who have an Aboriginal or treaty right to harvest and who return to the to the Northwest Territories after exercising their right to harvest outside of the Northwest Territories are exempt from the directives at paragraphs 2 (a) to (e) herein if, while they were in the area outside the Northwest Territories, they:
 - (i) Did not go to a community or populated area;
 - (ii) Maintained a minimum distance of 2 meters from any person who is not a member of their household; and
 - (iii) Did not gather in any indoor location with any person who is not a member of their household.



- (h) For greater certainty, all residents of the Northwest Territories, who have an Aboriginal or treaty right to harvest and who return to the Northwest Territories after exercising their right to harvest outside of the Northwest Territories and who do not satisfy the conditions set out in paragraph 2(g) must self-isolate on their return and comply with all the conditions and directives set out in paragraph 2(a) to (e) herein.
- (i) New Residents, in addition to the other requirements set out in paragraph 2 herein, must submit a [resident self-isolation plan](#) to ProtectNWT@gov.nt.ca or by calling 1-833-378-8297. Notwithstanding paragraph 2(b), New Residents shall have self-isolation plans approved by Protect NWT prior to traveling within the Northwest Territories.

SUPPLY CHAIN WORKERS, FLIGHT CREW WORKERS AND AIRLINE EMPLOYEES

- 3. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19;
 - (a) Supply Chain Workers, Flight Crew Workers and Airline Employees travelling in the Northwest Territories, where travel originated from across an inter-jurisdictional border shall:
 - i. If in the Northwest Territories for less than 36 hours, self-monitor, and abide by [social distancing protocols](#) established by the Chief Public Health Officer while working, self-isolate while not working in accordance with the self-isolation requirements set out at Appendix A of this Order, and immediately self-isolate and contact a health care provider if they exhibit any symptoms of COVID-19;
 - ii. If in the Northwest Territories for more than 36 hours:
 - a. As soon as reasonably possible, submit a [worker self-isolation plan](#) to ProtectNWT@gov.nt.ca, or by calling 1-833-378-8297;
 - b. Self-isolate when not working, in accordance with the self-isolation requirements set out at Appendix A of this Order, established by the Chief Public Health Officer; and
 - c. Abide by [social distancing protocols](#) when working. When social distancing is not possible while working, wear a face mask or appropriate personal protective equipment to prevent the spread or transmission of COVID-19.



(b) Supply Chain Workers, Flight Crew Workers and Airline Employees who are Residents of the Northwest Territories, who have not travelled outside Canada within the past 14 days and who have travelled outside of the Northwest Territories in the course of their duties as Supply Chain Workers, Flight Crew Workers and Airline Employees are exempt from the requirements set out at paragraph 3(a) if they:

- i. Abide by the [Travel Restriction Protocol](#) established by the Chief Public Health Officer while working outside of the Northwest Territories;
- ii. Maintain 2 meters distance from persons outside their household while working. When this is not possible, wear a face mask or appropriate personal protective equipment to prevent the spread or transmission of COVID-19;
- iii. Self-isolate while not working in accordance with the self-isolation requirements set out at Appendix A of this Order;
- iv. Self-monitor for symptoms of COVID-19 and complete the [daily self-monitoring form](#) while working outside of the Northwest Territories and for 14 days following their return to the Northwest Territories, and make the completed form readily available upon request from a public health official; and
- v. Immediately self-isolate and contact a health care provider if they exhibit any symptoms of COVID-19.

(c) Employers, managers or other authorized persons having charge of Supply Chain Workers, Flight Crew Workers and Airline Employees who are Residents of the Northwest Territories shall compile and submit to a Public Health Official through Protect NWT every 90 days, an up-to-date list of their employees who, as part of their regular work duties, will work outside of the Northwest Territories and travel within the Northwest Territories from across an inter-jurisdictional border.

PERSONS IN TRANSIT

4. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19, Persons in Transit, shall:



- (a) If in the Northwest Territories for less than 12 hours, abide by [general social distancing protocols](#), and immediately self-isolate in accordance with the self-isolation requirements set out at Appendix A of this Order and contact a health care provider if they exhibit any symptoms of COVID-19;
- (b) If in the Northwest Territories for more than 12 hours, comply with all of the provisions of paragraph 2 of this order until departure from the Northwest Territories.

ESSENTIAL SERVICE WORKERS, NON-REMOTE INFRASTRUCTURE WORKERS, AND SUPPORT WORKERS

- 5. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19, Essential Services Workers, Non-Remote Infrastructure Workers and Support Workers (hereinafter “Workers”), who travel within the Northwest Territories, shall:
 - (a) Self-isolate for 14 days, in accordance with the self-isolation requirements set out at Appendix A of this Order, immediately following entry into the Northwest Territories in one of the Four Designated Communities;
 - (b) Prior to traveling within the Northwest Territories complete and submit a [worker self-isolation plan](#) to ProtectNWT@gov.nt.ca, or by calling 1-833-378-8297. Self-isolation plans must be approved by Protect NWT prior to traveling within the Northwest Territories;
 - (c) Obtain an approval document from the Chief Public Health Officer via Protect NWT, prior to traveling within the Northwest Territories;
 - (d) Upon approval of the self-isolation plan, the Worker shall comply with the self-isolation plan;
 - (e) Complete and submit the symptom check form to Protect NWT online or by calling 1-833-378-8297 on each of the 2nd, 6th, 10th and 14th days following entry into the Northwest Territories; and
 - (f) Contact a local health care provider if they exhibit any symptoms of COVID-19.
- 6. If an Employer, manager, or other authorized person having charge of the Worker (hereinafter “Employer”) reasonably believes that the Worker is unable



to comply with paragraph 5 of this Order, the Employer may request written permission from the Chief Public Health Officer for an exemption. To request an exemption, the Employer must submit the following to Protect NWT at protectnwt@gov.nt.ca, prior to the Worker traveling within the Northwest Territories:

- (a) An [application for permission to work](#); and
 - (b) A [Workplace Risk Assessment](#) and [Work Hazard Assessment](#) using the approved WSCC forms.
7. If the Employer makes a request for exemption from paragraph 5 of this Order, the Worker shall, prior to traveling within the Northwest Territories:
 - (a) Follow the [social distancing protocol for Essential Service Workers](#) for 14 days; and
 - (b) Complete a [worker self-isolation plan online](#) or by contacting Protect NWT at protectNWT@gov.nt.ca or calling 1-833- 378-8297.
8. If the Chief Public Health Officer grants the Worker an exemption from paragraph 5 of this Order the Chief Public Health Officer shall issue an approval document to the Worker via Protect NWT, prior to the Worker traveling within the Northwest Territories.
9. If approval is granted by the Chief Public Health Officer pursuant to paragraph 8 herein, the Worker shall, for the first 14 days following their arrival to the Northwest Territories:
 - (a) Wear a face mask in public when it is not possible to socially distance, including but not limited to when traveling by airplane;
 - (b) Self-isolate when not working, in accordance with the self-isolation requirements set out at Appendix A of this Order;
 - (c) Make efforts to socially distance from co-workers and members of the public while working, in accordance with protocols established by their Employer;
 - (d) Where not possible to socially distance in the workplace, wear a face mask or appropriate personal protective equipment to prevent the spread or transmission of COVID-19 in the workplace as directed by the Employer in accordance with WSCC Work Hazard Assessment;



- (e) Not travel within the Northwest Territories unless required to for the purposes of carrying out their work duties, and only in accordance with the approval granted by the Chief Public Health Officer;
 - (f) Complete and submit the symptom check form to Protect NWT online or by calling 1-833-378-8297 on each of the 2nd, 6th, 10th and 14th days following entry into the Northwest Territories; and
 - (g) Comply with any other conditions provided by the Chief Public Health Officer in the approval granted under paragraph 8 herein.
10. If a Worker displays symptoms of COVID-19, the Worker shall immediately self-isolate, notify a local health care provider and comply with any further directions provided by the Chief Public Health Officer.

PERSONS EMPLOYING ESSENTIAL SERVICE WORKERS, NON-REMOTE INFRASTRUCTURE WORKERS AND SUPPORT WORKERS

11. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19, the Employer having charge of a Worker, travelling within the Northwest Territories, where travel originated from across any inter-jurisdictional border, shall:
- (a) Ensure all Workers complete 14 days of self-isolation in one of the Four Designated Communities prior to starting work and comply with all obligations pursuant to paragraph 5 herein, unless the Worker is otherwise exempted by the Chief Public Health Officer pursuant paragraph 8;
 - (b) Establish workplace social distancing protocols consistent with the workplace risk assessment and Work Hazard Assessment completed pursuant to paragraph 6(b) herein and ensure compliance by all persons in the workplace;
 - (c) Ensure Workers, where granted permission to work pursuant to paragraph 8 herein, for the first 14 days after their arrival to the Northwest Territories:
 - i. Self-isolate when not working in accordance with the self-isolation requirements set out at Appendix A of this Order;



- ii. Make efforts to socially distance from co-workers and members of the public while working, in accordance with protocols established by their Employer;
- iii. Where not possible to socially distance in the workplace, wear a face mask or appropriate personal protective equipment to prevent the spread or transmission of COVID-19 in the workplace, in accordance with the WSCC Work Hazard Assessment;
- iv. Not travel within the Northwest Territories unless required to for the purposes of carrying out their work duties, and only in accordance with the approval granted by the Chief Public Health Officer; and
- v. Comply with all conditions provided by the Chief Public Health Officer as part of the approval granted.

NON-RESIDENT WORKERS

12. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19, Non-Resident Workers, who travel within the Northwest Territories, shall:

- (a) Self-isolate for 14 days, in accordance with the self-isolation requirements set out at Appendix A of this Order, immediately following entry into the Northwest Territories in one the Four Designated Communities;
- (b) Prior to traveling within the Northwest Territories complete and submit a [worker self-isolation plan](#) to ProtectNWT@gov.nt.ca, or by calling 1-833-378-8297. Self-isolation plans must be approved by Protect NWT prior to entering the Northwest Territories;
- (c) Obtain an approval document from the Chief Public Health Officer via Protect NWT, prior to traveling within the Northwest Territories;
- (d) Upon approval of the self-isolation plan, the Worker shall comply with the self-isolation plan;



- (e) Complete and submit the symptom check form to Protect NWT online or by calling 1-833-378-8297 on each of the 2nd, 6th, 10th and 14th days following entry into the Northwest Territories; and
- (f) Contact a local health care provider if they exhibit any symptoms of COVID-19.

SELF-ISOLATION REQUIREMENTS OF PERSONS SHARING ACCOMMODATIONS WITH TRAVELLERS

13. Pursuant to sections 25 of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19, persons in the Northwest Territories, who are not subject to other exemptions herein, sharing accommodations with a person who is required to self-isolate in accordance with this Order:

- (a) Shall immediately self-isolate in accordance with the self-isolation requirements set out at Appendix A of this Order and continue to self-isolate for 14 days from the date they began sharing accommodations with the person who is self-isolating; and
- (b) Contact a local health care provider if they exhibit any symptoms of COVID-19.

SUPPLY CHAIN WORKERS, FLIGHT CREW WORKERS AND AIRLINE EMPLOYEES SHARING ACCOMMODATIONS WITH TRAVELLERS

14. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19,

- (a) Supply Chain Workers, Flight Crew Workers and Airline Employees in the Northwest Territories, who are sharing accommodations with a person who is required to self-isolate in accordance with this Order, are exempt from the requirements set out at paragraph 13, if they:
 - i. Maintain 2 meters distance from persons outside their household while working. When this is not possible, wear a face mask or appropriate personal protective equipment to prevent the spread or transmission of COVID-19;



- ii. Self-isolate while not working in accordance with the self-isolation requirements set out at Appendix A of this Order;
- iii. Self-monitor for symptoms of COVID-19 and complete the [daily self-monitoring form](#) for 14 days, and make the completed form readily available upon request from a public health official; and
- iv. Immediately self-isolate and contact a health care provider if they exhibit any symptoms of COVID-19.

ESSENTIAL SERVICE WORKERS, NON-REMOTE INFRASTRUCTURE WORKERS, AND SUPPORT WORKERS SHARING ACCOMMODATIONS WITH TRAVELLERS

15. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19, if an Employer reasonably believes that a Worker is unable to comply with paragraph 13 of this Order, the Employer may request written permission from the Chief Public Health Officer for an exemption. To request an exemption from paragraph 13, the Employer must submit the following to Protect NWT at protectnwt@gov.nt.ca, prior to the Worker traveling within the Northwest Territories:

- (a) An [application for permission to work](#); and
- (b) A [Workplace Risk Assessment](#) and [Work Hazard Assessment](#) using the approved WSCC forms.

16. If the Employer makes a request for exemption from paragraph 13 of this Order, the Worker shall, prior to working within the Northwest Territories:

- (a) Complete a [worker self-isolation plan](#) online or by contacting Protect NWT at protectNWT@gov.nt.ca or calling 1-833- 378-8297.

17. If the Chief Public Health Officer grants the Worker an exemption from paragraph 13 of this Order the Chief Public Health Officer shall issue an approval document to the Worker via Protect NWT, prior to them being permitted to work within the Northwest Territories.

18. If approval is granted by the Chief Public Health Officer pursuant to paragraph 17 herein, the Worker shall:

- (a) Wear a face mask in public when it is not possible to socially distance;



- (b) Self-isolate when not working, in accordance with the self-isolation requirements set out at Appendix A of this Order;
- (c) Make efforts to socially distance from co-workers and members of the public while working, in accordance with protocols established by their Employer;
- (d) Where not possible to socially distance in the workplace, wear a face mask or appropriate personal protective equipment to prevent the spread or transmission of COVID-19 in the workplace as directed by the Employer in accordance with WSCC Work Hazard Assessment;
- (e) Not travel within the Northwest Territories unless required to for the purposes of carrying out their work duties, and only in accordance with the approval granted by the Chief Public Health Officer;
- (f) Complete and submit the symptom check form to Protect NWT online or by calling 1-833-378-8297 on each of the 2nd, 6th, 10th and 14th days following entry into the Northwest Territories; and
- (g) Comply with any other conditions provided by the Chief Public Health Officer in the approval granted under paragraph 16 herein.

19. If the Worker displays symptoms of COVID-19, they shall immediately self-isolate, notify a local health care provider and comply with any further directions provided by the Chief Public Health Officer.

PERSONS EMPLOYING ESSENTIAL SERVICE WORKERS, NON-REMOTE INFRASTRUCTURE WORKERS, AND SUPPORT WORKERS SHARING ACCOMMODATIONS WITH TRAVELLERS

20. Pursuant to section 25(1) of the Act and in order to decrease or eliminate the risk to the public health in relation to COVID-19, the Employer having charge of a Worker exempted by the Chief Public Health Officer pursuant to paragraph 17, shall:

- (a) Establish workplace social distancing protocols consistent with the workplace risk assessment and Work Hazard Assessment completed pursuant to paragraph 15(b) herein and ensure compliance by all persons in the workplace; and



- (b) Ensure Workers, where granted permission to work pursuant to paragraph 17 herein, for the first 14 days after they begin self-isolating in the Northwest Territories:
- i. Self-isolate when not working in accordance with the self-isolation requirements set out at Appendix A of this Order;
 - ii. Make efforts to socially distance from co-workers and members of the public while working, in accordance with protocols established by their Employer;
 - iii. Where not possible to socially distance in the workplace, wear a face mask or appropriate personal protective equipment to prevent the spread or transmission of COVID-19 in the workplace, in accordance with the WSCC Work Hazard Assessment;
 - iv. Not travel within the Northwest Territories unless required to for the purposes of carrying out their work duties, and only in accordance with the approval granted by the Chief Public Health Officer; and
 - v. Comply with all conditions provided by the Chief Public Health Officer as part of the approval granted.

EXEMPTIONS

21. Notwithstanding anything in this Order, the Chief Public Health Officer may exempt a person or class of persons from the application of this Order.

Any person who is subject to this Order may appeal the Order to the Supreme Court of the Northwest Territories pursuant to s.47 of the *Public Health Act* within 30 days after the day on which the Order is served on the person in accordance with the provisions of the *Public Health Act*.

It is an offence pursuant to s.49 of the *Public Health Act* for a person to fail to comply with the *Public Health Act*, its regulations or an order made under it.

Any person who has any questions or inquiries about this Order, or who wishes to apply for an approval or exemption related to this Order, can contact Protect NWT protectnwt@gov.nt.ca or 1-833-378-8297 and can obtain a copy of this Order from Protect NWT or from <https://www.gov.nt.ca/covid-19>.



This Order is effective on December 1, 2020 at 12:00pm and remains in effect for the duration of the Public Health Emergency, unless otherwise rescinded.

Any person in the process of self-isolating at the time this Order comes into effect is subject to the terms of the July 16, 2020 order and their approved self-isolation plan, approval or exemption.

Any person who has received approval for a self-isolation plan, or any other type of approval or exemption that will begin after the time this Order comes into effect, must comply with the terms of this Order and their approved self-isolation plan, approval or exemption, as if that self-isolation plan, approval or exemption had been issued pursuant to this Order.

<original signed by>

Dr. Kami Kandola
Chief Public Health Officer



Appendix A Self-Isolation Protocol

When you enter the Northwest Territories from across an inter-jurisdictional border:

- Limit your interactions with other persons as much as possible. Wear a face mask and go directly to your self-isolation location (for example: home, hotel, rental accommodation or Isolation Centre).
- If you are being picked up in a car, taxi or other motor vehicle, sit in the back seat as far from the driver as possible. Do not share a car, taxi or other motor vehicle with any person, other than the driver if necessary, who is not self-isolating in the same home, hotel room or accommodation as you.
- If you have to make a long drive, only make short stops for take-out food, fuel or to use washroom facilities, if necessary, and wear a face mask. Contactless payment must be used where available and any time spent inside a store, gas station, or other similar indoor location is to be kept to a minimum.
- Keep a 2 metre distance from other persons you will not be self-isolating with.

Once at your self-isolation location you must self-isolate as follows:

- Stay at your self-isolation location (for example: home, hotel, rental accommodation or Isolation Centre) for 14 days. If you do not have a confirmed case of COVID-19, have no COVID-19 symptoms, are not a close contact of a person suspected of having COVID-19 and are not part of a suspected outbreak of COVID-19, you can go outdoors for fresh air. Do not go to outdoor spaces where persons congregate. Keep a 2 metre distance from other persons and wear a face mask where this is not possible. Do not use public transportation or share a car, taxi or other motor vehicle.
- While at your self-isolation location, stay in a separate room away from other persons. Always wear a face mask when outside your room. Use a separate bathroom. If not possible, sanitize the bathroom after each use. Do not share any items with household members. Do not have any visitors at your self-isolation location.
- It is permitted to pass through common areas of a self-isolation location, such as a shared corridor or lobby, to access the outdoors, but only if a face mask is worn.
- Do not go to work, school, or enter any other indoor spaces for 14 days from the time you entered the Northwest Territories.
- If you have a medical appointment or need medical care, contact your health care provider and follow their instructions.
- Follow all the requirements in your approved Self-Isolation Plan.
- If you are a worker who is permitted to work, you are required to self-isolate when you are not at work for 14 days in accordance with all of the requirements of this Self-Isolation Protocol.

Appendix 2 - Complaint Against Steve Norn on behalf of Caucus



WWW.ASSEMBLY.GOV.NT.CA
WWW.ASSEMBLY.GOV.NT.CA/FR

MR. DAVID P. JONES, Q.C.
INTEGRITY COMMISSIONER

“Caucus” is where all 19 Members of the Legislative Assembly meet as equals, free of normal position, to set broad strategic direction for a Legislative Assembly and discuss matters of widespread importance to the Northwest Territories as they arise. Caucus is intended to provide a venue where Members can share their views freely and confidentially, without those comments being repeated or disclosed.

Further, pursuant to the Consensus Government Process Conventions¹, Caucus’ mandate includes the Code of Conduct for Members of the Northwest Territories Legislative Assembly (Code of Conduct)², and discipline of Members.

It is important to note that Caucus is not a decision-making body, but can provide direction. In this case, Caucus has directed that I, the Caucus Chair, file a complaint with you against Mr. Steve Norn, the MLA for Tu Nedhé-Wiilideh, for breaches of the Code of Conduct. In filing this complaint, I have used publicly available information. I have not disclosed Caucus discussions.

It is alleged that Mr. Norn breached the following sections of the Code of Conduct:

- Section 2 – Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members

¹ Northwest Territories Legislative Assembly, “TD 373-19(2) Consensus Government in the Northwest Territories – Guiding Principles and Process Conventions”, Tabled on March 30, 2021, https://www.ntassembly.ca/sites/assembly/files/td_373-192.pdf, retrieved May 5, 2021.

² Northwest Territories Legislative Assembly, “Members’ Accountability”, <https://www.ntassembly.ca/meet-members/accountability> Retrieved on May 5, 2021.

shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

- Section 4 - Members must carry out their official duties objectively and without consideration of personal or financial interests, and must arrange their personal affairs so as to maintain the trust and confidence of the public.

.../2

- Section 8 - The Code is not designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.³

It is alleged that Mr. Norn breached the Code of Conduct by:

- Allegation One - Breaching sections 2(a) and (d) of the Public Health Order - COVID-19 Travel Restrictions and Self-Isolation Protocol - As amended December 1, 2020 (Self-Isolation Order)⁴ by:
 - failing to self-isolate for 14 days, in accordance with the self-isolation requirements set out in Appendix A of the Order; and
 - failing to comply with his self-isolation plan.
- Allegation Two - Misleading the public regarding his compliance with the Self-Isolation Order.

CIRCUMSTANCES OF ALLEGATION ONE

Mr. Norn publicly stated that he travelled by car out of the Northwest Territories to Alberta on Thursday April 1, 2021 for a family emergency. He returned on Sunday April 4, 2021, crossing the Alberta/NWT border in the late afternoon/early evening.⁵ In his statement, Mr. Norn noted that he filed a self-isolation plan on April 1, 2021 identifying he would self-isolate at home. Mr. Norn's isolation period would have ended on April 18, 2021.

On April 17, 2021, while he was subject to the Self-Isolation Order, Mr. Norn left his home, and entered the Legislative Assembly. As the Assembly was not aware he was self-isolating at the time, he was allowed access to the

³ *Ibid.*

⁴ Government of the Northwest Territories, "Public Health Order – Travel Restrictions and Self-Isolation Protocol – As Amended December 1, 2020", 12/01/2020 <https://www.gov.nt.ca/covid-19/en/public-health-order-%E2%80%93-travel-restrictions-and-self-isolation-protocol-amended-december-1-2020> retrieved May 5, 2021.

⁵ Norn, Steve. "Statement by Mr. Steve Norn, the MLA for Tu Nedhé-Wiilideh", issued April 23, 2021 (attached).

building. Mr. Norn has publicly admitted that he did breach the order by attending the Assembly.⁶

In addition to attending the Legislative Assembly, I seek clarification on whether Mr. Norn may have had contact with other people in violation of the Self-Isolation Order.

.../3

-3-

CIRCUMSTANCES OF ALLEGATION TWO

On April 23, 2021 Mr. Norn did an interview with Ollie Williams from Cabin Radio. In the story published by Cabin Radio, Mr. Norn is quoted as saying “I followed all the rules, I was up front with everybody,” and “I stayed home” when referring to residents concern about whether isolation rules had been broken.⁷

On May 5, 2021 in a conversation with CBC, Mr. Norn is reported as confirming he broke his two-week isolation period after travelling. It is reported that Mr. Norn said, “Yes, yes, I did. I’ll wear that.” And “If public health wants to do something with that, they can. Absolutely, I’ll own it.”

APPLICATION OF THE CODE OF CONDUCT

Sections 2 and 8 of the Code of Conduct

Both allegations are believed to be breaches of Code of Conduct. As noted in the Guide to the Code of Conduct:

As elected representatives of the people of the Northwest Territories, Members hold a position of trust and authority. Members are expected to hold themselves to a high standard of conduct. While this expectation is largely directed at a Member’s public behaviour, Members must recognize that, as elected officials, behaviour in their personal lives will also be closely scrutinized. A Member’s integrity is fundamental to maintaining public confidence, both in the individual

⁶ CBC News, “NWT MLA’s broken isolation leads to integrity complaint”, May 5, 2021, <https://www.cbc.ca/news/canada/north/steve-norn-integrity-commissioner-1.6014145>, retrieved May 5, 2021.

⁷ Cabin Radio. “Steve Norn says he and family member are this week’s YK cases.” April 23, 2021. <https://cabinradio.ca/60772/news/yellowknife/steve-norn-says-he-and-family-member-are-this-weeks-yk-cases/> Retrieved on May 5, 2021.

Member and in the Legislative Assembly as an institution.

The Legislative Assembly will not generally be interested in the personal or private affairs of a Member. However, if a Member's conduct is such that knowledge of it would be likely to impair the public's trust in the institution of the Legislative Assembly, the Legislative Assembly may be justified in taking action. This is particularly so where the conduct in question is unlawful.

[...]

.../4

-4-

Violation of certain laws, such as those involving a breach of trust or abuse of a position of trust, authority or intimacy, will be considered to be particularly damaging to the integrity and honour of the Legislative Assembly. This factor will be considered by the Legislative Assembly in deciding what action, if any, is to be taken under the Assembly's power to regulate its internal affairs and discipline Members.⁸

Mr. Norn's violation of the Self-Isolation Order, if confirmed, is an offence under section 49 of the *Public Health Act*, and as such would be a breach of a territorial law. Mr. Norn has failed to hold himself to the lawful standard of conduct, let alone the higher or more stringent standards of conduct required as a Member to protect the public interest and to enhance public confidence and trust.

Throughout the pandemic, the Self-Isolation Order has been the single most-effective tool in protecting the Northwest Territories from the spread of COVID-19. Similarly, since the beginning of the pandemic, the Chief Public Health Officer has recommended against all non-essential travel outside of the Northwest Territories. This message has been underscored repeatedly by the Government and Members.

⁸ *Supra*, note 2.

Since the identification of a cluster of cases associated with Mr. Norn, additional positive tests have been identified, with a new cluster of 20 confirmed cases, many young children, and more than 1000 close contacts now self-isolating.⁹ While a direct link between the two clusters has not been identified publicly, Public Health officials have ruled out community transmission.¹⁰

People have made many sacrifices to keep the Territories safe over the past 14 months. A failure to self-isolate in accordance with the Self-Isolation Order, questions the integrity of Mr. Norn, and the institution, as it makes it appear that those same sacrifices do not apply to Members.

Mr. Norn's breach has been the subject of extensive news coverage and public comment, drawing attention to the Legislative Assembly, and having an effect on all Members. A copy of the news coverage relating to Mr. Norn, as of May 5, 2021 is included with this complaint, as Appendix A.

.../5

-5-

Mr. Norn is reported to have publicly provided false information about his compliance with the Self-Isolation Order. As a Member's integrity is fundamental to maintaining public confidence, this causes great concern.

Section 4 of the Code of Conduct

Mr. Norn's failure to organize his personal affairs and responsibilities, including complying with the Self-Isolation Order, is a breach of the Code of Conduct. As noted in the Guide to the Code of Conduct:

This section of the Code of Conduct reflects a Member's obligation to avoid conflicts of interests, to declare conflicts that cannot be avoided, and to ensure a Member's actions reflect a commitment to the public interest, and not a Member's own personal or financial interests.¹¹

⁹ CBC News, "Yellowknife has 20 active cases of COVID-19, no community transmission so far", May 4, 2021, <https://www.cbc.ca/news/canada/north/yellowknife-covid-19-cases-1.6013927>, retrieved May 5, 2021.

¹⁰ *Ibid.*

¹¹ *Supra*, note 2.

This section deals with ethics and conflict of interests. In not following the Self-Isolation Order, Mr. Norn's actions failed to reflect a commitment to the public interest. During this pandemic, the public interest in the Northwest Territories has been for everyone to comply with the Public Health Orders to protect each other from COVID-19.

I am available at Rylund_Johnson@ntassembly.ca or (867) 767-9143, ext. 12173 if you have questions regarding this complaint.

A handwritten signature in black ink, appearing to read 'Rylund Johnson', with a long horizontal flourish extending to the right.

Rylund Johnson
MLA, Yellowknife North

Attachment

- c. Members of the Legislative Assembly
Acting Clerk of the Legislative Assembly

Appendix 3 - Letter of Appointment



WWW.NTASSEMBLY.CA
WWW.NTASSEMBLY.CA/FR

VIA EMAIL rbarclay@myaccess.ca

The Honourable Justice Ronald Barclay, Q.C.

REGINA SK

JUN 28 2021

Dear Honourable Justice Barclay;

Letter of Appointment as a Sole Adjudicator

The Northwest Territories Legislative Assembly Board of Management has recommended to me your appointment as a Sole Adjudicator, pursuant to s. 102 (3) of the Legislative Assembly and Executive Council Act. I have accepted the recommendation and hereby appoint you as the Sole Adjudicator in an inquiry into a complaint made by Mr. Rylund Johnson, the Member for Yellowknife North, alleging that Mr. Steve Norn, the Member for Tu Nedhé-Wiilideh, breached the Members' Code of Conduct.

The Integrity Commissioner for the Northwest Territories, Mr. David Jones, Q.C. has investigated the complaint and directed that an inquiry be held before a Sole Adjudicator. A copy of Mr. Jones' report is included with this letter of appointment.

The Assembly will pay you an hourly fee of \$400 for your work conducting the inquiry. The Assembly will also pay reasonable disbursements, as well as travel, per diems and accommodations pursuant to the amounts set out in the Government of the Northwest Territories policy on duty travel rates <https://my.hr.gov.nt.ca/employees/travel/duty-travel/duty-travel-rates>

.../2

The Assembly will also make arrangements for commission counsel of your choice. Please advise Mr. Glen Rutland, Acting Clerk of the Legislative Assembly of your choice for counsel, and arrangements for a retainer will be organized.

In terms of logistical support for the conduct of the inquiry, the Office of the Clerk is available to assist you. I encourage you to reach out to Mr. Rutland regarding any assistance you may require. Also, someone from the Clerk's Office will be in touch regarding arrangements for submission and payment of your account.

By separate correspondence, I will advise Mr. Johnson and Mr. Norn of your appointment as Sole Adjudicator in this matter.

I appreciate you taking on this appointment and will await your disposition report after the inquiry has been held.

Sincerely,



Frederick Blake Jr.
Speaker

Attachment

c. Members,
Board of Management

Mr. Glen Rutland
Acting Clerk of the
Legislative Assembly

Ms. Kim Wickens
Deputy Clerk, Members' and
Precinct Services



VIA EMAIL rbarclay@myaccess.ca

The Honourable Justice Ronald Barclay, Q.C.

REGINA SK


JUL 8 2021

Dear Honourable Justice Barclay,

Terms of Reference

Further to my correspondence of June 28, 2021 appointing you as Sole Adjudicator into Mr. Rylund Johnson's complaint against Mr. Steve Norn, please find attached Terms of Reference for your Inquiry. Thank you again, and I look forward to the receipt of your report.

Sincerely,


Frederick Blake Jr.
Speaker

Attachment

c. Members, Board of Management

Mr. Glen Rutland
Acting Clerk of the Legislative Assembly

Ms. Kim Wickens
Deputy Clerk, Members' and
Precinct Services

Terms of Reference

1. The Sole Adjudicator, the Honourable Ronald L. Barclay, Q.C., as appointed on June 28, 2021 by Frederick Blake Jr., Speaker of the Northwest Territories Legislative Assembly, on the recommendation of the Northwest Territories Legislative Assembly Board of Management shall inquire into a complaint made by Mr. Rylund Johnson, the Member for Yellowknife North as to whether:

Steven Norn (“Mr. Norn”), Member of the Legislative Assembly for Tu Nedhé-Wiilideh performed his duties of office and arranged his personal affairs as required by the Legislative Assembly and Executive Council Act (the “Act”) and/or the following sections of the Members’ Code of Conduct (“Code”) established by the Act, including the Guide related thereto:

Section 2 - Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

Section 4 - Members must carry out their official duties objectively and without consideration of personal or financial interests, and must arrange their personal affairs so as to maintain the trust and confidence of the public.

Section 8 - The Code is not designed to be exhaustive, and there will be occasions on which the Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.

In that it is alleged that Mr. Norn in April, 2021:

- a. breached s. 2(a) and (d) of *Public Health Order – COVID-19 Travel Restrictions and Self-Isolation Protocol as amended December 1, 2020* (the “Order”)
- b. failed to self-isolate in compliance with the Self-Isolation plan he filed (“Self-Isolation Plan”)
- c. misled the public regarding his compliance with the Public Health Order and/or Self-Isolation Plan;

2. The Sole Adjudicator shall also inquire into the reasons why Mr. Norn left the Northwest Territories in April, 2021, where he went and what he did during the trip to determine whether taking the trip would constitute a breach of the Act and/or Code.

3. The Sole Adjudicator is to inquire into and report his findings on such other related matters which the Sole Adjudicator considers relevant to the Inquiry.

4. The Sole Adjudicator shall, after conducting the Inquiry, submit a disposition report, with reasons, as required by the provisions of section 106 of the Act.

Appendix 5 - Second Amended Rules of Procedure and Practice

CANADA)
NORTHWEST TERRITORIES)

IN THE MATTER OF THE *LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT*,
S.N.W.T. 1999, C. 22

AND IN THE MATTER OF A COMPLAINT MADE BY RYLUND JOHNSON, MEMBER
OF THE NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY, UNDER THE ACT
CONCERNING THE CONDUCT OF STEVE NORN, ALSO A MEMBER OF THE
NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY;

AND IN THE MATTER OF AN INQUIRY DIRECTED BY THE INTEGRITY
COMMISSIONER UNDER SECTION 102(1)(b) OF THE ACT;

AND IN THE MATTER OF THE HONOURABLE R.L. BARCLAY, Q.C. HAVING BEEN
DULY APPOINTED JUNE 28, 2021, AS SOLE ADJUDICATOR FOR THE INQUIRY
RESPECTING THE MATTERS SUBJECT TO THE TERMS OF REFERENCE DULY
APPROVED ON JULY 8, 2021.

SECOND AMENDED RULES OF PROCEDURE AND PRACTICE FOR THE INQUIRY

I. GENERAL

1. Following the conclusion of the Inquiry, the Honourable R.L. Barclay Q.C. (hereinafter the "Sole Adjudicator") will prepare and issue a final disposition report containing his findings, conclusions and recommendations in his capacity as Sole Adjudicator.
2. M.O. Laprairie, Q.C. and the law firm MLT Aikins LLP have been appointed counsel to the Inquiry (hereinafter "Counsel to the Sole Adjudicator").
3. All parties, witnesses and counsel shall adhere to these Rules.
4. The Sole Adjudicator may at any time, and on such terms or conditions as he thinks just, make any ruling or order, impose any sanctions, or amend any defect or error in the proceedings, in order to ensure efficient, thorough and fair proceedings.
5. The hearings for the Inquiry will be open to the public unless the Sole Adjudicator should determine otherwise with respect to any part of the hearing.
- 5a. The Sole Adjudicator may determine to hold all or part of the Inquiry by audio-visual means given the ongoing global COVID-19 pandemic. Such a determination will be communicated

to witnesses and parties with standing as far in advance as reasonably practicable. The Sole Adjudicator will amend these Rules to deal with the pandemic situation as matters develop.

II. STANDING

6. The term "party" is used to denote individuals granted standing. The terms "witness" or "witnesses" include all individuals that will be called to testify in front of the Sole Adjudicator throughout the course of the Inquiry.
7. Counsel to the Sole Adjudicator will have standing throughout all aspects of the Inquiry.
8. Mr. Steve Norm is a party and will have standing in relation to the Inquiry.
9. Mr. Steve Norm's counsel will have standing in relation to the Inquiry.
10. The Sole Adjudicator may grant standing to any witness, or other person who is able to establish that they have a substantial and direct interest in the subject-matter of the Inquiry. The Sole Adjudicator will determine on what terms and conditions such standing may be granted.
11. A witness' counsel will have standing for the purpose of their client's testimony.
12. Those granted standing are deemed to undertake to follow these Rules of Procedure and Practice and will have the privileges and responsibilities outlined herein.

III. EVIDENCE

A. General

13. The Sole Adjudicator is entitled to receive and consider any evidence that he determines to be relevant and reliable even where it might otherwise be inadmissible in a court of law. The Sole Adjudicator is also entitled to give such weight as he determines appropriate to any evidence that is tendered before him.
14. In the conduct of the Inquiry, the Sole Adjudicator is not subject to the technical rules of evidence.
15. Evidence may be received by way of affidavit if it relates to matters of public information or record and it is found acceptable to the Sole Adjudicator.
- 15a. Given that the Inquiry is being held in the midst of a global pandemic, and in the interest of limiting the necessity of witnesses to testify in person, the Sole Adjudicator may accept evidence by affidavit in his discretion, subject to the right of a party with standing

to require cross-examination of that witness in person or by way of audio-visual means, provided notice of intention to cross-examine is given well in advance of the hearing.

16. If Counsel to the Sole Adjudicator elects not to call a witness or to file a document, anyone with standing may apply to the Sole Adjudicator for permission to call such a witness or to file such a document or for an order directing Counsel to the Sole Adjudicator to do so. If the calling of such witness or filing of such document(s) by a party is permitted it will be on such terms and conditions as imposed by the Sole Adjudicator.
17. It is anticipated that the proceedings will be transcribed, however transcripts will only be made available to persons with standing and at their own cost.

B. Documentary Evidence

18. The Sole Adjudicator may issue such subpoenas as he considers necessary to compel the production of relevant documents and evidence from any person in advance of the hearing.
19. Service of any document by Counsel to the Sole Adjudicator may be effected by registered or ordinary mail, email or fax.
20. All materials and documents received by the Sole Adjudicator pursuant to subpoenas or otherwise will be treated as confidential. However, Counsel to the Sole Adjudicator is permitted to produce relevant documents to parties with standing at or prior to the hearing or the examination of any witness.
21. The Sole Adjudicator is permitted to make reference to, and disclosure of, any and all evidence and documents that he deems necessary and appropriate in his final disposition report.
- 21a. Counsel to the Sole Adjudicator may require by service of a subpoena any person believed to have information and/or documents bearing on the subject matter of the Inquiry to attend and be interviewed on oath or affirmation in advance of the hearing. The interview(s) will be transcribed and a transcript prepared. The interview(s) may be conducted by audio/visual means. The person so examined is entitled to have counsel.
22. Where practical and in the best interests of facilitating an efficient, thorough and fair process, Counsel to the Sole Adjudicator will make best efforts to provide to witnesses, and parties with standing, the following materials prior to the testimony of a witness:
 - a. a brief summary of anticipated evidence;
 - b. identification and/or copies of documents that will be referred to during the course of a witness' testimony;
 - c. a copy of the transcript of any witness interviewed pursuant to Rule 21a.

23. Where applicable, witnesses and parties with standing are required to notify Counsel to the Sole Adjudicator as soon as reasonably possible if they believe they are entitled to receive a summary of anticipated evidence and any related documents pursuant to these Rules.
24. Witnesses and individuals with standing that receive information and documents pursuant to these Rules shall be deemed to undertake that they will use the documents solely for the purposes of this Inquiry and that they will not disclose or disseminate any such information or evidence to any other person or party, other than to their legal counsel.
25. Except with leave of the Sole Adjudicator, no document will be used as evidence, in the examination or cross-examination of a witness, or otherwise, unless the document has been previously provided to Counsel to the Sole Adjudicator at least fourteen (14) days in advance of any hearing at which it is intended to be introduced.
26. Individuals granted standing, temporary or otherwise, shall provide counsel to the Sole Adjudicator with a notice identifying and outlining the documents they intend to file as an exhibit or otherwise refer to during the hearings no later than seven (7) days before the document will be referred to or filed, unless otherwise ordered by the Sole Adjudicator.

C. Witnesses

27. Witnesses will give their evidence at a hearing under oath or affirmation. Witnesses may be called more than once.
28. Witnesses may give their evidence by remote video or teleconference only with permission of the Sole Adjudicator.
29. It will be the practice of Counsel to the Sole Adjudicator to have issued and served a subpoena upon every witness before he or she testifies.
30. The Sole Adjudicator may set time allocations for the conduct of examinations, cross-examinations and re-examinations and may impose any such terms or conditions on the examination, cross-examination and re-examinations as he determines appropriate.

D. Order of Examination

31. The order of examination will be as follows:
 - a. Counsel to the Sole Adjudicator will lead evidence from each witness and is entitled to ask both leading and non-leading questions. Unless otherwise directed, Counsel to the Sole Adjudicator is entitled to examine or cross-examine witnesses.
 - b. Individuals with standing will then have the opportunity to cross-examine, but only to the extent of their interest. The order of cross-examination will be determined by the individuals intending to do so and, if they are unable to reach an agreement, by the Sole Adjudicator;
 - c. Counsel to the Sole Adjudicator will have the right to re-examine last.

IV. RIGHT TO COUNSEL

32. Witnesses and parties with standing are entitled, but not required, to have counsel present while testifying in front of the Sole Adjudicator.
33. The Sole Adjudicator has no jurisdiction to make orders to provide funding for counsel to parties or witnesses.

V. NOTICE OF POTENTIAL FINDINGS OF MISCONDUCT

34. In the event the Sole Adjudicator is considering making a finding of misconduct in relation to the conduct of an individual or party subject to the Inquiry, the Counsel to the Sole Adjudicator shall provide reasonable notice of the substance of such and grant the individual a reasonable opportunity during the Inquiry to be heard in person or by counsel.
35. If an individual or party in receipt of a notice referred to in these Rules feels that it is necessary to adduce additional evidence to respond to potential findings of misconduct in relation to his or her conduct, he or she may apply to the Sole Adjudicator for leave to call that evidence. Leave may be granted on such terms as imposed by the Sole Adjudicator.
36. Notice of potential findings of misconduct will be delivered on a confidential basis to the individual or party to whom it relates.
37. Supplementary or additional Notices may be delivered from time to time by the Counsel to the Sole Adjudicator as warranted by information disclosed through the course of the Inquiry.

VI. AMENDMENT TO THE RULES

38. These Rules may be amended and new Rules may be added if the Sole Adjudicator finds it is helpful to do so to fulfill his mandate and to ensure the process is efficient, thorough and fair.

These Rules of Procedure and Practice are hereby approved at the City of Regina, in the Province of Saskatchewan, this 14th day of July, 2021.

“Ronald L. Barclay”

The Honourable Ronald L. Barclay, Q.C.
Sole Adjudicator appointed under the *Legislative
Assembly and Executive Council Act*

These amended Rules of Procedure and Practice are hereby approved at the City of Regina, in the Province of Saskatchewan, this 11th day of August, 2021.

“Ronald L. Barclay”

The Honourable Ronald L. Barclay, Q.C.

Sole Adjudicator appointed under the *Legislative
Assembly and Executive Council Act*

These amended Rules of Procedure and Practice are hereby approved at the City of Regina, in
the Province of Saskatchewan, this 20th day of September, 2021.



The Honourable Ronald L. Barclay, Q.C.
Sole Adjudicator appointed under the *Legislative
Assembly and Executive Council Act*

**IN THE MATTER OF THE *LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT*,
SNWT 1999, c 22**

**AND IN THE MATTER OF A COMPLAINT MADE BY RYLUND JOHNSON, MEMBER
OF THE NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY, UNDER THE *ACT*
CONCERNING THE CONDUCT OF STEVE NORN, ALSO A MEMBER OF THE
NORTHWEST TERRITORIES LEGISLATIVE ASSEMBLY;**

**AND IN THE MATTER OF AN INQUIRY DIRECTED BY THE INTEGRITY
COMMISSIONER UNDER SECTION 102(1)(b) OF THE *ACT*;**

**AND IN THE MATTER OF THE HONOURABLE R. L. BARCLAY, Q.C. HAVING BEEN
DULY APPOINTED JUNE 28, 2021, AS SOLE ADJUDICATOR FOR THE INQUIRY
RESPECTING THE MATTERS SUBJECT TO THE TERMS OF REFERENCE DULY
APPROVED ON JULY 8, 2021.**

Counsel:

**Maurice O. Laprairie, Q.C.
assisted by Shawna L. Sparrow**

**for the Sole Adjudicator,
The Hon. Ronald L. Barclay, Q.C.**

Steven Cooper and Ronald Halabi

for Steve Norn, MLA

Sheila MacPherson

for the Legislative Assembly of the Northwest Territories

DECISION OF THE SOLE ADJUDICATOR

September 13, 2021

[1] This is an application by Steve Norn, a member of the Northwest Territories Legislative Assembly to have a number of subpoenas issued with respect to his application to have the Inquiry stayed on the basis of conflict and institutional bias by the sole Adjudicator. The subpoenas requested include the Clerk of the Legislative Assembly, Tim Mercer, Acting Deputy Clerk of the Legislative Assembly, Glen Rutland, Law Clerk, Sheila MacPherson, any other employees that are identified to have been involved in any aspect of the Inquiry, Member of the Legislative Assembly, Rylund Johnson, all members of the Board of Management of the Legislative Assembly of the Northwest Territories and the Speaker, Frederick Blake, Jr.

Background

[2] On Thursday, May 6, 2021, David Philip Jones, Q.C., the Integrity Commissioner for the Northwest Territories received a written complaint from Mr. Rylund Johnson, Member of the Legislative Assembly for Yellowknife North, at the direction of the Member of the Legislative Assembly caucus alleging that certain actions of Mr. Steve Norn, Member of the Legislative Assembly for Tu Nedhé-Wiilideh were in violation of the Members' Code of Conduct by breaching the mandated period of self isolation for COVID-19 in the Northwest Territories.

[3] The two allegations against Mr. Norn are as follows:

Allegation One

Breaching sections 2(a) and (d) of the Public Health Order - COVID-19 Travel Restrictions and Self Isolation Protocol - As amended December 1, 2020 (Self-Isolation Order) by:

- failing to self-isolate for 14 days, in accordance with the self isolation requirements set out in Appendix A of the Order; and
- failing to comply with his self-isolation plan.

Allegation Two

Misleading the public regarding his compliance with the Self-Isolation Order.

The complaint letter refers to Sections 2, 4 and 8 of the Members' Code of Conduct.

[4] The Integrity Commissioner, David Jones, Q.C., was of the view that the public interest requires this matter proceed to an inquiry. In conclusion, Mr. Jones stated in his report as follows:

Leaving self-isolation prior to the required 14 days is not a trivial or minor matter. The public health order was mandatory; the self-isolation requirement was well known; Mr. Norn knew about it, as evidenced by his filing his self-isolation plan. Going to the Legislative Assembly on April 17 was a major deviation from his obligation to stay isolated at his home for the required 14 days. So was his going to the Racquet Club on the following day, April 18, which was still within the self-isolation period. Neither of these was a case of going a few metres outside of his home lot, which might perhaps be considered a minor infraction.

Similarly, neither of these breaches was committed through inadvertence; both breaches of the self-isolation requirement were intentional.

With respect to making an error in judgment in good faith, even if Mr. Norn made an error in thinking that the self-isolation period included *all* of April 4 (the date he crossed the Alberta/NWT border late in the afternoon or early in the evening) so that April 17 would have been the last day of his required self-isolation, he nevertheless went to the Legislative Assembly on April 17 when he was still required to be isolated at home. That is not simply an error of judgment.

[5] As a result of the decision of the Integrity Commissioner, David Jones, Q.C., I was appointed by the Speaker of the Northwest Territories Legislative Assembly (the Assembly), Mr. Frederick Blake, Jr., on the recommendation of the Board of Management of the Assembly as sole Adjudicator pursuant to Section 102(3) of the *Legislative Assembly and Executive Council Act*, SNWT 1999, c 22 [LAECA]. My mandate was to conduct an inquiry as the sole Adjudicator in an inquiry into a complaint made by Mr. Johnson, the Member for Yellowknife North alleging that the Member, Mr. Norn, breached the Members' Code of Conduct. There is no dispute as to the facts surrounding my appointment. I was appointed to a list of sole Adjudicators mandated by the Legislative Assembly for the Northwest Territories in 2014 by a motion of the Legislative Assembly well before Mr. Norn was elected to the Northwest Territories Assembly.

[6] Mr. Glen Rutland, Acting Deputy Clerk for the Legislative Assembly of the Northwest Territories advised that he received advice from David Jones, Q.C. that from the list, he should approach the two sole Adjudicators who were retired on the premise that they would have more availability to complete the Inquiry in a timely manner and he approached me first. It is critical to underscore that prior to speaking to me on June 7, 2021, we had never met or spoken to each other.

Position of Steve Norn

[7] Mr. Norn in support of this motion, has filed a series of affidavits which contend that he was maligned by the Clerk of the Legislative Assembly, Mr. Mercer (the Clerk), directly and through his office. In Mr. Norn's affidavit he alleges that he was perceived as "nothing more than a local

indigenous man who happens to have been elected by a group of indigenous electors and that he knows nothing of the process and has nothing of value to add to the democratic institution of the Legislative Assembly.” The allegations made related to allegations of racism and demagogues within the Clerk’s office. He further alleges that the Clerk provided statements to the local media in which he divulged there was a toxic atmosphere in the current Legislative Assembly. The material filed contends that the Clerk had abused his position and his office by intimidating, harassing and manipulating members and staff of the Legislative Assembly in order to subvert the due process. By way of example, the affidavit of Nicole Latour (Ms. Latour), sworn August 24, 2021 concerns Ms. Latour’s interactions with the Clerk, his office and the Board of Management in her capacity as Chief Electoral Officer of the Northwest Territories Legislative Assembly. These interactions are in no way related to the subject matter of the Inquiry and do not fall within the Terms of Reference for the Inquiry. Although Ms. Latour expresses concerns about the “manipulation of the Legislative Assembly by the Clerk’s and the Clerk’s Office”, she does not establish any connection of relevance between these concerns and the subject matter of the Inquiry.

[8] As a result of these allegations, Mr. Norn launched a complaint to the Assembly against the Clerk. The affidavit of Member of the Legislative Assembly, Shane Thompson (Mr. Thompson), sworn August 24, 2021, concerns an alleged confrontation Mr. Thompson had with the Clerk. Mr. Thompson does not indicate the nature of this confrontation or when it took place. The Terms of Reference do not include any reference to the Clerk or altercations between members of the Legislative Assembly. As Mr. Thompson acknowledges in his affidavit, the “substantive issue” before the sole Adjudicator does not involve Mr. Thompson’s interactions with the Clerk. In the affidavit, Mr. Thompson states his belief that “an ongoing conflict of interest has and will taint the sole adjudication process.” However, the affidavit does not establish any connection between Mr. Thompson’s confrontation with the Clerk and the allegation that Mr. Norn breached the mandatory self-isolation period in April 2021.

[9] Jackie Jacobson in his affidavit, after alleging the complaint against Mr. Norn is part of the Clerk's attempt to eliminate the threat that he perceives, he deposes that the sole Adjudicator is being used as a "tool in the Clerk's arsenal to silence what he perceives as dissent in his government." Again, Mr. Jacobson cannot provide a scintilla of evidence in support of this allegation.

[10] The firm of Quintet Consulting of Toronto, Ontario (the Firm) was retained by the Legislative Assembly to conduct a workplace review which was to consist of an investigation of the concerns raised about the work environment in the office of the Clerk at the Northwest Territories and the allegations of harassment and/or misconduct.

[11] The Firm, in a report released publicly on August 26, 2021, stated that Mr. Norn's allegations were not founded. The Firm also investigated complaints by Nicole Latour, Chief Electoral Officer of the Northwest Territories Legislative Assembly and two other complaints. In its findings, the Firm found that two out of the three other complaints were also unfounded. Mr. Norn takes issue with these findings.

[12] It is clear from all the evidence that the complaint against Mr. Norn arose after the current Clerk was on leave. Furthermore, there is not any evidence whatsoever that the Acting Clerk, Mr. Rutland, had any involvement in my appointment other than ascertaining, on behalf of the Board of Management, that I would be available to act as sole Adjudicator. It is not without significance that the complainant in the Norn matter was the chair of the caucus which consists of all elected members and arose out of a specific allegation of a breach of a public health order.

The Law

[13] In a public inquiry, the power to issue subpoenas is derived from the guiding legislation. In the Northwest Territories, the sole Adjudicator's authority to issue subpoenas is derived from Sections 4 and 5 of the *Public Inquiries Act*, RSNWT, 1988, c P-14. These sections read:

- 4.(2) Every Board may, subject to reasonable notice,
 - (a) summon any person as a witness;
 - (b) require any person to give evidence on oath or affirmation; and
 - (c) require any person to produce the documents and things that the Board considers necessary for a full and proper inquiry.
5. Every Board has the same power as is vested in a court of record in civil cases
 - (a) to administer oaths and affirmations....

[14] The jurisprudence involving a court's jurisdiction to quash a subpoena prescribes the general principle that a subpoena can only be issued where the evidence sought is relevant to the issues of the proceedings. In other words, a court should set aside or quash a subpoena on the ground that the information sought is not relevant to the live issues in dispute. There is a long line of authorities to this effect. In the case of *Kent v Kent* 2010 NLCA 53, 2010 CarswellNfld 278, the Court cited with approval Arnup J.A. in *Canada Metal Co. v. Heap* (1975), 1975 CanLII 675 (ON CA), 54 D.L.R. (3d) 641 (Ont. C.A.), a leading case referred to in many subsequent cases, at p. 648:

The evidence sought to be elicited must be relevant to the issue on the motion. If it is, there is a *prima facie* right to resort to Rule 230 [providing for the issuance of a subpoena]. That right must not be so exercised as to be an abuse of the process of the Court. There will be such an abuse if the main motion is itself an abuse, as by being frivolous and vexatious, or if the process under Rule 230, while ostensibly for the purpose of eliciting relevant evidence, is in fact being used for an ulterior or improper purpose, or if the process is being used in such a way as to be in itself an abuse....

This principle is analogous to this Inquiry as the evidence sought here would be used for an ulterior or improper purpose.

[15] In my view, the jurisdiction of the sole Adjudicator is limited by its Terms of Reference for the Inquiry. The Terms of Reference are:

1. The Sole Adjudicator, the Honourable Ronald L. Barclay, Q.C., as appointed on June 28, 2021 by Frederick Blake Jr., Speaker of the Northwest Territories Legislative Assembly, on the recommendation of the Northwest Territories Legislative Assembly Board of

Management shall inquire into a complaint made by Mr. Rylund Johnson, the Member for Yellowknife North as to whether:

Steven Norn (“Mr. Norn”) , Member of the Legislative Assembly for Tu Nedhé Wiilideh performed his duties of office and arranged his personal affairs as required by the Legislative Assembly and Executive Council Act (the “Act”) and/or the following sections of the Members’ Code of Conduct (“Code”) established by the Act, including the Guide related thereto:

Section 2 - Members must act lawfully and in a manner that will withstand the closest public scrutiny, upholding the integrity and honour of the Legislative Assembly and its Members. Members shall ensure their conduct does not bring the integrity of their office or of the Legislative Assembly into disrepute.

Section 4 - Members must carry out their official duties objectively and without consideration of personal or financial interests, and must arrange their personal affairs so as to maintain the trust and confidence of the public.

Section 8 - the Code is not designed to be exhaustive, and there will be occasions on which the Members will find it necessary to adopt more stringent standards of conduct in order to protect the public interest and to enhance public confidence and trust.

In that it is alleged that Mr. Norn in April, 2021;

- a. breached s. 2(a) and (d) of *Public Health Order - COVID-19 Travel Restrictions and Self-Isolation Protocol as amended December 1, 2020* (the “Order”)
 - b. failed to self-isolate in compliance with the Self-Isolation plan he filed (“Self-Isolation Plan”)
 - c. misled the public regarding his compliance with the Public Health Order and/or Self-Isolation Plan;
2. The Sole Adjudicator shall also inquire into the reasons why Mr. Norn left the Northwest Territories in April, 2021, where he went and what he did during the trip to determine whether taking the trip would constitute a breach of the Act and/or Code.
 3. The Sole Adjudicator is to inquire into and report his findings on such other related matters which the Sole Adjudicator considers relevant to the Inquiry.
 4. The Sole Adjudicator shall, after conducting the Inquiry, submit a disposition report, with reasons, as required by the provisions of section 106 of the Act.

[16] In *Cook v Citizens Research Institute* 2000 BCHRT 46, 2000 CarswellBC 4023 subpoenas had been issued to several individuals in regard to a complaint made pursuant to the British Columbia *Human Rights Code*, RSBC 1996, c 210 at the outset of the hearing before the British

Columbia Human Rights Tribunal. The individuals made an application to the Tribunal to have the subpoenas set aside. At paras. 2-4 of the decision, T.W. Patch of the Human Rights Tribunal states:

[2] The Tribunal's authority to issue subpoenas derives from s. 34(3)(b) of the *Human Rights Code*, which gives a Tribunal member the powers of a commissioner under ss. 15 and 16 of the *Inquiry Act*. Section 15 of the *Inquiry Act* provides that a witness may be required to attend and produce all documents "touching or in any way relating to the subject matter of the inquiry" and to answer "all questions touching on the subject matter of the inquiry".

[3] A person who is subpoenaed may apply to have the subpoena set aside "if the subpoena is obtained for an indirect or improper purpose or if the person subpoenaed can give no material evidence, or if the subpoena is otherwise an abuse of process": Mewett, Alan, *Witnesses*, p.7-14. In *R. v. Pena*, [1997] B.C.J. No. 1403 (S.C.), Josephson J. summarized the general principles to be applied when dealing with a motion to quash:

I may quash a subpoena if it is sought for an improper object, an ulterior purpose or if it constitutes an abuse of process.

The likelihood of the witness giving material evidence is a crucial test in determining whether there exists an improper object or ulterior purpose.

It is an improper purpose to seek out the manner in which a Minister of the Crown exercises a statutory discretionary power conferred for the proper administration of a statute. (at paras. 14-16, citations omitted)

[4] According to MacAulay and Sprague, *Practice and Procedure Before Administrative Tribunals*, (Scarborough: Carswell, 1996), "The purpose of a subpoena is to secure information which is useful or necessary for the performance of an agency's mandate. Thus any information sought thereby must be relevant. If it is not relevant the subpoena should not be issued." (at 12-86.1)

[17] An important judicial authority on this issue is the decision of the Supreme Court of Canada in *Nova Scotia (Attorney General) v Nova Scotia (Royal Commission into Marshall Prosecution)*, [1989] 2 SCR 788, 1989 CanLII 39 (SCC) [*Marshall*]. The Supreme Court considered whether a Royal Commission could require testimony with respect to the proceedings of the Nova Scotia Cabinet. The Court concluded that in order to determine whether the Commission properly exercised its jurisdiction it was necessary to examine the Order in Council establishing the Commission's Terms of Reference. At pp. 3 and 4, LaForest J. stated:

During the course of the Commission's hearings, questions were asked of a former Attorney General of Nova Scotia, Mr. Giffin, about cabinet discussions of this matter. The

respondent Attorney General objected to questions about cabinet proceedings, claiming they were privileged. The respondent Commission, on March 17, 1988, made the following ruling:

The limited immunity which now attaches to Cabinet documents and discussions in this case is outweighed by the public interest in the Commission having this evidence before it. In as much as we now wish to know the general nature of Cabinet discussions on the Marshall case, we will not permit questions relating to the views of individual Cabinet members, as this would lead to the possibility of hearing evidence from all ministers to “set the record straight”. Not only would such individual views be irrelevant to this Inquiry, but this process would so encumber this Commission as to lead to absurdity. Further, Cabinet members should be protected from public scrutiny in their discussions leading to the formulation of government policy and in other matters such as, for example, national security. In this case, the public interest argument is such that the limited protection granted should enable this Commission to hear evidence relating to what issues dealing directly with the Marshall case were discussed in Cabinet, and what views were considered in arriving at particular decisions or policies. We feel that this maintains the appropriate and necessary balance between the interests protected by Cabinet secrecy and our interest in the proper administration of justice.

...

In summary, while former and present members of Cabinet may be asked questions dealing directly with the Marshall case, they will not be required to reveal the opinions or comments of individual members of Cabinet expressed during Cabinet meetings. [Emphasis added.]

Both the appellant and the respondent Attorney General brought applications for an order in the nature of certiorari to challenge this ruling. The Attorney General’s application sought to have the ruling quashed in so far as it related to the scope of questioning of members of the Executive Council (the provincial cabinet), for an order prohibiting questions of members of cabinet relating to cabinet discussions, and for an order declaring that the contents of cabinet discussions are immune from disclosure. The appellant’s application was for an order quashing the Commission’s order in so far as it restricted the scope of questioning of members of cabinet, both past and present. The appellant’s application was substantially granted by Glube C.J.T.D., but a unanimous Court of Appeal restored the ruling of the Commission.

The appellant then sought and was granted leave to this Court. The Crown has now accepted the Commission’s ruling. It has supplied all relevant cabinet documents and has permitted questioning of the cabinet ministers, subject to the Commission’s qualification that their names need not be divulged.

The case before us is then reduced to a very narrow issue, whether the Commission properly exercised its jurisdiction. For an answer to that question, one must turn to its mandate. The Order in Council by which, pursuant to the *Public Inquiries Act*, R.S.N.S. 1967, c. 250, the Commission was set up, gave it the following power:

. . . to inquire into, report their findings, and make recommendations to the Governor in Council respecting the investigation of the death of Sandford William Seale on the 28th-29th day of May, A.D., 1971; the charging and prosecution of Donald Marshall Jr., with that death; the subsequent conviction and sentencing of Donald Marshall Jr., for the non-capital murder of Sandford William Seale for which he was subsequently found to be not guilty; and such other related matters which the Commissioners consider relevant to the Inquiry. . . . [Emphasis added.]

The present matter does not fall within the individual items preceding the words I have emphasized. That is clear in the Order in Council's own terms and it becomes all the more apparent when one considers that all the matters referred to in those items took place in 1971 and that the questions respecting cabinet discussions related to events that occurred primarily in 1982, and at the earliest 1978 when Mr. Giffin entered cabinet following a change of government. Thus the only authority given the Commission to consider matters such as those about which Mr. Giffin was questioned was the words "such other related matters which the Commissioners consider relevant to the Inquiry". In short, the Order in Council left it to the Commission to determine what related matters it would enquire into.

The Commission determined that "we now wish to know the general nature of Cabinet discussions on the Marshall case", including "issues dealing directly with the Marshall case", and "what views were considered in arriving at particular decisions or policies". The views of named cabinet ministers were, in its opinion, "irrelevant to this Inquiry".

This is not "relevance" in the sense ordinarily used in a court proceeding -- where the issues are determined by the pleadings and the evidence must be "relevant" to those issues. The argument of counsel for the appellant was directed to the latter question and so was beside the point. Here, the Commission's opinion of "relevance" defines the issues themselves, i.e., the mandate. The Order in Council gave this discretion only to the Commission. If the Commission did not "consider" the "other related matters" to be "relevant to the Inquiry", that, it seems to me, settles the question. There is nothing in the Order in Council that otherwise authorizes an inquiry into that matter. What the appellant seeks to do is to expand the Commission's ruling beyond what the Commission considers relevant. That he cannot do. Nor can a court on judicial review. The Order in Council gave to the Commission, and to the Commission only, power to define these other related matters which the Commissioners consider relevant.

[18] In *Ontario Provincial Police v Cornwall Public Inquiry*, 2008 ONCA 33, 2008 CarswellOnt 191, 2008 CanLII 33, a Commission was established to conduct a public inquiry into institutional response to allegations of historical abuse against young people in the city. Provincial and municipal police services, Ministry of Community Safety and Correctional Services, the Diocese and Attorney General as intervenor brought an unsuccessful application for an order directing the commissioner of inquiry to state the case regarding the evidence of two witnesses. The evidence related to the sexual assault against one witness by other young persons at knife point, which was reported to

police at the time of the incident, but it was alleged nothing was done. By a majority, the Divisional Court held the commissioner was in the best position to assess the relevance of weight to be attached to the evidence of the witnesses. The Divisional Court held it was open to the commissioner to decide what construction to place on “historical” and “abuse” as set out in the terms of reference in order to carry out his mandate. The Divisional Court held the alleged failure of provincial police to respond to the witness’s complaint could be considered “reasonably relevant” to the mandate of the inquiry, and did not direct the commissioner to state the case. The applicants appealed.

[19] The Court held in part as follows:

22 Having correctly set out the applicable legal principles from *Bortolotti* at paras. 14-17 of their reasons, the majority did not go on to perform the review function that they had identified, namely, “to scrutinize carefully the subject matter of the inquiry as set forth in the Order in Council”. Instead, the majority took a deferential approach to reviewing the Commissioner’s decision on the subject matter of the Inquiry and simply concluded that it was “open to him to place a different construction on ‘historical’ and ‘abuse’ as set out in the Terms of Reference in order to carry out his mandate” (at para. 20).

23 In my respectful view, the majority erred in taking a deferential approach. No deference is owed to the Commissioner on the issue of the definition of the subject matter of the Inquiry. The Commissioner’s jurisdiction is limited to that subject matter, which is prescribed by the legislature in the OIC creating the Commission. If the Commissioner defines the subject matter too broadly or too narrowly, he or she will have rewritten the OIC and redefined the terms of reference. That, of course, is impermissible and constitutes jurisdictional error.

24 In my view, the Commissioner misconstrued the OIC and in so doing he enlarged the subject matter of the Inquiry and conferred a much wider jurisdiction upon himself than the legislature contemplated. In interpreting the OIC as he did, I believe that the Commissioner committed four errors:

- (1) he failed to consider the context and circumstances in which the Commission was established;
- (2) he failed to consider relevant wording in the preamble to the OIC that provided valuable insight into the nature and type of allegations at issue;
- (3) he failed to construe wording used in the OIC harmoniously and with reference to the document as a whole;
- (4) by reason of the first three errors, he misidentified the subject matter of the Inquiry and ascribed to himself a mandate that is beyond anything contemplated by the legislature.

[20] These case authorities and others reflect that an inquiry's terms of reference defines its jurisdiction and a sole adjudicator conducting an inquiry is bound to act within those terms of reference. As the distinguished law professor, Ed Ratushny in his text *The Conduct of Public Inquiries: Law, Policy, and Practice* (Toronto: Irwin Law Inc., 2009) at p. 130 (*Conduct of Public Inquiries*) stated in part:

The entire life of a commission is dictated by its terms of reference, which are legally binding. They establish the jurisdiction of the commission. The boundaries of that jurisdiction dictate what the commission must do and what it cannot do.

[21] In my opinion the Terms of Reference reflect that my sole mandate as sole Adjudicator is to investigate the allegation that Mr. Norn breached the mandated period of self-isolation for COVID-19 upon his return to Yellowknife in April 2021 and whether he misled the public regarding his compliance with the mandatory self-isolation period. In Mr. Norn's application, he has requested that I issue a number of subpoenas in support of an order staying the Inquiry on the basis of conflict and institutional bias. The subpoenas include the Clerk of the Legislative Assembly, Tim Mercer, Acting Deputy Clerk of the Legislative Assembly, Glen Rutland, Law Clerk, Sheila MacPherson, any other employees that are identified to have been involved in any aspect of the Inquiry, Member of the Legislative Assembly, Rylund Johnson, all members of the Board of Management of the Legislative Assembly of the Northwest Territories and the Speaker, Frederick Blake, Jr.

[22] The evidence adduced by Mr. Norn fails to establish that the conduct of the Clerk and his office is in any way relevant to the Terms of Reference for this Inquiry and in particular whether Mr. Norn breached the mandatory self-isolation provisions in relation to the COVID-19 travel restrictions in the Northwest Territories. I am not entitled to expand the jurisdiction of this Inquiry beyond the Terms of Reference as prescribed by the Supreme Court of Canada in *Marshall*.

[23] Mr. Norn's application to the sole Adjudicator to issue subpoenas with respect to the subject matters identified in his application is dismissed.

[24] In light of Mr. Cooper's submissions, it is necessary to clarify the subject matter of this application. As Mr. Laprairie indicated in his September 1, 2021 reply email to Mr. Halabi that was filed with me, the issue to be determined in this application is whether, as sole Adjudicator, I have jurisdiction to grant subpoenas related to the matters and persons identified in Mr. Norn's application and not whether subpoenas can generally be issued under the *Public Inquiries Act*. I have determined that I do not have jurisdiction to grant subpoenas related to the matters and persons identified in Mr. Norn's application because said subpoenas are not related to matters and persons relevant to the Terms of Reference.

[25] I cannot close this decision without commenting on a few of the numerous and irrelevant oral and written submissions by counsel for Mr. Norn, which are not material to the application.

[26] For example, at paragraph 40 of his Brief, counsel for Mr. Norn describes my role as "being akin to a prosecutor in a criminal case". With respect, counsel for Mr. Norn has completely mischaracterized the role of the sole Adjudicator as well as the role of counsel to the sole Adjudicator. I explained these roles to counsel at the outset of the hearing of this application but from the above comment I take it that this explanation was not understood by counsel for Mr. Norn and therefore I will repeat my position.

[27] As articulated in *R v Stinchcombe*, [1991] 3 SCR 326 at 333, the role of a criminal prosecutor is to lay before the finder of fact what the Crown considers to be credible evidence relevant to what is alleged to be a crime. The role of counsel for the Inquiry is to be impartial and neutral and to perform a public duty which requires that all available evidence is presented in a fair, impartial and objective manner.

[28] The role of commission counsel was articulated by Steel, J.A. in the case of *Southern First Nations Networks v Hughes*, 2012 MBCA 99, [2013] 1 WWR 456 where she cites with approval the comments of Commissioner Bellamy, a Superior Court Justice in Ontario. She delineated the

impartiality of commission counsel in this way in her ruling of October 15, 2003 (as quoted in Professor Ed Ratushny's text, *Conduct of Public Inquiries* at pp. 221 and 222:

...Impartiality on the part of commission counsel is not to be confused with a lack of rigour and vigilance in seeking the truth. Commission counsel must still act forcefully whenever necessary to overcome resistance that could obscure truth. This persistence is particularly important wherever the transparency of public inquiries motivates resistance on the part of those with something to hide. What makes commission counsel's role unique is that they must take into consideration the public interest, the interests of all parties, and furthermore, must explore conscientiously all plausible explanations and outcomes regardless of whose interests are advanced. We have now reached a point in the evolution of commission counsel's role where it can be confidently asserted that every task they undertake must be infused with impartiality inseparable in degree from that of the commissioner.

[29] The contention of counsel for Mr. Norn that as the sole Adjudicator's counsel, Mr. Laprairie, has had a prior relationship with the sole Adjudicator and was assisting him during the proceeding somehow taints the process, is clearly an error in law. With all due respect to counsel, it appears again that Mr. Cooper does not understand the role of commission counsel. There is a long line of authorities that reflect this role.

[30] As the learned law professor and author, Ed Ratushny states, commission counsel in effect becomes an extension of the commissioner. Commissioner Dennis O'Connor, former Associate Chief Justice of the Ontario Court of Appeal, who presided over the Walkerton and Arar Inquiries authored an article entitled "The Role of Commission Counsel in a Public Inquiry" (2003) 22 *Advocates' Soc J* at 9-11. In this article, summarized in *Conduct of Public Inquiries* at p. 219, he stated the role of counsel to the Inquiry as follows:

- 1) To provide advice and guidance to the commissioner throughout the process. This includes acting as a "sounding board."
- 2) To supervise and conduct the investigation into all of the information relevant to the terms of reference including gathering documentation and interviewing witnesses.

- 3) To develop and maintain open communication with all parties and to encourage cooperation in facilitating the disclosure and presentation of evidence.
- 4) To call evidence at the hearings, including witnesses the parties seek to call. Cross-examination by the parties is likely to be limited if the prior examination by commission counsel has been thorough and fair.
- 5) To assist the commissioner in writing the report. This role varies with different commissioners but is easier to accept when commission counsel has acted in an “impartial and even-handed way” throughout the inquiry.
- 6) To serve as media spokesperson for the commission to the media.

[31] Commissioner O’Connor also explained the relationship of counsel to the commissioner. He concluded that it is with the commission counsel that the commissioner carries out his or her mandate investigating the subject matter of the inquiry, leading evidence and throughout, commission counsel acts on behalf of the commissioner.

[32] In my view, the fact that my counsel, Mr. Laprairie, and I have had a previous relationship and have conducted several inquiries together benefits the parties to these proceedings and any suggestion that this relationship taints the proceedings is clearly an error in law.

[33] I will also briefly comment on counsel for Mr. Norn’s submissions regarding confidentiality, which are largely irrelevant to the issue of my jurisdiction to issue the requested subpoenas. As the Law Clerk of the Legislative Assembly, Ms. MacPherson represents the interests of the Assembly and many of the individuals Mr. Norn wishes to subpoena. Mr. Norn’s application affects the rights, privileges and interests of those individuals and therefore I heard her submissions. In making those submissions, Ms. MacPherson made it clear she was not seeking standing. In hearing those submissions, I did not grant Ms. MacPherson standing as a party in the Inquiry. At any rate, I have determined that I will not rely on the affidavit of Glen Rutland as it is not necessary to decide the issue of jurisdiction.

[34] In response to Mr. Cooper's allegations, I do not consider counsel to the sole Adjudicator to have breached Rule 20 of the Rules of Practice and Procedure (the "Rules") in the context of this application. Rule 20 pertains to confidential information related to the Inquiry. The information distributed to Ms. MacPherson was limited to Mr. Norn's application for subpoenas. No confidential information pertaining to the subject matter of the Inquiry has been distributed to Ms. MacPherson. Furthermore, s. 109(2) of the *LAECA*, which allows confidential information to be disclosed for the purposes of an inquiry, overrides the Rules.

[35] In his Brief, counsel for Mr. Norn raises a number of other demands and irrelevant matters which are not material to this application. Therefore, I will not address these matters.

INSTITUTIONAL BIAS

[36] It was agreed by counsel that the sole issue to be determined in this application is whether I have jurisdiction to grant subpoenas related to the matters and persons identified in Mr. Norn's application. However, the issue of institutional bias by the sole Adjudicator does affect my decision as to whether or not I have jurisdiction to issue subpoenas. Institutional bias involves situations where a reasonable apprehension of bias is alleged to arise from the structure of operation of a decision-making body, rather than the conduct of an individual decision-maker (David P. Jones, Q.C. & Anne S. de Villars, Q.C., *Principles of Administrative Law*, 4th ed (Scarborough: Thomson Carswell, 2004 at 387). Institutional bias allegations involve concerns that elements of a decision-making structure predispose the decision-maker to decide cases in particular ways (Jones & de Villars at 389). Structural independence arguments attack the absence of structural guarantees that delegates are free to decide cases without regard to external influences (Jones & de Villars at 389).

[37] It is clear from the material filed that the allegations of conflict and institutional bias by the sole Adjudicator relate to the process of appointing the sole Adjudicator. These allegations are directed towards the Assembly as it was the Assembly that made my appointment. The judicial

precedent on this issue reflects that where the allegations are related to the process, it can be characterized as an attack on the Assembly.

[38] In the decision of *Morin v Crawford*, 1999 CANLII 6802, 14 Admin LR (3d) 287, Justice John Vertes of the Supreme Court of the Northwest Territories considered the relationship between the Northwest Territories Legislative Assembly and the person appointed to conduct an inquiry.

[39] At paras. 90 and 101 Justice Vertes stated:

[90] When I first considered this question I was inclined to agree with Mr. Morin's counsel that the legislature itself has encroached on its traditional privilege by erecting an arm's length, independent process for the review of conflicts of interest. Thus, while any decision of the legislature may not be subject to judicial oversight, the manner by which the Commissioner conducted an inquiry could be because of the statutory obligation upon her to do so in accordance with the principles of natural justice. However, I now think the better view is that, while the legislature has delegated some functions to the Commissioner, and while the activities of the Commissioner are meant to be conducted at arm's length from the Assembly so as to prevent interference, the legislature has retained its privilege over the entire process of internal discipline. The Commissioner is merely carrying out some functions within that process.

[Emphasis added]

...

[101] What about complaints about the process during the course of the inquiry? It seems to me that it would be open to a member, such as Mr. Morin, who had a complaint of bias, for example, to raise that complaint at any time on the floor of the House as a point of privilege. If what the Commissioner is doing is nothing but an extension of what the legislature itself can do, then it is no different then if a complaint was made that a House committee member was biased. The Assembly could, if it accepted the complaint, recommend the removal of the Commissioner (for cause) and the appointment of a new one. That is the remedy that a member could seek from the Assembly. So I do not agree that the legislature is inappropriate to deal with these issues.

[Emphasis added]

[40] In my view, the sole Adjudicator does not have jurisdiction to consider the allegations of Mr. Norn of institutional bias. Furthermore, the allegations of institutional bias are beyond the scope of the Terms of Reference.

[41] As I do not have any jurisdiction to consider the allegations of institutional bias, it naturally follows that I would not have jurisdiction to issue the subpoenas requested.

CONCLUSION

[42] The Inquiry will be held in person at the Legislative Building in Yellowknife commencing at 10:00 a.m. on Monday, October 4, 2021. I wish to echo the remarks made to Mr. Norn at the opening of this hearing. These remarks are: “I am pleased that Mr. Norn is present for this preliminary motion and Mr. Norn, I wish to state to you that the most critical aspect of my mandate is to ensure that you have a fair hearing before me and I will assure you that will happen.”



The Honourable Ronald L. Barclay, Q.C.
Sole Adjudicator

Appendix 7 - Exhibits Marked in Inquiry Hearing

Exhibits Marked in Inquiry Hearing

Exhibit Tab	Description
Exhibit 1	Resolution No 23-17(5) dated June 5, 2014 approving Mr. Barclay as Sole Adjudicator
Exhibit 2	Letter of June 6, 2014 from Acting Clerk to Mr. Barclay advising of appointment
Exhibit 3	Complaint against Mr. Norn made on May 6, 2021
Exhibit 4	June 14, 2021 Report by David P. Jones, Q.C.
Exhibit 5	Materials received from Integrity Commissioner
Exhibit 6	Appointment Letter
Exhibit 7	Terms of Reference fixed on July 8, 2021
Exhibit 8	July 14 2021 Letter of Engagement
Exhibit 9	Second Amended Rules of Practice and Procedure
Exhibit 10	Notice of Hearing and Call for Submissions
Exhibit 11	Members' Handbook and Guide
Exhibit 12	Affidavit of Jacob Paczko re Hansard excerpts where Mr. Norn speaks
Exhibit 13	Affidavit of Jacob Paczko re Hansard excerpts – where Mr. Norn is present
Exhibit 14	Affidavit of Jacob Paczko re Facebook public service announcement April 3 2020
Exhibit 15	Affidavit of Jacob Paczko re: Covid numbers in Grand Prairie April 2021
Exhibit 16	Subpoena to Mr. Norn issued July 22, 2021
Exhibit 17	Affidavit of Ollie Williams, sworn September 10, 2021
Exhibit 18	Notes produced by Ollie Williams
Exhibit 19	Affidavit of Liny Lamberink, affirmed August 31, 2021

Exhibit 20	Affidavit of Dennis Marchiori, sworn September 14, 2021
Exhibit 21	Affidavit of Brian Thagard, sworn September 22, 2021
Exhibit 22	Transcript of September 28, 2021 Interview of Su-Ellen Dillabough
Exhibit 23	Transcript of August 31, 2021 Interview with Trishia Smith with Exhibits
Exhibit 24	Transcript of Re-Examination of Trishia Smith October 1, 2021
Exhibit 25	Notice of Approval from ProtectNWT to Trishia Smith
Exhibit 26	Transcript of September 27, 2021 Interview of Natasha Schwindt
Exhibit 27	Visit Records for Steve Norn
Exhibit 28	COVID-19 Exposure Investigation Form
Exhibit 29	Screenshot of Steve Norn's phone with April 18, 2021 email from ProtectNWT
Exhibit 30	Transcript of September 22, 2021 Interview with Steve Norn with Exhibits
Exhibit 31	Oath of Office of Steve Norn
Exhibit 32	Social Media Posts of Steve Norn
Exhibit 33	Self Isolation Plan filed by Steve Norn April 2, 2021
Exhibit 34	Notice of Approval for Steve Norn dated April 2, 2021
Exhibit 35	April 18 Email from ProtectNWT at 2:00 a.m.
Exhibit 36	Media Statement of Steve Norn dated April 23, 2021
Exhibit 37	Email thread between Steve Norn and Glen Rutland
Exhibit 38	Northwest Territories Legislative Assembly Exposure Control Plan

Appendix 8 - Ruling on Emergent Medical Condition, October 4, 2021 Transcript

1 until 2 p.m. this afternoon. Thank you very much.

2 MR. COOPER: Thank you, sir.

3 MR. LAPRAIRIE: Thank you.

4 **(ADJOURNMENT)**

5 THE ADJUDICATOR: Mr. Cooper, I'm ready to proceed.

6 Are you ready now? I asked you few questions and
7 told you I would let you have until 2 o'clock to
8 provide answers, and I am looking forward to hearing
9 from you.

10 MR. COOPER: I am not as prepared as I would
11 like to be, sir, with the answers. The last that we
12 checked in with our client, he was on the way to
13 appear before a physician. We haven't been able to
14 connect with him since that time and, therefore, I'm
15 not able to update you of the circumstances.

16 I do want to query, from before the break you
17 were going to provide us, Mr. Laprairie, or somebody
18 on your behalf, with the names of the interpreters
19 other than their surnames. I don't know that we
20 received that yet.

21 MR. LAPRAIRIE: Well, we should deal with the
22 first issue, I submit, Mr. Barclay.

23 THE ADJUDICATOR: Mr. Cooper, I have now considered
24 your request and it appears that Mr. Norn's
25 non-appearance and allegations of an emergent medical
26 condition is not supported, to date, by any evidence
27 that you have submitted and leads me to the

1 inescapable conclusion that this is a further
2 delaying tactic that I will not countenance.

3 It is clear from all the background of these
4 proceedings that Mr. Norn is not only well aware of
5 all the issues but did take part in giving you
6 instructions on a series of very very complex
7 matters.

8 By way of example, on September the 2nd,
9 Mr. Norn appeared before me and participated in a
10 very complex legal argument involving allegations of
11 institutional bias. And very recently, on September
12 the 22nd, he was examined by my counsel under oath
13 for one and a half hours and answered a series of
14 questions, many of which were very complex.

15 Also, over the course of two and a half months,
16 you wrote approximately 19 letters demanding matters
17 which he would have had to give you instructions.
18 These included multiple requests to delay these
19 proceedings, including attempts to have my counsel
20 disqualified and have me removed.

21 Mr. Cooper, you have made repeated allegations
22 that this inquiry is tainted by conflict of interest
23 and institutional bias due to allegations there was a
24 toxic atmosphere in the Legislative Assembly and the
25 Clerk's office. These alleged incidents predated the
26 complaint of Mr. Norn.

27 In support of Mr. Cooper's application to stay

1 the proceedings on the basis of institutional bias,
2 an application for subpoenas was made to me. They
3 included the Clerk, and Acting Deputy Clerk Glen
4 Rutland, Member Rylund Johnson, the Speaker, and
5 Members of the Board of Management of the Legislative
6 Assembly, and a series of affidavits and briefs were
7 filed by Mr. Norn, including a very very lengthy
8 affidavit by Mr. Norn in support of the application.

9 I issued a lengthy judgment concluding that I
10 did not have jurisdiction to issue subpoenas as the
11 allegations were unrelated to the Terms of Reference.

12 I now feel that all of this leads me to the
13 inescapable conclusion that Mr. Norn's non-appearance
14 is simply a further delay tactic that I will not
15 countenance. This Inquiry will now proceed.

16 And I now have a few opening comments and then
17 I'm going to turn it over to my counsel, Mr. Laprairie.

18 I was going to say good morning but it's now
19 good afternoon. I wish to introduce myself.

20 My name is Ronald Barclay, and I've been
21 appointed as the Sole Adjudicator by the Speaker of
22 the Northwest Territories Legislative
23 Assembly on the recommendation of the Board of
24 Management of the Assembly. The title "Sole
25 Adjudicator" is a fancy title for the word "Judge"
26 and judging will be my mandate in this Inquiry.

27 This Inquiry arose out of the complaint that was

Appendix 9 - Ruling on Exhibit 5, October 4, 2021

1 THE ADJUDICATOR: Yes.

2 MR. COOPER: It's important to note, sir,
3 we've raised this issue previously with you on more
4 than one occasion, that on July 21st, 2021, Mr.
5 Laprairie was indeed not your legal counsel according
6 to the *Legal Professions Act of the Northwest*
7 *Territories*. He was only given a restricted
8 appearance certificate on August 6th, along with his
9 associate Ms. Sparrow, and if this is to be made an
10 exhibit, it should be noted at the time that
11 Mr. Laprairie was not in concordance, nor in fact was
12 Ms. Sparrow in concordance with the *Legal Professions*
13 *Act of Northwest Territories*, which we've indicated
14 previously is not a signatory to the interprovincial
15 protocol prohibiting Mr. Laprairie and Ms. Sparrow
16 from acting as legal counsel on any Northwest
17 Territories legal matters.

18 So to that extent, we take issue with the
19 proposition contained in Mr. Laprairie's letter, and
20 in his submissions in support of having this exhibit
21 entered as I believe Exhibit number 5, that he was in
22 fact legal counsel. He simply could not be, in law,
23 your legal counsel until August 6th.

24 MR. LAPRAIRIE: Mr. Barclay, as you well know,
25 this has been the subject of multiple letters written
26 to you by Mr. Cooper, and it --

27 THE ADJUDICATOR: -- Law Society --

1 MR. LAPRAIRIE: -- allegedly. I'm sorry, Mr.
2 Barclay.

3 THE ADJUDICATOR: Go ahead.

4 MR. LAPRAIRIE: And, as you know, it is allegedly
5 a complaint made against myself and Ms. Sparrow,
6 before the Law Society. It is something that you
7 have already ruled on, that you will not deal with.
8 But go ahead, Mr. Barclay.

9 THE ADJUDICATOR: I've already -- the matter is
10 before the Law Society, and I don't want to take
11 judicial notice of what they'll likely do. But it
12 really has no effect at all until the Law Society
13 deals with it so I'm going to allow the exhibits to
14 go in.

15 MR. LAPRAIRIE: Exhibit 5, then.

16 THE ADJUDICATOR: And I did rule on it quite a
17 number of times, Mr. Cooper, when you raised it
18 before. That's Exhibit 5.

19 MR. LAPRAIRIE: Now, Exhibit 6 --

20 MR. COOPER: -- if I may respond to that
21 additional piece of information.

22 It may be that you ruled that you couldn't deal
23 with the question in the terms of a conflict or bias,
24 but this is an objection in respect to statements
25 made in the letter and *viva voce* by Mr. Laprairie
26 purporting status that he didn't have.

27 Now, your rulings with respect --

1 end-all; it is not determinative or conclusive but
2 rather this purports to be a relevant compilation of
3 evidence that presumably you will consider in your
4 deliberations.

5 Now, what's interesting --

6 THE ADJUDICATOR: -- you have access to that
7 document, don't you, the Hansard?

8 MR. COOPER: Every member of the public has
9 access to Hansard, there's no question.

10 THE ADJUDICATOR: Exactly. Exactly.

11 MR. COOPER: But the exercise of discretion by
12 a summer student, operating under Mr. Laprairie and
13 presumably Ms. Sparrow's direction, is quite clear in
14 the compilation of this material.

15 So we see on the exhibit sworn on the 20th of
16 August 2021, tab 13, putative Exhibit 13,
17 Mr. Laprairie informed me to only heed statements in
18 Assembly meetings where Mr. Norn is reported as being
19 present as well as to gather all responses of Mr.
20 Norn's questions as to COVID self-isolation rules.

21 And then paragraph 14 goes into further detail.

22 So if Mr. Laprairie wants the benefit of being
23 able to rely on compilations, it's not enough to say
24 'do you have an objections?' And we've objected to
25 all of the material that is purported to be submitted
26 without the right of cross-examination. It's
27 sufficient, in our submission, to grant us the

1 ability to cross-examine this summer student on how
2 he exercised his discretion and I might say, sir, to
3 whom did he speak at the Legislative Assembly. How
4 did he access this material? How did he process it?
5 How did he report back to Mr. Laprairie and
6 Ms. Sparrow?

7 If he is purporting to submit information of
8 this nature, a compilation of public material,
9 certainly there should be a right to cross-examine.
10 I'm not purporting that cross-examination will be
11 lengthy or deep, depending partially on the answers
12 that Mr. Paczko may actually submit. But in the
13 place of *viva voce* evidence, if this sort of
14 affidavit is submitted into evidence uncontested,
15 then it is just another hit on the integrity and the
16 reliability, the fairness and the objectivity of a
17 process that we say has suffered almost from those
18 maladies almost from the start - from the moment we
19 got a letter from a non-member of the Law Society of
20 the Northwest Territories up to the fact that we got
21 an affidavit today that is purported to be relied
22 upon this week. And, sir, we say Mr. Norn has the
23 right to cross-examine this particular individual.

24 THE ADJUDICATOR: Mr. Laprairie, anything further
25 you want to add?

26 MR. LAPRAIRIE: Nothing further.

27 THE ADJUDICATOR: Well, it seems to me, Mr. Cooper,

1 that the law is -- I can't see -- if there is any
2 prejudice at all, I would permit you in a moment to
3 cross-examine but we're dealing with the Hansard and
4 all the law student said is 'this is the Hansard'.
5 You have tot access to it. You were given the
6 opportunity to see if you had any objections and
7 there was never any objection to today.

8 But I am fairly bound by these case authorities,
9 one of my former colleagues in the Saskatchewan Court
10 of Queen's Bench, said "where the information is
11 uncontroverted and a matter of public record", I
12 really can't see how it would assist me at all and I
13 am not going to allow it.

14 MR. LAPRAIRIE: I tender, as Exhibit 12, the
15 affidavit of Mr. Paczko sworn August 20, 2021 re
16 Hansard excerpts of Mr. Norn addressing the
17 legislature of the Northwest Territories re COVID as
18 Exhibit 12.

19 THE ADJUDICATOR: It will be so marked.

20 **EXHIBIT 12 - Affidavit of Jacob Paczko re Hansard**
21 **excerpts of Mr. Norn**

22 MR. LAPRAIRIE: Similarly, I tender Mr. Paczko's
23 affidavit sworn August 20, 2021 re Hansard excerpts
24 of Members of the Northwest Territories legislature
25 on the issue of COVID-19 in the presence of Mr. Norn
26 as the next exhibit.

27 THE ADJUDICATOR: That will be so marked, 13.

Appendix 11 - List of Documents Provided to Mr. Cooper

List of Documents/Materials to Provide to Steven Cooper

Document	Sent/Received
1. June 28, 2021 Letter of Appointment	Sent July 15, 2021 Ack July 28, 2021
2. Rules of Practice and Procedure	Sent July 15, 2021 Ack July 28, 2021
3. July 14, 2021 Letter of Engagement	Sent July 15, 2021 Ack July 28, 2021
4. Terms of Reference	Sent July 15, 2021 Ack July 28, 2021
5. Subpoena to Produce Documents and Testify	Sent July 22, 2021 Ack Aug 4, 2021 Aff'd of Service August 11, 2021
6. Documents provided by David Jones: <ul style="list-style-type: none"> a. July 21, 2021 Letter to Mr. Jones requesting documents b. May 7, 2021 Letter to Mr. Norn from Mr. Jones c. May 13, 2021 Letter to Mr. Norn from Mr. Jones d. May 14, 2021 Letter to Mr. Jones from Mr. Cooper e. May 14, 2021 Letter to Mr. Cooper from Mr. Jones f. May 28, 2021 Letter to Mr. Jones from Mr. Halabi g. May 28, 2021 Letter to Mr. Halabi from Mr. Jones h. June 7, 2021 Letter to Mr. Jones from Mr. Cooper 	Sent July 23, 2021 Ack July 28, 2021
7. Documents provided by subpoena from Glen Rutland: <ul style="list-style-type: none"> i. Legislative Assembly Control Register j. Legislative Assembly Daily Security Report k. Surveillance Video 	Sent July 23 2021 Ack Aug 4, 2021
8. Surveillance Video from Assembly April 17, 2021	Sent July 23, 2021 Ack July 12, 2021 by Karie Bell
9. Oath of Office, Allegiance and Loyalty	Sent July 23, 2021 Ack Aug 4, 2021
10. Notice of Hearing	Sent August 3, 2021 Ack August 4, 2021 Aff'd of Service Aug 11, 2021
11. Resolution No. 23-17(5) dated June 5, 2014 with cover letter	Sent August 3, 2021
12. Documents from Russell Neudorf: <ul style="list-style-type: none"> l. SIP-17377 – Resident Self Isolation Plan m. Isolation Plan Request by Steve Norn n. SIP-41192 – Resident Self Isolation Plan o. Self-Isolation Plan Approval for SIP 41192 p. SIP-41192 – April 4 Symptom Check StatsCan q. SIP-41192 – April 6 Symptom Check Smartsheet 	Sent August 5, 2021

<ul style="list-style-type: none"> r. SIP-41192 – April 10 Symptom Check Smartsheet s. SIP-41192 – April 10 Symptom Check StatsCan t. SIP-41192 – April 14 Symptom Check StatsCan u. SIP-41192 – April 19 Symptom Check Smartsheet v. SIP-41192 – April 18 Symptom Check StatsCan w. SIP-49759 – Resident Self Isolation Plan x. Self-Isolation Plan Approval for SIP-49759 y. FC- 5583 Report 	
13. First Amended Rules of Practice and Procedure	Sent August 13, 2021
14. Affidavit of Jacob Paczko re Background of Covid-19 in Grande Prairie sworn August 19, 2021	Sent August 20, 2021 Ack August 20, 2021
15. Affidavit of Jacob Paczko re Hansard excerpts of Members, sworn August 20, 2021	Sent August 20, 2021 Ack August 20, 2021
16. Affidavit of Jacob Paczko re Hansard excerpts of Mr. Norn sworn August 20, 2021	Sent August 20, 2021 Ack August 20, 2021
17. Affidavit of Jacob Paczko re Transcription of Facebook video, sworn August 20, 2021	Sent August 20, 2021 Ack August 20, 2021
18. April 2, 2020 Facebook PSA from Steve Norn	Sent August 20, 2021 Ack August 20, 2021
19. Affidavit of Jacob Paczko re: Standing Committee	Sent Sept 9, 2021 Ack Sept 9, 2021
20. Exhibit B to Affidavit, edited video	Sent Sept 9, 2021 Download receipt Sept 9, 2021
21. Witness Statement of Robert Braine	Sent Sept 16, 2021 Ack Sept 16, 2021 J. Grift
22. Statutory Declaration of Liny Lamberink, sworn August 31, 2021	Sent Sept 8, 2021 Ack Sept 8, 2021
23. Affidavit of Ollie Williams, affirmed Sept 10, 2021	Sent Sept 10, 2021
24. Research Memo concerning Rule 107	Sent Sept 13, 2021
25. COVID Report Form and Exposure Investigation Form	Sent Sept 13, 2021 Ack Sept 14 2021 (J. Grift)
26. Decision of Sole Adjudicator	Sent Sept 13, 2021
27. Social Media Posts by Steve Norn re: COVID	Sent Sept 14, 2021 Ack Sept 14, 2021 (J. Grift)
28. Screenshot of Mr. Norn's phone	Sent Sept 15, 2021 Ack Sept 15, 2021 (Ron)
29. Affidavit of Dennis Marchiori	Sent Sept 16, 2021 Ack Sept 16, 2021 (S. Cooper)
30. Transcript of August 31, 2021 interview with Trishia Smith	Sent Sept 7, 2021

	Ack Sept 7, 2021 and Sept 13, 2021
31. Subpoena to Attend Interview	Sent Sept 16, 2021 Ack Sept 16, 2021
32. Revised Subpoena to Attend Interview	Sent Sept 20, 2021
33. Affidavit of Dr. Andy Delli Pizzi, sworn Sept 15, 2021	Sent Sept 20, 2021 Ack Sept 20, 2021
34. Second Amended Rules of Procedure and Practice	Sent Sept 20, 2021 Ack Sept 27, 2021
35. Day 14 symptom check document	Sent Sept 21, 2021 Ack Sept 21, 2021
36. First Draft of Potential Findings of Misconduct	Sent Sept 22, 2021 Ack Sept 27, 2021
37. September 23 2021 letter re: blended hearing	Sent Sept 23, 2021
38. Witness Summary of Stephanie Gilbert	Sent Sept 24, 2021 Ack Sept 24, 2021
39. Affidavit of Brian Thagard	Sent Sept 27, 2021 Ack Sept 28, 2021
40. Transcript of Interview of Steve Norn	Sent Sept 28, 2021 Ack Sept 29, 2021
41. NWT Guide to Traveller Symptom Check	Sent Sept 28, 2021 Ack Sept 29, 2021
42. Letter from Tu Phan with correction to Trishia Smith interview	Sent Sept 29, 2021 Ack Sept 29, 2021
43. Transcript of Natasha Schwindt	Sent Sept 29, 2021
44. Transcript of Su-Ellen Dillabough	Sent Sept 29, 2021
45. Transcript of Trishia Smith October 1	Sent October 1, 2021 Ack October 1, 2021
46. Amended Notice of Misconduct	Sent October 3, 2021
47. Affidavit of Dennis Marchiori sworn October 4	Sent October 4, 2021

Appendix 12 - Ruling on Adjournment Request, October 5, 2021 Transcript

1 MR. LAPRAIRIE: This is public.

2 MR. NORN: -- and you're still talking. My
3 mom and my daughter are very sick, they're very ill,
4 and we're still doing this.

5 THE ADJUDICATOR: Well, I'm sorry to hear that,
6 Mr. Norn. But at the present time, I'm going to -- I
7 welcomed you and I'm pleased that you're here, but
8 we're going ahead with the hearing and I want to
9 deliver the judgment.

10 MR. NORN: I just --

11 THE ADJUDICATOR: -- no, Mr. Norn, I will give you
12 an opportunity in due course to say something but
13 right now, I am going to deliver a judgment based on
14 the application of your counsel. So just bear with
15 me.

16 MR. NORN: And I know what you're going to
17 say, but say it.

18 THE ADJUDICATOR: Thank you. This is as a result of
19 the application by your counsel for an adjournment.
20 The subject matter of this Inquiry is serious because
21 it affects Mr. Norn's reputation and career.
22 However, the evidence itself is not complicated and
23 largely uncontroverted.

24 Much of it was admitted by his counsel before
25 Mr. David Jones Q.C. in his response to the complaint
26 dated June 7, 2021. It was all summarized by
27 Mr. Jones in his report, which he has had since

1 June 14th, 2021. There is very little evidence in
2 dispute. Most of the relevant evidence is also
3 entirely within the knowledge of Mr. Norn.

4 MR. LAPRAIRIE: Mr. Barclay, I hate to interrupt
5 but we're getting a message --

6 MR. NORN: -- you're very good at
7 interrupting, Mr. Laprairie.

8 MR. LAPRAIRIE: I'm sorry, Mr. Norn, I apologize,
9 but I need to give direction to whoever is making it
10 public, we need to start again with Mr. Barclay's
11 judgment. Your judgment was not read publicly.

12 MR. NORN: Seriously?

13 THE ADJUDICATOR: Oh, I'm sorry.

14 MR. LAPRAIRIE: Are we clear on that,
15 Ms. Anderson?

16 MR. NORN: Can you guys, like, not get your
17 crap together, seriously.

18 MR. LAPRAIRIE: Okay, we have a message now that
19 it's all clear. Could you begin again, Mr. Barclay.

20 THE ADJUDICATOR: Yes. Mr. Norn, just bear with
21 me. I was delivering my judgment but I understand
22 from the officials that, for whatever reason, it
23 wasn't being made public so I am going to repeat it.
24 I just got nicely started.

25 The subject matter of the Inquiry is serious
26 because it affects Mr. Norn's reputation and career.
27 However, the evidence itself is not complicated and

1 largely uncontroverted. Much of it was admitted by
2 his counsel before Mr. David Jones Q.C. in his
3 response to the complaint dated June 7th, 2021. It
4 was all summarized by Mr. David Jones in his report,
5 which he has had since June 14th, 2021. There is
6 very little evidence in dispute.

7 Most of the relevant evidence is also entirely
8 within the knowledge of Mr. Norn. In that regard, my
9 counsel advises me that Mr. Norn, when he was
10 questioned under oath on September 22nd, 2021, he
11 refused to answer any questions relevant to my Terms
12 of Reference objected to by Mr. Cooper.

13 Transcripts that were provided to Mr. Cooper
14 were very brief and could be read by counsel in an
15 evening. I did. As I did.

16 It is unfortunate that Mr. Cooper has diverted
17 his own attention and devoted significant time and
18 effort, sending 19 lengthy pieces of correspondence,
19 which had nothing to do with the issues and required
20 my counsel to take significant time to respond. As
21 respectfully submitted, if Mr. Cooper had directed
22 his focus to the evidence as it was presented to him,
23 it would have assisted in his preparation.

24 As I mentioned yesterday, as a result of
25 Mr. Cooper's application alleging institutional bias,
26 this involved a very complex legal argument and took
27 considerable time to prepare, and it included four

1 lengthy affidavits which included a lengthy affidavit
2 from his client Mr. Norn.

3 It is so clear that the disclosure provided to
4 Mr. Cooper was both fulsome and timely and in no way
5 is he prejudiced. In my view, this is not a
6 difficult case if counsel were properly focused as
7 the evidence is not complex and, generally, not in
8 dispute. I therefore conclude that Mr. Cooper and
9 his client are not prejudiced, and I deny him the
10 application for an adjournment.

11 In closing, Mr. Cooper's suggestion --

12 MR. NORN: Thank you.

13 THE ADJUDICATOR: -- the date for this hearing was
14 selected and maintained to facilitate the schedule of
15 the legislature and was politically motivated is,
16 frankly, insulting, is without foundation, and is
17 entirely --

18 MR. NORN: -- are you serious, Mr. Barclay?
19 Seriously?

20 THE ADJUDICATOR: -- false.

21 MR. NORN: Wow. Wow.

22 THE ADJUDICATOR: That's my judgment, Mr.
23 Laprairie. We are going ahead with the witnesses
24 now.

25 MR. LAPRAIRIE: Okay, Mr. Barclay --

26 MR. NORN: -- this is like a farce. This is
27 like a legal farce, seriously.

1 judgment at 2, or did you want to wait until the
2 cross-examination is over? I'll leave it up to
3 counsel. It will be ready.

4 MR. HALABI: Judgment at 2. We can do the
5 cross-examination after that.

6 THE ADJUDICATOR: Thank you.

7 THE CLERK: This hearing is now adjourned
8 until 2 p.m.

9 **(ADJOURNMENT)**

10 THE CLERK: Good afternoon. This Court is
11 resumed -- or I'm sorry, this Hearing is resumed.

12 THE ADJUDICATOR: Thank you very much. I am now
13 going to, as promised, deliver my judgment in respect
14 to the application by Steve Norn for issuance of new
15 subpoenas.

16 This is an application by Steve Norn, a Member
17 of the Northwest Territories Legislative Assembly, to
18 have a number of subpoenas issued. The subpoenas
19 requested include Dr. Andy Delli Pizzi, Dr. Kami
20 Kandola, Glen Rutland, and Sheila MacPherson.

21 On this issue, I am citing the judgment I have
22 delivered on this case on September 13th, 2021, in
23 which I reviewed the legal principles arising in
24 respect to a judicial inquiry.

25 The jurisprudence involving a Court's decision
26 to quash a subpoena prescribes the general principle
27 that a subpoena can only be issued where the evidence

1 sought is relevant to the issues of the proceedings.
2 In other words, a Court should set aside or quash a
3 subpoena on the ground that the information sought is
4 not relevant to the live issues in the dispute. And
5 there's a long line of authorities to that effect.

6 In Canadian Metal v. Heap (1975) 54 D.L.R. (3d),
7 this is a leading case out of the Ontario Court of
8 Appeal, and that decision reflects that the evidence
9 sought to be elicited must be relevant to the issues
10 in the motion. If it is, there is a prima facie right
11 to resort to the rule providing for the issue of a
12 subpoena.

13 When you're dealing with an Inquiry, my
14 jurisdiction as the Sole Adjudicator is limited by
15 its Terms of Reference for the Inquiry and with
16 whether or not it is relevant to those terms.

17 In my opinion, the Terms of Reference reflect
18 that my sole mandate as Sole Adjudicator is to
19 investigate the allegation that Mr. Norn breached the
20 mandated period of self-isolation for COVID-19 upon
21 his return to Yellowknife in April of 2021; and,
22 whether he misled the public with his compliance with
23 the mandatory self-isolation period.

24 In Mr. Norn's application, and I mentioned it
25 earlier, that he wants subpoenas for Dr. Andy Delli
26 Pizzi, Dr. Kami Kandola, Glen Rutland, and Sheila
27 MacPherson.

1 Mr. Cooper's arguments, thanks to our court
2 reporter, appeared in last day's transcript. The
3 first witness he wishes to call is Dr. Andy Delli
4 Pizzi, the Deputy Chief Health Officer for the
5 Northwest Territories, to give important information
6 on the creation, explanation, and promulgation of the
7 COVID rules. In this case, Mr. Cooper's request is
8 reasonable and I am going to allow Delli Pizzi to
9 testify and therefore a subpoena will issue
10 returnable at the conclusion of Mr. Norn's testimony.
11 In my view, his evidence will assist me in the
12 Inquiry even though the current witness on the stand
13 being cross-examined is the director of enforcement
14 and compliance and is available to question as
15 Mr. Cooper has requested.

16 With respect to Dr. Kandola, however, as she is
17 leading the response to COVID-19 in the Northwest
18 Territories, which now is leading the nation in cases
19 per capita, we cannot, in the public interest, take
20 her away from this important mandate.

21 Also, it is critical to state that Dr. Delli
22 Pizzi can answer these questions, along with the
23 witness that is currently on the stand, Mr. Dennis
24 Marchiori. Therefore I am not authorizing a subpoena
25 for Dr. Kandola.

26 Turning now to the request to have subpoenas
27 issued for Glen Rutland and Sheila MacPherson. I am

1 assured by Mr. Cooper that the testimony he wishes to
2 elicit from them has nothing to do with the previous
3 matter, which has already been dispensed with, and
4 that was the judgment I wrote in respect to the
5 allegations of institutional bias. If any evidence
6 is attempted to be elicited in breach of this
7 undertaking, I will make the necessary order from
8 preventing Mr. Cooper from proceeding in that manner.

9 I understand that Mr. Cooper also wishes to
10 elicit evidence about how a new first-term MLA would
11 have been taught about the Members code of conduct,
12 how to deal with the crisis, how to approach the
13 media, and how to deal with media inquiries.

14 Ms. MacPherson is the Law Clerk for the
15 Legislative Assembly and does have personal knowledge
16 of those issues. Although I have some serious
17 reservations as to whether this evidence will assist
18 me and may not be within the Terms of Reference, in
19 fairness I will permit her to be heard and therefore
20 a subpoena will issue returnable at the conclusion of
21 Mr. Norn's testimony.

22 As both witnesses are stated to be required for
23 this purpose, in my view one witness will suffice
24 especially when Mr. Cooper has not entirely satisfied
25 me as to the relevance of the evidence. Therefore I
26 am not authorizing the subpoena to issue for Mr.
27 Rutland.

1 indication, even three hours ago, an indication that
2 this application was going to be made. If he had to
3 make an application, it had to be on notice. Without
4 notice, in our submission you must give us sufficient
5 time to rely. And ten minutes, sir, with respect, is
6 not enough time to do anything in preparation for
7 something like this.

8 THE ADJUDICATOR: Thank you again, Mr. Cooper. You
9 know, I've conducted a quite a number of Inquiries
10 and I've never had a situation where there's so much
11 powerful reasons as to why I should permit
12 cross-examination. And we've been very fair. I
13 spent some time in my opening going through the role
14 of Commission counsel and a good part of the
15 presentation I made, dealt with the right of counsel
16 to cross-examine. I repeated it several times. And
17 there's so much evidence here that dictates that I
18 should allow Mr. Laprairie to cross-examine. We want
19 to find the truth. That really is my mandate. I
20 want to make sure that all the parties have a fair
21 hearing. You're experienced counsel, and I'm sure
22 that once you've heard the evidence in this case, you
23 would say to yourself Justice Barclay is going to
24 allow Mr. Laprairie to cross-examine in the interests
25 of justice. And I am going to again -- I am not
26 going to repeat what Mr. Laprairie has told to me -
27 it's rather basic law in Inquiries.

1 But I just want to touch on Professor Ed
2 Ratushny who is probably one of the leading experts
3 from Toronto on conduct of Public Inquiries. He's
4 been involved in many Inquiries himself and he's
5 wrote several articles and books about Inquiries.
6 I'd like to mention in passing that Professor Ed
7 Ratushny is also a graduate of the University of
8 Saskatchewan.

9 But this is what he said, and I think if you
10 listen to this carefully, and I repeated this in my
11 presentation at the opening, that you would say to
12 yourself 'Mr. Laprairie is going to be
13 cross-examining'. And this is what Professor Ed
14 Ratushny said:

15 Impartiality on the part of Commission counsel
16 is not be confused with the lack of vigor and
17 vigilance in seeking the truth. Commission counsel
18 must still act forcibly whenever necessary to
19 overcome resistance that could obscure truth. This
20 persistence is particularly important wherever the
21 transparency of Public Inquiries -- and I am going to
22 emphasize this -- motivates resistance on the part of
23 those with something to hide.

24 And throughout the last few days, that
25 particular sentence resonates to the facts in this
26 case.

27 What makes Commission's counsel unique is that

1 they must take into consideration the public
2 interest, the interest of all parties; and,
3 furthermore, must explore conscientiously all
4 plausible explanations and outcomes regardless of
5 whose interests are advanced. We have now reached a
6 point in the evolution of Commission's counsel role
7 wherever it can be confidentiality asserted that
8 every task they undertake must be infused with
9 impartiality inseparable in degree from that of the
10 Commissioner.

11 And all we're trying to do is find out what is
12 the truth. And I think the public and all the
13 parties are entitled to have the benefit of
14 experienced counsel cross-examining your client, and
15 I am going to allow it.

16 MR. LAPRAIRIE: Mr. Barclay, may I proceed with
17 the second matter?

18 THE ADJUDICATOR: Go ahead.

19 MR. LAPRAIRIE: The second matter was raised with
20 my friend yesterday. It was the fact that we intend,
21 during Mr. Norn's questioning, to introduce evidence
22 that came to our attention only on Monday of this
23 week. And on Monday of this week, we dispatched that
24 new evidence to Mr. Cooper in its entirety.

25 The evidence is a Facebook message that was sent
26 by Mr. Norn on the evening before the commencement of
27 this Inquiry, at 6:43 p.m., to the Facebook Messenger

Appendix 15 - Ruling on Facebook Message, October 7, 2021 Transcript

1 THE ADJUDICATOR: We will take a ten-minute break.

2 THE CLERK: This Hearing stands adjourned for
3 ten minutes.

4 **(ADJOURNMENT)**

5 THE CLERK: This Hearing is now resumed.

6 THE ADJUDICATOR: Thank you very much.

7 Mr. Cooper, thank you again for your submission.
8 They were very helpful in respect to assisting me in
9 making my decision.

10 I have decided that in fairness to your client,
11 my counsel, Mr. Laprairie, will not be permitted to
12 cross-examine Mr. Norn on these documents, and I am
13 going to ask Mr. Laprairie to now proceed with this
14 witness.

15 **Examined by Mr. Laprairie**

16 Q MR. LAPRAIRIE: Okay, Mr. Norn, you've been sworn
17 already. Would you put your microphone on to test --

18 A -- sorry, I was just trying to click then, I just got
19 on there. Can you hear me?

20 Q Okay. Mr. Norn, I need to give you this warning. I
21 did it when I questioned you before in your
22 transcript but it says, I'd like to begin by
23 informing that pursuant to section 8 of *Public*
24 *Inquiries Act*, you do have the right to object to
25 answer any questions under section 5 of the *Canada*
26 *Evidence Act*.

27 The *Public Inquiries Act* also provides that any

Appendix 16 - Ruling on Comments Made During Hearing, October 8, 2021 Transcript

1 MR. COOPER: Okay. I just wanted to make sure
2 that we weren't revisiting that which had already
3 been dispensed with.

4 THE ADJUDICATOR: No. And just in my own notes,
5 there was the statement made in the respect to the
6 Sole Adjudicator about the -- my judgment, that it
7 was like a "legal farce". There was a suggestion to
8 Mr. Ollie Williams that he was -- I think the phrase
9 he was a "liar". And there were also some statements
10 involving -- I would characterize them as
11 antagonistic statements towards Mr. Laprairie.

12 Those are the three items, sir, that are before
13 the Inquiry, and if you're telling me that you're not
14 going to be making application then they're before
15 us.

16 MR. COOPER: No, sir. What I intend to do,
17 after consultation with my client, in compliance with
18 the consent to discuss this particular and one other
19 issue that came up this morning with my client, we do
20 intend to agree that they are properly before you.
21 They're part of the transcript. And I would propose
22 simply to examine my client with respect to those
23 matters.

24 And just to be clear, sir, Mr. Laprairie has
25 correctly identified portions of the transcript in
26 which these comments appear, and I propose to deal
27 with them chronologically. And if that's agreeable,

1 sir, I would just begin my --

2 THE ADJUDICATOR: -- I don't have any problem with

3 that. I just wanted to make sure on the record that

4 you're not making an application to exclude the

5 evidence. And so you go ahead.

6 MR. COOPER: Thank you, sir. And as I

7 indicated so -- Mr. Norn, you're on mute and you have

8 your hand up.

9 MR. NORN: My apologies. Can I have, like,

10 maybe 15, 20 seconds. I just got to deal with my

11 pet. It was making a lot of noise close to me and I

12 was trying to mute and it's kinda distracting for me.

13 So if you don't mind, if I could just have your

14 indulgence here briefly.

15 THE ADJUDICATOR: What is it, his pet?

16 MR. LAPRAIRIE: Yeah, just a pet.

17 THE ADJUDICATOR: I should bring my two cats in.

18 MR. COOPER: So long as no one appears on the

19 screen behind a cat filter, we're doing okay.

20 THE ADJUDICATOR: I think for argument, Mr. Cooper,

21 I have two cats, I should bring them to the hearing.

22 MR. COOPER: Well I should note, sir, that we

23 have a trial scheduled, a Nunavut trial that is

24 scheduled to be entirely remotely, and the case

25 management Justice specifically said that she wants

26 to ensure that there are no screaming babies or

27 barking dogs in the back yard, which is not all that