

FEDERAL COURT

BETWEEN:

Peters First Nation

APPLICANT

AND:

Gordon Lock, Deborah Senger, Carol Raymond and Neil
Peters and the Canadian Human Rights Commission

RESPONDENTS

APPLICATION UNDER sections 18 and 18.1 of the *Federal
Courts Act*, RSC 1985, c F-7 and Rule 301 of the *Federal
Courts Rules* SOR/98-106

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Vancouver, British Columbia.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

DATED: December 21, 2023

Issued by: _____
(Registry Officer)

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APPLICATION

THIS IS AN APPLICATION FOR JUDICIAL REVIEW in respect of the decision and orders of the Canadian Human Right Tribunal (“CHRT”) File Numbers T2697/7321; T2698/7421; T2716/9221; T2717/9321 on November 28, 2023, wherein the CHRT made the following orders and declarations:

- a. Peters First Nation discriminated against Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters in the provision of membership-related services on the prohibited grounds of age and family status;
- b. Peters First Nation is ordered to cease its discrimination against Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters pursuant to section 53(2)(a) of the CHRA;
- c. Peters First Nation is ordered to reprocess Gordon Lock’s, Deborah Senger’s, Carol Raymond’s and Neil Peter’s membership applications in a non-discriminatory manner within 30 days in accordance with the findings of this Tribunal pursuant to section 53(2)(b) of the CHRA;
- d. Peters First Nation is ordered to cease employing discriminatory policies and practices in relation to age and family status and according to the findings of this Tribunal regarding the processing of all future membership applications, pursuant to section 53(2)(a) of the CHRA;
- e. Within 60 days, Peters First Nation is ordered to pay each of Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters the amount of \$242,000 which encompasses \$30,000 for their share of distributions from the Trans Mountain Pipeline disbursements and \$212,000 for their share of the Seabird Island Band land settlement disbursements, pursuant to section 53(2)(b) of the CHRA;
- f. Within 60 days, Peters First Nation is ordered to pay Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters \$12,500 each in compensation for the pain and suffering they have experienced as a result of the discrimination pursuant to section 53(2)(e) of the CHRA;
- g. Within 60 days, Peters First Nation is ordered to pay Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters \$20,000 as compensation for Peters First Nation’s willful and reckless discrimination against them pursuant to section 53(3) of the CHRA; and
- h. Within one year, Peters First Nation is ordered to review and revise its application form and related application procedures in consultation with the Commission, pursuant to section 53(2)(a) of the CHRA.

(the “Decision”)

THE APPLICANT MAKES APPLICATION FOR:

1. An order in the nature of *certiorari* quashing the orders and declarations made in the Decision in its entirety.
2. An Order for costs of, and incidental to, this application; and
3. Such further and other relief as this Honourable Court may deem appropriate and just.

THE GROUNDS FOR THE APPLICATION ARE:**Background Facts**

1. This is an application for judicial review of the Decision of Member Catherine Fagan ("Fagan") of the Canadian Human Rights Tribunal (the "Tribunal") rendered on November 28, 2023 wherein Fagan made the following Orders and declarations in relation to the Complainants Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters (the "Complainants").
 - a. Peters First Nation discriminated against Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters in the provision of membership-related services on the prohibited grounds of age and family status;
 - b. Peters First Nation is ordered to cease its discrimination against Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters pursuant to section 53(2)(a) of the CHRA;
 - c. Peters First Nation is ordered to reprocess Gordon Lock's, Deborah Senger's, Carol Raymond's and Neil Peter's membership applications in a non-discriminatory manner within 30 days in accordance with the findings of this Tribunal pursuant to section 53(2)(b) of the CHRA;
 - d. Peters First Nation is ordered to cease employing discriminatory policies and practices in relation to age and family status and according to the findings of this Tribunal regarding the processing of all future membership applications, pursuant to section 53(2)(a) of the CHRA;
 - e. Within 60 days, Peters First Nation is ordered to pay each of Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters the amount of \$242,000 which encompasses \$30,000 for their share of distributions from the Trans Mountain Pipeline disbursements and \$212,000 for their share of the Seabird Island Band land settlement disbursements, pursuant to section 53(2)(b) of the CHRA;
 - f. Within 60 days, Peters First Nation is ordered to pay Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters \$12,500 each in compensation for

the pain and suffering they have experienced as a result of the discrimination pursuant to section 53(2)(e) of the CHRA;

- g. Within 60 days, Peters First Nation is ordered to pay Gordon Lock, Deborah Senger, Carol Raymond and Neil Peters \$20,000 as compensation for Peters First Nation's willful and reckless discrimination against them pursuant to section 53(3) of the CHRA; and
 - h. Within one year, Peters First Nation is ordered to review and revise its application form and related application procedures in consultation with the Commission, pursuant to section 53(2)(a) of the CHRA.
2. Fagan made no Orders or declarations in favour of the Complainant Harold Lock.
 3. The following facts regarding Peters are relevant to the matters set forth in the Complaints.
 4. The Peters First Nation ("Peters") is a very small First Nation which has three small reserves between Chilliwack and Hope. At the time of the hearing before Fagan, Peters had 74 members on its membership list, 47 of whom were adults. Indigenous Services Canada has on its list approximately 175 status Indians who are "affiliates" of Peters; in other words they have stated when applying for status that they have some sort of connection with Peters but are not members of Peters.
 5. Peters took control of its membership effective June 23, 1987. Peters adopted its final Membership Code (the "Code") on March 9, 1990. Under the Code the elected Chief and Councillors (the "Council") constitute the Membership Committee who vet and decide upon membership applications, subject to any appeals to the membership who are of the age of majority at the time of the appeal.
 6. There are currently 13 houses on two of the Peters' reserves. The third reserve is not occupied and uninhabitable.
 7. The following facts are relevant to each of the Complainants who Fagan ordered to be granted relief:

Carol Raymond ("Carol")

8. Carol gave the following evidence at the hearing before Fagan:
 - (a) With respect to obtaining Indian status and membership in Peters, she gave the following evidence:

David Wu:	And so, you all applied for Indian status after BC-31.
Carol Raymond:	Yes.
David Wu:	Did you receive any other communication from Canada about your application?

Carold Raymond:	I received a letter with my status number and was told to apply or to have my card. I could go and have my card printed.
David Wu:	That's your Indian Status, correct?
Carold Raymond:	Yes.
David Wu:	Do you recall being told anything about Peters Band membership?
Carold Raymond:	At that point I wasn't but I just assumed because as a child that's where I belonged that I was just automatically a member of the Band, so-

Stan Ashcroft:	Now, you were aware that you weren't on the Peters membership list as of April 17, 1985, correct?
Carold Raymond:	Yes.
Stan Ashcroft:	And, your pare[nt], your father was already dead by then correct?
Carold Raymond:	He died in 1984.
Stan Ashcroft:	And so, why did you not apply for membership between 1985 and 2013?
Carold Raymond:	I just assumed. I didn't know, but I assumed when I received my status, as a status Indian, that because that was the Band when I was a child ___ belonged to, I assumed that because now I'm getting my Indian status back, I was automatically, and it came as a member or a Peters Band was who I was affiliated with, that I was automatically a Band member. That's why I didn't apply.

Stan Ashcroft:	So when did you find out that you were not a member?
Carold Raymond:	Probably around 2012 when we were asked to join because Samantha Peters and had contacted Patricia. They had met and we found out that they were trying to contact all the family that weren't members. And, or that had status but no membership and that was a surprise. And I had to fill out the membership forms. It was, yeah.

(b) With respect to her visiting the Peters reserve, she said as follows:

Carold Raymond:	My grandmother still lived on, at Peters Nation and we used to go and to visit her there and my older siblings spent a lot of time with my grandmother and my dad. He was born there and raised there so, yeah.
David Wu:	So, when you say visit there are you talking about the Peters First Nation reserve?

Carold Raymond:	Yes, my grandmother lived on the reserve.
David Wu:	And how often would you visit?
Carold Raymond:	You know, I was too young, I just remember going, I was probably under 7 under 6 when I used to go. So, I can just remember going and visiting and after that, not until I was an adult did I go back there.
David Wu:	Other than your grandmother, do you remember visiting anyone else on the reserve?
Carold Raymond:	I can't remember.
David Wu:	As an adult, when you returned, under what circumstances did you return?
Carold Raymond:	In the middle '60s after my, it probably would be, I'm guessing 1967/'68 because my husband and I are driving and I asked him to drive onto the reserve because I wanted to, I told him this is where my grandmother lived and I can kind of remember coming here as a child and I told him like this where my father came from and so we drove down and to the Band and looked around and found the Band Chief, Frank Peters. And, so we went to introduce ourselves, I went to introduce myself because he was a family member, he was part of my family. So, we did go there, he invited us in and we had a little visit but his wife at that time, his wife was non-Native and she just wanted to know what I wanted and that let me know that there's nothing there for me. So, and that isn't why we went. It was just because they were family and I wanted my husband to meet part of the family. And that was the last time I went there until my dad passed. And then we had his funeral and his burial and that's where we had his dinner and at the Band and then he was buried in the Peters graveyard, next to his mom.

(c) In regards to her father, she said:

Stan Ashcroft:	So, just so that I have the scenario correct. So he went to the Mission residential school when he was young, I presume 5 or 6 was usually the case?
Carold Raymond:	I'm guessing he was more like 7 because he only had was there 2 years.
Stan Ashcroft:	And so then you say he went back to the Squatits or Peters reserve until he was 11 or 12.
Carold Raymond:	Right
Stan Ashcroft:	And then he, when he was 11 or 12, he permanently left the Squatits or Peters reserve?

Carold Raymond:	Yes. We're guessing that because he, he would visit his mom at the reserve.
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- (d) With respect to voting in Peters elections and seeking benefits from Peters, she said the following:

Stan Ashcroft:	So you never sought to vote in Peters elections. Isn't that correct?
Carold Raymond:	No.
Stan Ashcroft:	Ultimately, in your application you did mention that your daughter Patricia ran for Chief?
Carold Raymond:	Yes.
Stan Ashcroft:	Even though she wasn't a member, correct?
Carold Raymond:	Exactly, because I don't think you have to be a member to run.
Stan Ashcroft:	Right. And, but that wasn't until 2013/2014 something around there? I'm sorry, but somebody.
Carold Raymond:	2016.
Stan Ashcroft:	And, so you never sought any benefits from what you thought was membership correct?
Carold Raymond:	Correct.

Neil Peters ("Neil")

9. Neil gave the following evidence at the hearing before Fagan:

- (a) With respect to his membership in Peters, he said as follows:

Neil Peters:	Well, I thought it was recognized by the Band and we all did. We, I don't know anymore for the Band. Every time I ask it's, you wouldn't know. I assumed I belonged to the Band for 40 years 50 years here that's what I was told.
David Wu:	Were you a member of the Band from birth?
Neil Peters:	I assumed I was a member of the Band. I went for my polio shots with the Band there when I was like 4 years old or whatever and then we were always on the reserve when I was child helping Frank with his pain and then later on, I was, I had Phillip Peters from the Band as an apprentice sheet metal worker, trying to promote more people to get trades, which I did, like Harom__ Peters on the over at Seabird. He become an electrician after talking to me because

	there was too many of us killed logging, we had to do something different. The only job you're allowed to do right, so via trades and that's why I started.
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David Wu:	And so, your testimony was, you know, you thought you were member of the Band in part due to this funding you received and then it wasn't until I think you said Francis Genaille told you in, I think about 2012, about bidding on a house on reserve _____
Neil Peters:	Yes, my uncle Roland house was in the paper and we could bid on it and it was 2013, yes, April 29, 20 – March 19th, 2013.
David Wu:	March 29th 2013 okay but could you, did you apply for membership, you applied for membership before that date?
Neil Peters:	Yes. Before 2013, before that date 2011. 2013 we had to apply we were there on the 11th for a nomination but.
David Wu:	Were you part of a group application?
Neil Peters:	Yes.
David Wu:	So, was that group application the first application you made to Peters Band?
Neil Peters:	Well, other than, yes after that yes and when we started to realize that we're considered non-members, yes. Up until then, I thought I was a member. Why would you apply? That's what I was led to believe.

David Wu:	And then, again, there's a Band, ____ Band list we saw previously and then also in here is the Peters Indian Band final Indian Band Membership Code. Are you familiar with this Membership Code?
Neil Peters:	Yes.
David Wu:	And so, you thought you were entitled to membership on the basis of the criteria under this Membership Code?
Neil Peters:	Yes, I did.

Stan Ashcroft:	You realized that the Peters First Nation took control of its membership, correct?
Neil Peters:	I was told that, but yes, they took control of their membership. Yes.
Stan Ashcroft:	And you indicated in your evidence in Chief that you attended a meeting which apparently was cancelled in 1985.
Neil Peters:	Correct.
Stan Ashcroft:	And that was concerning a proposal to, really Peters First Nation, to take over its membership, is that correct?

Neil Peters:	That's correct.
Stan Ashcroft:	And you said that the meeting was cancelled because?
Neil Peters:	My brother and I showed up at the meeting so they seen us there so they cancelled it.
Stan Ashcroft:	And they cancelled it because you were not members, correct?
Neil Peters:	I don't know why they cancelled, they cancelled it because, I don't know. We thought we were members.
Stan Ashcroft:	But then, you and your brother showed up and they cancelled the meeting you say?
Neil Peters:	Correct.

- (b) In regards to his never being on the Peters reserve, his access to the Peters reserve and his hiring Peters members, he gave the following evidence:

Stan Ashcroft:	Now I'd like to go through with you where you lived at various times. So, you were born on June 15, 1948. Where were you and your parents living at the time?
Neil Peters:	They were living in a house that my mother's grandmother owned and they bought it off her, at the other end of Laidlaw, east end Laidlaw.
Stan Ashcroft:	And can you explain, for those who don't know, where Laidlaw is?
Neil Peters:	It's 100km east of Vancouver, 12km west of Hope.
Stan Ashcroft:	It's not on any Peters reserve, correct?
Neil Peters:	No, it's approximately 2km from the Peters reserve. Its right beside the Ohamil reserve.
Stan Ashcroft:	So, you weren't living on the Ohamil reserve either, it was just adjacent to it?
Neil Peters:	No, that's where I was invited. That's where I lived adjacent to, yes, but I didn't live on the reserve. I never had that pleasure.
Stan Ashcroft:	So how long did you live there?
Neil Peters:	Until I was 18 and then I went had to move to Vancouver to go to Vocational school and then once I finished the 6 month then I started working in Vancouver, then gradually worked my way back to Chilliwack where I worked for Century Plumbing and Heating and then 1988 1989, after I got my status, and I could buy myself a break through the grant that the Peters Band, my Band, signed for me, that's when I had to kickstart to start my own business. So, I did. And I had to lease land off Art Hall on the reserve in

	Sardis, Vedder Crossing, and when I was asking the Peters Band when could I put the shop there, and they kept running me around a circle, oh we can't put in a septic tank out there and this and that. Meanwhile they built Norma's house out there. So that was kind of, careless with the truth, shall I say. And never did get there, like I said, it was in that time I encouraged Phillip. I was helping him design his house and put a furnace in his house and I said why don't you come and be the tradesmen with me? He was helping, he was interested and obviously intelligent enough to do it. And then they had bad accident logging and stuff and so that's when Victoria's man got killed there so he wanted to get out of the logging too.
Stan Ashcroft:	So let me go back. You said 1988 or '89 you leased land on what reserve?
Neil Peters:	Tzeachten reserve.
Stan Ashcroft:	Tzeachten okay.
Neil Peters:	And then I was informed that I couldn't lease land off the reserve. I had to lease it from the Federal government because I didn't belong to that reserve. So that's when I had to move my shop and leave there. My shop consists of 4 Atco trailers that you put together and they just made it underneath the laws to move it.
Stan Ashcroft:	So, you moved it from Tzeachten reserve?
Neil Peters:	That's correct.
Stan Ashcroft:	And to where?
Neil Peters:	To the property in Laidlaw.
Stan Ashcroft:	So, you, let me just go back, so 1948 you start off in Laidlaw. You lived out here__ until you were 18, you went to Vancouver for Vocational school then?
Neil Peters:	Then worked in Vancouver. The wheat pools and stuff.
Stan Ashcroft:	Okay, and you lived in Vancouver, right?
Neil Peters:	Correct, I rented in Vancouver, I still maintain a cabin at Laidlaw but that was just to escape from the city. I didn't like living in Vancouver.
Stan Ashcroft:	And then you lived in Vancouver until 1988 or 1989, is that right?
Neil Peters:	No, I, until about 19-, no not anywhere near there, it was '69-'70 and then I moved back to Laidlaw and worked for a sheet metal shop that was there in Grafton Heating. I got my foot in the door

	<p>there to be an apprentice at half the minimum wage yet in 1969, but anyways, that's my foot in the door. I worked there and then I, well for the Union okay you get dispatched to the different jobs. I went to the fiber glass plant in Mission. And then, out to pulp mills and made my mark there because I understood dust collecting and cyclone building them etcetera. So then when I came into Century on a weekend, the man that owns it pointed me to look at the cyclone that the guy was building and he says does that look like a cyclone to you? And I said, no it looks like a funnel never going to work. So, he said you're hired, come in Monday. So that's when I went in there and started them on dust collecting and mill repairs which Century plumping still does to this day. But I was the one that _____ with the foot through the door on it, and then at 1982 I ended up running a sheet metal crew on big projects like Molson Brewery etcetera and that's where I bought my trailers. It was a temporary lunch room when we were renovating the brewery on Burrard. We were building tanks for beer. Hanging in the air with welders etcetera. And then from there I got my status so I, different ones, contractors in Chilliwack. They were after me "Neil you don't have to go down there, we need you in Chilliwack." Jake Cron and a few other ones that wanted to hire me to do jobs in Chilliwack so that's how I started there, and they kept me busy all right up until last year or so when I said Hey, I can't do that anymore, and they said well there are no other sheet metal workers, I said I know but, you know, there is a limit. I'm 74 years old right. The last job I worked on there was three of us that were all older than 65 and all the rest of it but there's no other, you can, there's a vacuum on the door for tradesmen if anybody wants to work. Refrigeration or whatever, it doesn't matter. But that's when I moved back to Laidlaw with the shop and I've had it there since, and now I'm retiring. But everybody still phones and I have to say hey hold the phone. As it is, there's still nobody up there in Hope area at all. There's one retired soldier that knows refrigeration and that's it. My step son and son they've, they're gone into the trades. They're gone. They're busy. The day they got out of the vocational school they had a job next morning, and I haven't seen them since. That's how, how I wanted to encourage other people.</p>
Stan Ashcroft:	Yeah, I understand that. You were said that you were trying to encourage Peters members.
Neil Peters:	Yes.
Stan Ashcroft:	And they never stopped you from coming on the reserve or helping those people I take it.
Neil Peters:	No, I, I, ahh never stopped me from that, they wanted me to, like I said, put in furnaces which I did.

Stan Ashcroft:	You did that as part of your job I take it?
Neil Peters:	Yes. I don't like house furnaces 'cause my knee was smashed logging and I don't like kneeling on my knees for that. That's why I do a lot of industrial stuff where you're up in the air, not down there.
Stan Ashcroft:	And you still could hire Peters First Nation members, correct?
Neil Peters:	Correct, yep. Especially in the service work for these heat pumps and stuff, nowadays there's a big demand for that. I'm trying to talk a granddaughter into doing it cause I thought she was physical enough, but they might be a nurse instead, so that's fine by me. But still, you could use some assistance to get them there. Not have to pay for it all. Waste of opportunities.

- (c) Neil Peters agreed that he never sought to vote in a Peters election until 2011 as evidenced by the following exchange:

Neil Peters:	No, I never seen a membership list until we came up with trying to go and vote, and then they said oh you're not eligible to and you're not eligible to and really, okay? That was the first time we heard at that.
Stan Ashcroft:	When was that?
Neil Peters:	That was in 2011 I believe.
Stan Ashcroft:	You'd never been, you'd
Neil Peters:	January 17 th , 2011. Nomination Acclamation.
Stan Ashcroft:	And you had never sought to vote in a Peters election prior to that, isn't that, right?
Neil Peters:	No, never.
Stan Ashcroft:	And you had not sought any other benefits from the Peters First Nation other than that \$5000 to assist you with your business, correct?
Neil Peters:	That's correct. I had applied for a larger loan than that, but unfortunately that didn't go anywhere. I just got run around in a circle. 'til you're exhausted, that's the trick right, but \$5000 one okay that went through. I approached Frank directly, okay, thinking why wouldn't you?
Stan Ashcroft:	Now you say that as of the election January 17th 2011 you knew that you were not on the membership list because they wouldn't let you vote, correct?

Neil Peters:	Yeah, like it says, I was entitled to be on Band membership list as of April 17th, '85 but it appears not.
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- (d) He acknowledged that he has no evidence that he was taken off the Peters membership list and that he disagrees with what the Peters Membership Code says, as shown in the following exchange:

Stan Ashcroft:	Yes, how, I'll repeat it again. You say, through your counsel, however sometime after 1990 Neil Peters was removed from the membership list and he was told to apply to become a member. Can you tell me why have you picked the date 1990?
Neil Peters:	I didn't, I don't recall that at all myself.
Stan Ashcroft:	So, you got no evidence to support that you were taken off the membership list, correct?
Neil Peters:	No.
Stan Ashcroft:	You're agreeing with me?
Neil Peters:	The only thing I seen here ___ just now with you said Victoria, or whoever took me off the list.
Stan Ashcroft:	But you have no evidence of anybody taking you off the list, isn't that correct?
Neil Peters:	Taking me off the list? No.
Stan Ashcroft:	Again, going back to your amended summary of complaint and your listing of the membership criteria, which is in the membership code you say you've seen.
Neil Peters:	Yes, I seen the code. Yes.
Stan Ashcroft:	The Code, yes, and I take it you disagree with what it says? Correct?
Neil Peters:	Wouldn't you?
Stan Ashcroft:	It was my question.
Neil Peters:	Yeah, I do.

- (e) He applied for a \$5000 loan which was approved after Peters endorsed his application, and never requested any other benefits from Peters:

David Wu:	And then, now Mr. Peters I'm showing you a letter dated June 26, 1989.
Neil Peters:	Yes.

David Wu:	to yourself. it says, re: Ernest Neil Peters, Peters Band member 1989 90 Contribution Agreement - Sheet Metal Project \$5000. So, this was the funding that you received?
Neil Peters:	Yes, it is.
David Wu:	And you said Frank Peters, who was Chief at the time, had to endorse your application?
Neil Peters:	That's correct.
David Wu:	And was it your understanding that only Band members could get this funding?
Neil Peters:	Yes, it was, at the time, yes.

Stan Ashcroft:	And you had not sought any other benefits from the Peters First Nation other than that \$5000 to assist you with your business, correct?
Neil Peters:	That's correct. I had applied for a larger loan than that, but unfortunately that didn't go anywhere. I just got run around in a circle. 'Til you're exhausted, that's the trick right, but \$5000 one okay that went through. I approached Frank directly, okay, thinking why wouldn't you?

- (f) When asked by Mr. Wu, counsel for the Complainants, about the effects on him in being denied membership in Peters, he gave the following evidence:

David Wu:	Mr. Peters can you describe for the Tribunal the, well first let's start off why you've been pursuing membership? Why is it important to you to pursue membership?
Neil Peters:	Well, I wanted to belong to the family like its, I was, I ran around my grandfather's barn down there when they were still dairy farmers, him and his brother, those children's grandfather. They both ___. And they had a mill there before etcetera and I played, like I said, with Robert and Ed and everyone. And then I wanted to help everyone progress and I know how hard it is because I was out there getting a trade and everything where a lot of people weren't even hardly allowed yet. But I know everybody that on the reserve was smart people and I wanted to help teach and grow and then I even had Phillip as an apprentice like I said. So, we'd all collectively could succeed in life. There are lots of things I think I could've helped with. I even helped them with hard fire and everything down there I suggested things. Like, does everyone got fire extinguishers? 'cause I've worked on fighting fires etcetera trying to help the reserve anyway I could all along, thinking that you belong to it and waiting patiently isn't the word for it. But yes, I had lots of plans to do things, I have a nice sheet

	metal shop there and produced apprentices there. I have approved refrigeration apprentices and stuff working in Vancouver etcetera that I produced over my time as a tradesmen. And that's all I wanted to do was make the place flourish, besides like I said, we didn't have much choice of what jobs we were going to get until you get a ticket at something. So, that's, you know, I wanted to just improve things and live in a bit of my history, right there.
David Wu:	Can you describe the impacts these denials of membership, your membership applications ____ or not processing your applications ____ impacts its had on you?
Neil Peters:	Yes, you're frustrated and you know it's terrible to think that people would hold you back like that. I don't understand. I can't, I feel defeated all the time because its hard on a person to want to get things done and then be by your family and then get rejected like that is, it hurts inside. Just, you know, I'm amazed at how things for me is that all the things that went. And like I say, I thought I belonged all along ____ what I was led to believe that's the hardest part. You know, you're trying to do something all the time, but no, you can't. And like I said, I did install furnaces on the reserve and etcetera, it wasn't like they didn't know what I was doing. Now, I wanted to make an apprentice out of Roland's son but he died young and didn't get a chance. So, then I thought I, well, bid on his place and go from there but not even allowed to do that. Robert wanted to bid on my uncle Harold's place before, from our brother and I, because he knew we wanted to be down there, and then oh no, they can't live here and so he ended up with it. But that's what he wanted and now he just passed away. I'm not getting younger, so here we are. And I'm still frustrated, I can't hardly believe it ____ can you do besides what we're doing.
David Wu:	Other than the, potentially, the funding, \$5000 funding in which Chief Frank Peters endorsed, have you received any kind of monetary benefits from the Band?
Neil Peters:	No. They helped my son a little bit when he started at the college. Annette again, and then that only went for like a year and half or two years and then we had to take out student loans for him to finish his education 'cause they, Annette wasn't in charge anymore, so that privilege went with her.
David Wu:	Annette Peters was a Chief of the Band in the '90s?
Neil Peters:	That's correct.
David Wu:	And do you know what her relationship is with current Chief Norma Webb?
Neil Peters:	Sisters. She was the oldest sister.

David Wu:	Those are all my questions Mr. Peters Thank you.
Neil Peters:	You're welcome.
Tribunal Member Fagan:	Thank you, Mr. Peters. Mr. Robart do you have questions at this time?
Jonathan Robart:	There a few, thanks. You know you mentioned that you thought that you'd belonged to Peters First Nations all long. I'm not asking how it made you feel to learn that, but to be told that that wasn't the case, but how did you feel, did that instill a sense of pride for you when you felt like you belonged to Peters First Nations?
Neil Peters:	Yes. Everybody would say, oh yeah progressive people, and I was too. And I tried, like I say, take everybody let's go, but no you're jammed down all the time and after a while it's, like I say, it's very disheartening to do that. Like now, I want to make tradesmen out of the grandchildren and stuff.

- (g) He says that he could not purchase his uncle Harold's land in 2013 as he was not a member.

David Wu:	And as a child growing up, did you visit the Band's reserve at all?
Neil Peters:	Yes, I – like I said we played, I played with Robert Junior and Ed down there all the time. We were, everybody went swimming down there and I also, as I mentioned, I was down I was down there for many summers as a young fella, or young teenager, helping with the harvesting the hay and everything for the farm that were there. Spent a lot of time down there, especially in the summer times working.
David Wu:	And when did those visits slow down or cease? Or did they?
Neil Peters:	They started to slow down when I realized there's something wrong here with this picture, and I started to be okay you don't qualify for this or that like one thing that came up was in 2013 my uncle Harold's land was advertised in the paper that you could bid on it, if you're a band member. I went to go bid on it and I was informed by Frances Genaille that "Oh you're just affiliated with the Band. You can't get on it" and that was the very first time I ever heard that response. And I said "why is that". "Well you're C-31 and na na na" and I said "Weren't you a C-31, Fran?" She goes "Yes, but my husband's part of the-

Deborah Senger (“Deborah”)

10. Deborah gave the following evidence at the hearing before Fagan:

(a) Regarding her family, she said:

Tribunal Member Fagan:	Are you ready Ms. Senger? Ok, sounds good. Emilie do you want to swear her in?
Emilie:	Good morning, could you please state your first and last name for the record?
Deborah Senger:	Deborah Senger, S-E-N-G-E-R
Emilie:	Thank you, do you solemnly affirm that the evidence you are about to give to the Tribunal is the truth the whole truth and nothing but the truth?
Deborah Senger:	I do.
Emilie:	Thank you
Tribunal Member Fagan:	And Ms. Senger, is there anyone in the room with you right now?
Deborah Senger:	My dog.
Tribunal Member Fagan:	Your dog, ok, I guess we'll allow your dog. I'll also just say don't worry, I might ask you to slow down or to pause for a second if I am trying to take notes. Also, it happens from time to time that there could be an objection to a question. That's normal. Don't worry about that but if that happens you can just refrain from answering the question until the lawyers and myself determine how to proceed. So don't worry about that. And you shouldn't have any other documents in front of you unless there is a document that has already been produced by the Tribunal and if during your hearing, if you do take any notes that's fine just keep a copy of it. Don't destroy it afterwards because it is possible for the other party to ask for a copy. That's it. And you shouldn't be communicating with anyone else during your testimony. And that's it. Go ahead Mr. Wu.
David Wu:	Ms. Senger, can you provide your full name for the record?
Deborah Senger:	Deborah Mary Senger
David Wu:	And what's your date of birth?
Deborah Senger:	September 8, 1964

David Wu:	Are you employed?
Deborah Senger:	I am on disability.
David Wu:	Do you mind sharing if you're comfortable, why you are on disability?
Deborah Senger:	I have progressive multiple sclerosis so I stopped working seven years ago cause I am unable fulfill the duties because of my disability and my employer was great to just say you can go on disability so that was fantastic
David Wu:	And what did you do prior to receiving that diagnosis?
Deborah Senger:	I was working with Vancouver Aboriginal Child and Family Services doing _____ for with aboriginal children with disabilities. I did that for six years and then prior to that I worked at BC Women's and Children's Hospital in the Indigenous Health Department.
David Wu:	And you understand that the Respondent in this case is Peters First Nation? Sorry, you have yes, you can't just
Deborah Senger:	Yes
David Wu:	And so, when I am talking about the Band or the Nation, you'll know that I am talking about Peters. So, who are your parents?
Deborah Senger:	Doris May Peters and George John Senger
David Wu:	Were they members of the Band to your knowledge?
Deborah Senger:	My mom was. Doris was.
David Wu:	And your father? Was he Indian?
Deborah Senger:	He was German. He was not indigenous.
David Wu:	Did Doris Peters, did your mother have a previous marriage?
Deborah Senger:	Yes
David Wu:	And who was that to?
Deborah Senger:	Harold Lock L-O-C-K
David Wu:	And do you know if Harold Lock was indigenous?
Deborah Senger:	He was English

Deborah Senger:	Yes, I've got five left. My eldest brother passed away about 15 years ago. And I have myself, I am the youngest, the next would be Don Senger and then Bill Senger, and then Gordon Lock, and Linda Lock and ___ Harold Lock. So, there's, my Mom had two marriages. I am the second part of that second batch.
David Wu:	So Don Senger and Harold Senger are children from your mothers second marriage
Deborah Senger:	Yes, to George.
David Wu:	Yes, and the Lock's are children from her first marriage?
Deborah Senger:	Yes, to Harold
David Wu:	Do you know if any of your siblings are currently band members?
Deborah Senger:	Linda is. Linda has never been taken off the list.

(b) With respect to seeking to become a member of Peters she said the following:

Deborah Senger:	I am bill C-31
David Wu:	So, you got your status?
Deborah Senger:	Yes
David Wu:	And so, when you got your status, in your mind, did you also become a Peters Band Member?
Deborah Senger:	No, I spoke with Indian Affairs 'cause I thought I had to apply through them and they said you have to go through the Band and I said ok
David Wu:	Did you kind of go through the Band?
Deborah Senger:	Yes, we visited Uncle Frank who was the Chief at the time and his wife says he said no and she said never come back here again. So, I was like ok and we just went through Uncle Cliff but she was very firm do not bother us about this.
Tribunal Member Fagan:	Sorry, who said that? I didn't quite
Deborah Senger:	My uncle Frank, he was the Chief at the time. His wife said don't come back here again.
David Wu:	So that was Chief Frank Peters' wife Sis?
Deborah Senger:	Yes, I don't know her name. I just know her as Sis

David Wu:	Do you remember when that was?
Deborah Senger:	When I was about I think 12 or maybe I was 15. I don't know I was young. It wasn't until I was a teenager, I think. I might have been 15 or something like that.

David Wu:	Ms. Senger have you made any formal membership applications to Peters Band?
Deborah Senger:	No, I received an application two years ago and the application was ridiculous like they ask me to find death certificates of my grandparents and I didn't even know how to go about doing that. So, I have the papers but I haven't filed them. I couldn't figure out how to get that information that they had requested.

David Wu:	What motivates you to seek membership today in 2023?
Deborah Senger:	Well, I have my disease is progressive and in case it gets worse I want to have a place that I think, to accept me. That's the biggest thing. But I want to be a member. I want to be part of a community. Right now, I am kind of floating. I don't belong anywhere and I want a community to accept me and to welcome me.

- (c) She acknowledged that while she visited the Peters reserve as a child she never lived on the reserve.
- (d) With respect to the alleged emotional impacts to her from not being a member, she said the following:

David Wu:	Can you talk about the impacts of or I guess the importance of being recognized as a Peters Band member?
Deborah Senger:	The really big issue for me I am registered bill C-31 which means I am just an Indian which means nothing. I feel like I am. I don't have a home; I don't have a community and that's pretty significant, like I worked. I always worked with aboriginal people and it's just helping aboriginal people and everyone says "oh, are you status" and I go "yeah I am bill C-31" and they kind of go "ohhh". You don't have a home. I say no I don't have a home. So that impacted me ___emotionally? ___mostly? ___in terms of I do not have a physical connection to the reserve in terms of being welcomed there. And that has had a huge impact on me throughout my work work my ___requests___ I've always worked with aboriginal people and ___emotionally? ___because I don't have I have a home here but I don't have a home in the community, I don't I am not a member and that really ___affects?___ to who I am as a first nations person because I feel like I am less than because I do not have that membership. I do not have a community to call home.

David Wu:	Is there a reason why, you know since bill C-31 was passed until I guess 2021 of that you haven't put in for or tried to put in an application to become a member?
Deborah Senger:	I just didn't feel, it was made clear me that I was not welcome __village__ no I kept getting no no no so I was like ok I am going to back off. I did apply with Sto: lo nation and they were very helpful. They helped me with my education. They were more than helpful and they didn't care that I was a non-band member so that was fantastic. I didn't I just stayed quiet about applying for membership

(e) Her half-sister Linda Lock applied for membership in Peters and was accepted:

Stan Ashcroft:	Thank you. And your half-sister, Linda Lock, she applied for membership and that was granted membership in Peters, correct?
Deborah Senger:	Yes, she's always been a member. She was, I guess she applied but she had never been taken off the list. She's always been a band member.
Stan Ashcroft:	But she did have to go through the same process that you were told you had to go through, correct?
Deborah Senger:	Yes
Tribunal Member Fagan:	Sorry, just to make sure I understand. So, Linda is C-31 as well? Is that what you said.
Deborah Senger:	I don't think she is. She's not bill C-31.
Tribunal Member Fagan:	No, ok, sorry.
Stan Ashcroft:	No, what she said was she had to go through the same process as of applying for membership.
Deborah Senger:	Yeah, I think so. I think she did.

(f) She has never sought any benefits from Peters:

Stan Ashcroft:	And you never sought any benefits from the Peters First Nation?
Deborah Senger:	No, no nothing. As far as I remember nothing.
Stan Ashcroft:	And would you agree with me that even to this date you still have not sought any benefits from the Peters First Nation?
Deborah Senger:	No
Stan Ashcroft:	That's your agreeing with me?

Deborah Senger:	Yes
Stan Ashcroft:	Sorry, I don't want it to be a double negative there
Deborah Senger:	Oh ya __ yes

- (g) She has not been prevented from visiting the Peters reserve and did attend her uncle's funeral.

Stan Ashcroft:	Thank you, I just have a few more questions. There was nobody preventing you from coming and visiting the Peters reserve, is that right?
Deborah Senger:	No, nobody has.
Stan Ashcroft:	And nobody's prevented you from attending cultural events or community meetings, isn't that, right?
Deborah Senger:	I haven't been invited I haven't been notified they were happening. I went to my Uncle Clifford's funeral or his celebration of life and I spoke there but I haven't been notified that things were actually happening.
Stan Ashcroft:	When was his funeral?
Deborah Senger:	I can't remember. I don't know the date.
Stan Ashcroft:	Can you be approximate?
Deborah Senger:	Maybe five years ago six years ago. I am just guessing. My brother and I spoke at his service.
Stan Ashcroft:	Which brother is that?
Deborah Senger:	William, Bill.
Stan Ashcroft:	And where is it you currently live?
Deborah Senger:	Mission. I moved here in 2015.
Stan Ashcroft:	And have you ever come and visited the reserve.
Deborah Senger:	No, not since my Mom passed away.
Stan Ashcroft:	When was that?
Deborah Senger:	2015. I think it was March. March 2015. I think that when she passed.

Stan Ashcroft:	That's when your mother passed away?
Deborah Senger:	I think so. That's why I moved here to Mission from Vancouver. To be with her.
Stan Ashcroft:	She lived in Mission. Is that right?
Deborah Senger:	Yes. Yeah, where I am right now.
Stan Ashcroft:	But what I am saying is you never, even living in Mission, you haven't visited the reserve. Is that right?
Deborah Senger:	No, I haven't

Gordon Lock ("Gordon")

11. Gordon gave the following evidence at the hearing before Fagan:

(a) With respect to where he resided throughout his life, he indicated that it was at various places but not on the Peters reserve:

David Wu:	When you were growing up as a kid, did you have any connection with Peters First Nation or the Band?
Gordon Lock:	Yes, we went there every year at least twice, sometimes three times. And we'd, in the summer time we stayed a significant amount of time. Sometimes a month or five weeks and then the long weekend, Thanksgiving and then Easter, Easter break we'd go there.
David Wu:	And what would you go there to do?
Gordon Lock:	Just hang out. Just be with each other. Do everything, help out with my uncles with their farming and their cattle keeping, fishing. We did lots of hiking and just messing around kind of setting up camps and lighting camp fires and going fishing and catching fish and burning them 'cause we didn't know how to cook them yet. Just those kinds of things. Just hung out with our cousins.

David Wu:	Did your family or your extended family from the reserve ever visit you?
Gordon Lock:	Yup. So, my uncle Cliff and Sis, they came to the Okanagan a few times. Frank and Sis came to the Okanagan a few times. Robert and Minnie came once that I can remember and then my other cousins. I am not sure who their dad was. Mable was their mom. They came and then various cousins came and stayed with us throughout the school year because things were tough at home or whatever. So, we had just different. We had relationships right and they were not clearly defined for me as a kid. It was just like oh they come and live with us, ok great, and that was it right so.

David Wu:	And so, you lived in the Okanagan as kid growing up.
Gordon Lock:	Ya, mainly. We moved all over the place when I was a kid but I would say we lived in three locations mainly but when I was a kid we lived up in ___Beaton Beacon__ sunshine, lardo, Revelstoke, places like that until I was about six, I think.
David Wu:	Did you ever live on reserve?
Gordon Lock:	No, not really. We stayed there but we never really lived there.

(b) Although he made inquiries about his membership in Peters, he never applied to be a member:

David Wu:	And when you got status, did you also think that you became a Band member?
Gordon Lock:	I assumed that I was a Band member at that point and then I called Cliff. He was my uncle. He was Chief at the time and he was pretty vague when I asked him about that. He didn't really answer and then we I phoned him a few times after that and never got a hold of him. And then I talked to Annette and she was actually running for Chief at that time and she said well, we'll see, I don't think you'd become a member now because you're not on the books but that was that and then we talked a few more times. I stopped by to see them a couple times but never really felt welcome any more. Once my grandmother died, our close connections just faded away right. Because it was my mom and grandma who stayed connected. ___ summer. I think it was in '72 and I stayed at my Grandma's house. I was working, I was working at a gas station and I was logging and I was helping her get ready for winter, chopping wood and gather roots and just gathering vegetables and canning and stuff like that. That would be the longest time I ever stayed there without anybody else.
David Wu:	And these calls you had with Clifford and Annette, do you recall when those were approximately?
Gordon Lock:	I would say late '80s, probably between '87 and maybe '90, maybe '91.
David Wu:	And did they explain anything or do you recall of explaining anything about why they were being so vague or why you weren't on the list.
Gordon Lock:	Well, I didn't know the questions to ask and they just said well you're not on the list. You're not on the band list. You can't be a member. And I just accepted that. But I wanted to know if I could get on the list and they never really answered me and I never really pushed it 'cause it never occurred to me to push it.
David	And so, why are you pushing it now. What makes you want to seek

Wu:	membership now as to ___ before?
Gordon Lock:	Well over the years I've developed quite a bit more self-awareness and one piece of self-awareness is I feel like I don't really belong anywhere and part of that's got to do with knowing even as a child a small child I really wanted to be part of the family, part of the reserve, a band member. It's my heritage and we had good relationships and they just faded away and then during that fade, it kind of moved into well your tolerated around here but you're not accepted and it almost like an unfriendly silence response to any enquiries where I tried to stop by and visit. Clifford, my cousin, he was the only one who welcomed me and Annette was always one who welcomed me. We were closer in age and we knew each other better when we were younger right and Victoria and Norma, we kind of felt like distant distant family.
David Wu:	Have you ever spoken to Victoria or Norma about your membership status?
Gordon Lock:	I asked Victoria once and she just said well "well, no" about that and that was all.
David Wu:	I didn't catch what he said.
Tribunal Member Fagan:	Sorry, who did you say you asked about membership?
Gordon Lock:	Victoria. We talked about it once just part of a casual conversation and she said "oh I don't know anything about that".
David Wu:	Do you recall when that conversation was?
Gordon Lock:	Again, that'd be the late '80s, early '90s say '88 to '91 something like that.
David Wu:	Have you made any formal written membership applications to the Band.
Gordon Lock:	No.
David Wu:	Why not?
Gordon Lock:	Number one, it never occurred to me. To do that. And then what I did when it did occur to me, I got the paper application and it was just like to me it was really intrusive, they want to know all this personal information and I thought it's just going to the Band. Why would I give you that information about me. My social insurance number, my birth certificate, my parents bir..all that stuff, it's like I didn't understand and I just felt like they're just like gathering information and then they're not accepting memberships. So, it felt like a real wasted effort to go that route.

Gordon	No, I don't even know who that is. My other sister encouraged me
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Lock:	to apply for membership. She ___ apply and I said well what's the point. They ___ accept me anyways. She said well you should go in and apply and this is when I phoned somebody or wrote somebody. I think I phoned somebody or sent an email. I got an application. And the application is worse than applying for your birth certificate.
Stan Ashcroft:	So, your other sister, you say, said you should apply for membership, is that right?
Gordon Lock:	Yes, sorry.
Stan Ashcroft:	And that's Linda Lock, was it?
Gordon Lock:	Yup
Stan Ashcroft:	But you never did that?
Gordon Lock:	Well, eventually I did.
Stan Ashcroft:	Well, you already said you never applied for membership.
Gordon Lock:	Well, I asked for the membership application.
Stan Ashcroft:	Right, but you never submitted it?
Gordon Lock:	No.

- (c) While he taught Coast Salish (Peter's is Sto:lo) he never went to ceremonies or cultural events at Peters as there weren't any:

Stan Ashcroft:	Now when you would teach cultural things in your job, would that be general cultural things of indigenous people or would it be more inclined to the cultural practices of First Nations in the interior?
Gordon Lock:	It was more coast Salish and more to do with my experience. It's not like I went and took a course on how to teach cultural things. So, most of my cultural experience has to do with being in the Fraser Valley, being on Vancouver Island.
Stan Ashcroft:	Why is that given that you weren't, that's not where you were living nearly all your life?
Gordon Lock:	Pardon me.
Stan Ashcroft:	Why is that given that's not where you were living nearly all your life?
Gordon Lock:	Why was I?
Stan	Why would you be teaching coast Salish when in fact you were

Ashcroft:	living in areas that were more probably Okanagan tribes?
Gordon Lock:	Regional difference well because that's where I had my most exposure. That's when it was most personal to me and I wasn't going there to learn but I was learning it. Whereas in the Okanagan, in the Kootenays, or up north, I wasn't exposed to it in that way.

Stan Ashcroft:	And you never went to any ceremonies, cultural ceremonies on the Peters reserve. Is that right?
Gordon Lock:	Not really. There the culture there was quite out of sight and I think that part of it had to do with residential school and there being a strong leaning towards Catholicism and things like the big house and everything like that weren't really openly embraced except for Cliff and Nora's family.
Stan Ashcroft:	Unlike a lot of communities, they don't even have such things as a long house or any other cultural type of events. Isn't that right?
Gordon Lock:	Not that I'm aware of. Long house. Peters reserve is quite a small reserve and so at a lot of the small reserves there's usually a family that ___ their own work ___ developed a long house but that's not something that happened on Peters reserve that I am aware of. Which doesn't mean it didn't happen I just I have knowledge. Am I allowed to have something to drink while were on camera?

Stan Ashcroft:	And while you were there, you never engaged in any cultural practices because they didn't really have any. Isn't that right?
Gordon Lock:	Well, I met. I've been introduced to talking circles and I asked her about that and she said sure so we did a talking circle a couple times. The further Cookie 'cause ___ part of that, Norma was part of that, but it was kind of done as a, nobody really knew how it worked or what it was about so it just done as a novelty almost but we took it seriously so we were pretty engaged.
Stan Ashcroft:	And not being a Peters First Nation member clearly has not prevented you from learning about and teaching cultural practices. Isn't that right?
Gordon Lock:	I think that a lot of the cultural practices that I do teach are generally speaking Coast Salish, not necessarily from my family or my region.

(d) With respect to voting in elections and receiving benefits from Peters, he said the following:

Stan Ashcroft:	I take it you never sought to vote in elections for Peters?
Gordon Lock:	Oh, I never even knew about them so.
Stan	And you never sought to get any benefits from Peters First Nation?

Ashcroft:	
Gordon Lock:	One time I asked about education money and they said no. It's got nothing to do with us. Go to DIA or whatever.
Stan Ashcroft:	Right, that's because, was that for secondary school education?
Gordon Lock:	Yeah. Post secondary.
Stan Ashcroft:	Who did you ask that about?
Gordon Lock:	I don't remember
Stan Ashcroft:	I take it that was a long time ago?
Gordon Lock:	Yeah, mid to late '90s, something like that.
Stan Ashcroft:	But you never asked for any other benefits from Peters First Nation, is that right?
Gordon Lock:	Never did, no.

12. Chief Norma Webb gave the following evidence respecting the Complainants (other than Harold Lock) at the hearing before Fagan:

- (a) She has been a member of Peters since just after her birth on January 24, 1966. She has been the Chief of Peters since 2007. Elections are held every two years.
- (b) Chief Webb explained the process for becoming a member of Peters before 1987, and after 1987, which is when Peters took control of its membership as follows:

Stan Ashcroft:	What has been your experience throughout your life as to how people became members of the Peters First Nation? That's before, let's talk about before 1987 and after 1987.
Norma Webb:	Before '87, you were automatically. Before 87?
Stan Ashcroft:	Before Peters took control of its membership code, let me put it that way.
Norma Webb:	It was handled by INAC.
Stan Ashcroft:	Okay and then after Peters took control of its membership code, how did it work?
Norma Webb:	That you would have to come into the office and apply for registration and then membership. Like I said, for my kids I had to come in and register them, get my husband to sign, I would sign, stating that we wanted them to become members.

	And then we got our status cards and then we applied for their membership and Chief and Council decided whether or not they're members and they became members.
Stan Ashcroft:	How many members of the Peters First Nation are there currently? And I mean by on the membership list.
Norma Webb:	I think it's 74. Approximately 74 members.
Stan Ashcroft:	And how many of those are adults?
Norma Webb:	46 or 47. I think it's 47.
Stan Ashcroft:	And how many of the members on the membership list live on the Peters First Nation reserve lands?
Norma Webb:	35 give or take 1 or 2, approximately.
Stan Ashcroft:	Now on Indigenous services website it indicates more members of Peters First Nation that are on the Peters First Nation membership list, do you know why this is?
Norma Webb:	It's because they include all of the affiliates. Canada, if they say that they're related, they put them on the affiliate list.
Stan Ashcroft:	And if that you say they say they're related that's a person who, when they get status, is that right?
Norma Webb:	Yes.
Stan Ashcroft:	And they say that to Canada, is that right?
Norma Webb:	Yeah, but Peters doesn't accept them as members. They're affiliates.
Stan Ashcroft:	And then they have to actually apply for membership to actually go on the membership list. Is that right?
Norma Webb:	Correct.
Stan Ashcroft:	And has that been the case since 1987.
Norma Webb:	Yes.

Stan Ashcroft:	And is this a letter that you located in your files from Bill McKnight to Chief, regarding the dated September 18, 1987?
Norma Webb:	Yes.
Stan Ashcroft:	And this was confirming that the Peters had then taken control of its membership as can be seen here as effective June 25, 1987.
Norma Webb:	Correct.

Stan Ashcroft:	Following that, the Peters, in 1990 I believe it was, the Peters First Nation passed a final membership code. Is that correct?
Norma Webb:	Yes, correct.
Stan Ashcroft:	And is that the membership code we just discussed?
Norma Webb:	Yes.
Stan Ashcroft:	And is this the one that you as Chief have been following throughout your tenure as Chief?
Norma Webb:	Yes.
Stan Ashcroft:	And was this discussed with the membership prior to it being passed?
Norma Webb:	Yes.
Stan Ashcroft:	Did they, did they agree to it?
Norma Webb:	Yes they did.
Stan Ashcroft:	Now, if I take you to part 3 membership criteria, there's certain criteria set forth in this. What's your understanding as to why that criteria was put in? Do you see that there?
Norma Webb:	Yes.
Stan Ashcroft:	And so, there was certain criteria in terms of becoming a member, what is your understanding as to why that was included?
Norma Webb:	Because anyone that was to be entitled, like what it says there, everyone whose name appeared on the Band list on April 17 th , '85 everyone who became entitled to have his or her name registered on the Peters Band list in accordance with the section 6.
Stan Ashcroft:	But my general question is, was this criteria that it was agreed to by membership?
Norma Webb:	Yes.
Stan Ashcroft:	And why did the membership want certain criteria in the membership code? In other words, why could not anybody, such as me, become a member? Why would there be certain criteria be put in there?
Norma Webb:	Because you'd have to have been a member, a parent that was a member. We wanted to make sure that we had a harmonious Nation. Like, I'm drawing a blank I'm sorry.

(c) With respect to Carol Raymond's application and her family history, Chief Webb

gave the following evidence:

Stan Ashcroft:	Now, subsequently you understand that Carol Raymond did apply for membership. Correct?
Norma Webb:	Pardon?
Stan Ashcroft:	Subsequently, you understand that Carol Raymond did apply for membership. Is that right?
Norma Webb:	Later, yes.
Stan Ashcroft:	And, now I'm going to show you what is exhibit C-13. This is a letter dated June 29, 2018 to Carol Raymond. Is that your signature on the left?
Norma Webb:	Yes.
Stan Ashcroft:	And, you indicate that you reject her application for membership based on certain given reasons in that letter.
Norma Webb:	Yes.
Stan Ashcroft:	What did you look to when you and the other council members made that decision?
Norma Webb:	The fact that she wasn't a member, her mother enfranchised and she wasn't a child when she applied.
Stan Ashcroft:	And was that based upon your on your interpretation of the membership code or something else?
Norma Webb:	Yes.
Stan Ashcroft:	It was membership code itself that we just referred to?
Norma Webb:	Yes.
Stan Ashcroft:	Did it have anything to do with Carol Raymond's family?
Norma Webb:	I don't know her family.
Stan Ashcroft:	Did you know Carol Raymond then or do you know her now?
Norma Webb:	No.
Stan Ashcroft:	Have you ever met her?
Norma Webb:	Yes, she came into our office.
Stan Ashcroft:	And when she came into your office when she delivered the application in I believe it was 2016. Is that right?
Norma Webb:	Yes.

Webb:	
Stan Ashcroft:	Because you say here, your application for membership dated October 15 th , 2016 received October 2016. So was it sometime after that you met with her?
Norma Webb:	Yes.
Stan Ashcroft:	And what do you recall of that meeting?
Norma Webb:	She came in with her two friends. We sat down. We talked and what I could recall, well we asked her questions on why she wanted to be a member. But I also brought forward an email that she had sent me. It upset me. Because in that email she stated that bad things happen to bad people. That was one of her comments and I was offended by that because I had recently lost my son and my two nephews and I thought that was very hurtful. And, that's one of the things I remember from that meeting.
Stan Ashcroft:	Did you hold that against her when considering her application?
Norma Webb:	No. No. She tried to say that she was talking about herself. And I didn't understand that. I don't know. It was just kind of difficult for me because of my loss.
Tribunal Member Fagan:	Is there a copy of this email Mr. Ashcroft?
Stan Ashcroft:	I actually don't have it so. So, Carol Raymond made a further application. Let me ask you this. Did you have any further dealings with Carol Raymond?
Norma Webb:	With Carol. Not after that.
Stan Ashcroft:	So did you know anything about her family?
Norma Webb:	She said that her father was Lorenzetto. I don't know any Lorenzettos I've never met any Lorenzettos for my entire life. And I've been here pretty much all my life except for a few years that I lived in Chilliwack. I seen in a couple of books he states that he was from Ohamil and lived there his entire life, there and Katzie. There was a couple of books that I seen that and I thought oh okay well he's not from here. Otherwise, I don't know any Lorenzettos. Can't recall ever meeting one. And same with Carol. I don't know her, like the Raymond's, I don't know that name like I don't recall ever meeting any Raymonds.
Stan Ashcroft:	So, the next document I'm going to show you is another application by Carol Raymond. There's two dates on it. One says November 13, 2020. Another January 25, 2021. This is exhibit C-14. Do you recall receiving this application?
Norma	2020

Webb:	
Stan Ashcroft:	It's either 2020 or 2021, it's a bit...
Norma Webb:	Yeah, I can't recall how we received it but yes.
Stan Ashcroft:	Okay, and then we go to the next document. This is it says to Carol R. March 17, 2021. It's exhibit C-15. Now, is this a letter that you sent to Carol Raymond?
Norma Webb:	Yes.
Stan Ashcroft:	In this you said once we have received a decision and direction of the Federal Court of Appeal, we will review your application in light of that and advise you of our decision as quickly as possible thereafter. Now, the Federal Court of Appeal decision has since been received. Have you and the council members changed your mind as a result of that in terms of her application?
Norma Webb:	No.
Stan Ashcroft:	Why is that?
Norma Webb:	Well, there is, there could be a different result due to the wording in the Canadian Human Rights Act. And we've tried to have a membership vote and that was rejected but we're still willing to go forward with a membership vote according to the membership code.
Tribunal Member Fagan:	Could you provide some details about what that vote was for – the community vote you just mentioned?
Norma Webb:	It's about her membership.
Tribunal Member Fagan:	You got a community vote on her membership.
Norma Webb:	We requested, we offered her a vote but it was rejected.
Stan Ashcroft:	So, you're willing to have a vote on her of the membership as to whether she will or will not become a member of Peters First Nation is that right?
Norma Webb:	Correct.
Tribunal Member Fagan:	Was that an offer for community vote, an oral offer or was that in writing. I'm trying to go through my notes here to see if we talked about that?
Norma Webb:	I'd have to check to see if it was in writing. I'd have to check to see if we sent an email out to the lawyer – or
David Wu:	If Chief Webb is referring to without prejudice conversations then

	I don't think that's appropriate testimony. If there's another offer she's referring to about the membership vote that's fair, but she shouldn't be testifying about without prejudice conversations.
Stan Ashcroft:	Fair enough, so you don't know exactly how it was made but what was I understand your evidence you're still willing to have a vote. Is that right?
Norma Webb:	Correct.

(d) In regards to Neil Peters, Chief Webb gave the following evidence regarding his application being rejected due to the provisions of the Membership Code.

Stan Ashcroft:	Now, next to you there's a letter dated June 29, 2018 exhibit C-21. Is that your signature in the bottom?
Norma Webb:	Yes it is.
Stan Ashcroft:	You and the other council members made a decision not to accept him as a member. Is that correct?
Norma Webb:	That's correct.
Stan Ashcroft:	And were the reasons you set forth there based upon your interpretation of the membership code?
Norma Webb:	Yes.
Stan Ashcroft:	Were there any other reasons other than your interpretation of the membership code?
Norma Webb:	No.
Stan Ashcroft:	And now we have another letter August 24, 2018. Sorry, I didn't write down which Exhibit number that was, but this was it says – sorry.
Tribunal Member Fagan:	C-22.
Stan Ashcroft:	Thank you. So, this is a letter dated August 24, 2018. It talks about Lisa Genaille's email dated July 29, 2018. So, Lisa Genaille is, I take it, acting as the agent for Neil Peters. Is that how you understood it? Is that right?
Norma Webb:	As far I understand, yes.
Stan Ashcroft:	Have you reconsidered since then and are you prepared to accept his appeal and have a membership vote, or do you still maintain he's not entitled to membership entirely?
Norma Webb:	Well, he, we don't agree as to him becoming a member. He was enfranchised and again over the age of 18 he wasn't a child. And his parents weren't members. They were not on the list – the

	membership list.
Stan Ashcroft:	So again, that's based on your interpretation of the Membership Code is that right?
Norma Webb:	Correct.

- (e) With respect to Deborah Senger and Gordon Lock, Chief Webb gave the following evidence in examination in chief and cross-examination:

Stan Ashcroft:	Now as far as you are aware, have ___ Deborah Senger, Harold Lock or Gordon Lock ever submitted an application for membership to the Peters First Nation?
Norma Webb:	Not to my knowledge.
Stan Ashcroft:	And, do you know Deborah Senger?
Norma Webb:	Yes, she's my cousin.
Stan Ashcroft:	And what dealings have you had with Deborah Senger?
Norma Webb:	My father used to bring salmon up to his sister Doris up in Summerland. So of course we would go along. She came down a few times down here to visit. I do recall going for a walk with her down the bank. It was her and I just playing. I don't know how old we were, quite young and my cousin. Lynn, her dog came down and attacked her. And she got bit by her dog but that's one of the times that I remember her coming to visit.
Stan Ashcroft:	Now was she ever precluded from coming to visit?
Norma Webb:	No.
Stan Ashcroft:	And what was your relationship with her?
Norma Webb:	I was younger than her so I didn't spend too much time with her. I would see her the odd time like if I went to go see my aunt Doris ___ Summerland and a few times here. I think I might've seen her in Coquitlam. I knew her. She was my cousin but we didn't spend too much time together.
Stan Ashcroft:	Now Doris. That's her mother. Is that right?
Norma Webb:	Yes.
Stan Ashcroft:	And did you know Doris?
Norma Webb:	Yes.

Stan Ashcroft:	Was she a Band member?
Norma Webb:	Yes.
Stan Ashcroft:	And did she cease to be a Band member at a certain point?
Norma Webb:	Yes.
Stan Ashcroft:	Do you know when that was?
Norma Webb:	I think that she enfranchised. I don't know the date, but -
Stan Ashcroft:	Was that before Peters took control of its membership?
Norma Webb:	Yes.
Stan Ashcroft:	And then she was no longer a member, is that what happened?
Norma Webb:	Mhm.
Stan Ashcroft:	That's yes?
Norma Webb:	Yes correct, sorry.
Stan Ashcroft:	And if Deborah Senger did make an application for membership, what would you and the council members do?
Norma Webb:	If she applied?
Stan Ashcroft:	Yes.
Norma Webb:	Well council will sit down and look over the applications and decide whether or not they are eligible.
Stan Ashcroft:	When you're saying eligible you mean pursuant the membership code?
Norma Webb:	Yes.
Stan Ashcroft:	What about Harold Lock? You say he's never submitted an application. Do you know Harold Lock?
Norma Webb:	Yeah I know him as Roland. Yes, he's my cousin. He's one of Doris' sons.
Stan Ashcroft:	And have you ever met him?
Norma Webb:	Yes.
Stan Ashcroft:	Was he ever precluded from coming onto the reserve?

Norma Webb:	No.
Stan Ashcroft:	Deborah Senger, as far as you know from the records you've reviewed, she was never a member of Peters First Nation. Is that right?
Norma Webb:	That's correct.
Stan Ashcroft:	What about Harold Lock? Was he ever a member?
Norma Webb:	No.
Stan Ashcroft:	What about Gordon Lock? Was he ever a member?
Norma Webb:	No.
Stan Ashcroft:	Gordon Lock. Do you know him?
Norma Webb:	Yeah, sort of. I know that he's my cousin. He's one of Doris' sons. Again, I didn't really, I wasn't really close to him because he was much older than me.
Stan Ashcroft:	And, with respect to Harold Lock or Gordon Lock, if they made application, would it be the same considerations you would take into account?
Norma Webb:	Yes.
Stan Ashcroft:	Do you have any personal animus as against any of the complainants?
Norma Webb:	No.
Stan Ashcroft:	Now, what was your relationship to Doris?
Norma Webb:	She was my aunt. She would come to visit my father. I would go visit her, like in Coquitlam. She lived there for a bit. Dad would want to stop by so we'd stopped by for a quick visit. She ended up moving to Mission. She bought a house there and after, after she, after my father passed away, she was having trouble getting out of her chair so we thought, well we had lift chair for my father and we decided bring it down there and we gave it to her. So, it helped her with getting out of the chair. I would bring her salmon. We'd bring her small cans of salmon or I would freeze individual pieces of salmon so she could have it for dinner. So, I would go to Mission and drop it off. If she wasn't there, I'd drop it off in the cooler in her garage. She liked the casino, so there's the odd time we'd bump into her at the casino if we went to the Mission casino. Yeah, I would visit her in Mission.

Stan Ashcroft:	Have any of the complainants requested benefits from the Peters First Nation to your knowledge?
Norma Webb:	No, not to my knowledge.

David Wu:	You also gave evidence about if Deborah Senger or Harold Lock or Gordon Lock would put in an application the Council or the committee would sit and consider and determine it based on eligibility but those applications would just be denied outright because you know that they're all over 18 don't you?
Norma Webb:	Well, that's the thing they haven't ever applied. They've requested applications but I've never received any.
David Wu:	Right, but if they did apply it would be dismissed on a summary basis because you know they're over 18?
David Wu:	Sorry, was there an answer?
Norma Webb:	No. I'm just -
Tribunal Member Fagan:	Ms. Webb could you just also move the laptop -
Norma Webb:	Sorry. It's just I have to put it back in order to read it.
Stan Ashcroft:	I should mention you I presume you're just talking about what Norma Webb's position would be. She can't speak for the other councillors. Is that correct?
David Wu:	Yes.
Norma Webb:	Yeah, it would depend on the eligibility. Yes, that would be correct.

- (f) Chief Webb testified that Peters has never held any cultural ceremonies or events "in my lifetime" and that there are non-Peters members buried in its cemetery.
- (g) Chief Webb denied Andrew Genaille's allegations that while he was working for Peters, the Chief and Council were trying to find ways to keep people from being members, saying the following:

Stan Ashcroft:	Andrew Genaille in his testimony said that he had meetings with you where discussions were had about how to, as he put it keep people out? Or prevent people from being Peters First Nation members, what do you have to say about that?
Norma Webb:	No.
Stan Ashcroft:	What were you looking at in terms of the work he was to be doing?
Norma Webb:	He was looking up to see whether or not people were members

Webb:	or they had their parents as members. He found that people had been enfranchised. That's all I recall right off the top of my head.
Stan Ashcroft:	So, do you deny that there was ever a discussion about ways of keeping people out?
Norma Webb:	Yes, we did not have that discussion.
Stan Ashcroft:	You also said that Council didn't want to let Carol Raymond in because of her daughter Patricia who caused problems. Is that accurate?
Norma Webb:	No, because I don't know her daughter, Patricia. She did run for Chief, I do believe in 2016. But I didn't know her. I don't know them.
Stan Ashcroft:	You also said that by the time he was done a year, year and half later when all the research was complete. Do you agree with that?
Norma Webb:	No, I do not. Year and half. I don't know if went on that long.
Stan Ashcroft:	Are you continuing to do research though?
Norma Webb:	Yes, yes we are continuing.
Stan Ashcroft:	And has it been hampered by missing documents?
Norma Webb:	Yes.
Stan Ashcroft:	Now Mr. Genaille also talked about the fact he said that there was no age-restriction and there was a discussion about it. It was shot down but came back later, concluded it wouldn't hold up in court. Do you recall any discussions like that?
Norma Webb:	No.
Stan Ashcroft:	You take the position that ___ effectively was an age restriction. What is that based upon?
Norma Webb:	Based upon, for all my, well ever since the membership code came into place that anyone that wanted to become a member was usually it was a child. Because it was the members, if they had a child they would come in and go through the process of applying for membership for their child.
Stan Ashcroft:	You say usually. Was that always the case?
Norma Webb:	Yes, ever since we took over membership.
Stan Ashcroft:	And, do you know if the membership understood that?
Norma Webb:	Yes, because that's always been the way.

Stan Ashcroft:	Mr. Genaille also talked about post-secondary education. Is that only available to Peters First Nation members or is it available to anybody who's status?
Norma Webb:	It's available to anybody that has status. Our members, they apply for education and it's a process. You have to apply for money, but even affiliates have approached us and asked us for education and we've gotten them in contact with our education coordinator and she discusses with them what their needs are and then she makes an application to ISC. We have helped with tuition and living allowance, computers. We've bought them computers. Yeah.
Stan Ashcroft:	What about dental and medical benefits?
Norma Webb:	Anyone that has status is covered through FNHA, First Nations Health. So, they get help with their glasses and dentists and pretty much any medical. Like even medication to a certain degree.

- (h) In regards to Andrew Genaille's allegation that Scott and Shane Stromquist were admitted as members as adults, Chief Webb said that was due to a membership list that she found which showed they were on the membership list when they were children.
- (i) Under cross-examination by Mr. Wu, Chief Webb said this concerning the Membership Code:

David Wu:	I'm not taking issue with the membership code. What I'm taking issue with is things that don't seem to be found in the membership code. Would you agree with me that Council has not followed the membership code in deciding applications?
Norma Webb:	We've followed it the best we can.
David Wu:	So earlier in your evidence when you were looking at the rejection letters of Carol Raymond and Neil Peters' applications. The reasons given were because they weren't under the age of 18 and they were either enfranchised or their parents were enfranchised. And you said that, that came from your interpretation of the membership code, correct?
Norma Webb:	Correct.
David Wu:	Where in the membership code do you arrive at that? That those are criteria that can be used? And I'll pull up the membership code just so you have it.
Tribunal Member Fagan:	By the way Mr. Wu the training manual that you brought up -

David Wu:	Oh yes.
Tribunal Member Fagan:	That would be filed a C-27, does that sound ___?
David Wu:	Yes, that sounds right. Sorry let me just bring up the membership code here. I'm going to go to the membership criteria and you tell me where in these criteria do you interpret there being an age restriction or enfranchisement being a factor.
Norma Webb:	Okay, if being questioned about the age criteria during cross-examination, I would have to seek legal advice when answering that.
Tribunal Member Fagan:	You can just answer to the best of your ability. We understand that you're not a lawyer.
Norma Webb:	It's always been that anybody that was to apply in its – ever since we took over membership. It was whoever was on that membership list, if they had a child, they would come in and apply. So, it's, it's always been that way.
David Wu:	Right, and you did mention that at one point in your testimony as well that it's just been a practice and it's always been that way. So is the age criteria from the membership code or is it because you view it as a consistent practice?
Norma Webb:	I have to think about – I can only say that it's been that way ever since we've taken over the membership.
David Wu:	I'm going to show you another document here. This is a proposed document from the complainant's book of documents, C-30 and it's an affidavit of yourself in the Federal Court proceedings against, involving Brandon and Amber. And, in this affidavit at paragraph 15 you effectively say the same thing that you're saying now. Ever since Peters membership code came into force it has been common knowledge that a person can only become a member of Peters if they are 17 years of age or younger and both parents' consent. I take it that you standby this evidence today?
Norma Webb:	Yes.

David Wu:	Chief Webb, let me suggest to you that the age restriction, which we were talking about prior to lunch, was effectively created by Band Council in or around 2018. Isn't that correct?
Norma Webb:	Repeat that again sorry?
David Wu:	That the age restriction was created by Band Council in or around 2018?
Norma Webb:	It was created then?

David Wu:	Let me rephrase the question. Before 2018 age was never used as a reason to reject applications. Is that right?
Norma Webb:	It's always been our tradition because of the membership, going by the membership list and the membership code that it's always been known that well we haven't accepted any adults prior to that. So it's just a given that anyone applied was a child, like the parents would come in and apply for the child to be a member.

13. Leanne Peters gave the following evidence at the hearing before Fagan:

(a) Regarding how and when she became a member of Peters and the process for people to become members Leanne Peters said the following:

Leanne Peters:	I was born August 20 th , 1979. I was born at the Hope hospital, and lived all my life on Peters First Nation.
Stan Ashcroft:	And you're a member of the Peters First Nation?
Leanne Peters:	That's correct, yes.
Stan Ashcroft:	Since when?
Leanne Peters:	I've always been a member and when my parents applied to have me registered as an aboriginal. After they applied for my status and I received my status is when my mom and dad applied to have me become a Band member with Peters First Nation.
Stan Ashcroft:	Do you have any children?
Leanne Peters:	Yes. I have five children and another on the way.
Stan Ashcroft:	You just keep going.
Leanne Peters:	Very blessed and grateful.
Stan Ashcroft:	And what was the process for your children becoming members?
Leanne Peters:	So, it's the same thing. When you register your child for birth, then you have to register the birth certificates and for the SIN number and that's the same with registering them for status. Once you get your birth certificate in, the long form birth certificate, you register for your children to become status members. Because I'm a member, or I'm registered with Peters, my children get registered with Peters also. Once that was done, then I took, my husband and I had to come into the office with our former membership clerk, who was Fran Genaille and register our children to be Band members. And they need both

	signatures, mother and father just in case the father was – or the mother was Aboriginal, then the other parent might want their child to be on their Band list and not on yours so that's the purpose of having both signatures of both parents. So, I have had to register each one of my children to become a Band member for Peters First Nation.
Stan Ashcroft:	And have you ever seen anyone who have become a member as an adult be admitted throughout your life other than the two individuals of course that have been ordered by the Federal Court?
Leanne Peters:	No, it's always been children.

- (b) In response to Andrew Genaille's allegation that Scott and Shane Stromquist were admitted as members of Peters as adults, she gave the following testimony:

Stan Ashcroft:	Now, Andrew Genaille in his evidence said that the two Stromquist brothers were admitted. Do you have knowledge of how that was?
Leanne Peters:	That's while we were looking through everything for all of our court cases. Looking through our membership documents that were, some membership documents that were left behind. We came across a, what do you call it? It's slipping off the top of my head, the distribution list for the highways going through and the Stromquist brothers were on the distribution list. Meaning, the only way that you could be on the distribution list is if you're a Band member. And so, when we reviewed everything, we said "well why aren't they on the membership list now?" So, it was a big discussion, and like I said, only way the only way that they could be get a distribution is if they were Band members, so there had to have been something along the way as to why they were no longer on there. So even though we knew that they were going to vote against us, we decided to put them on there, onto the membership list to correct the wrong that had happened.
Stan Ashcroft:	So, the distribution list that you saw they were children at the time, is that right?
Leanne Peters:	Yes.

- (c) Leanne Peters explained the difference between First Nations who control their own membership pursuant to section 10 of the *Indian Act* and those whose membership is controlled by Canada pursuant to section 11 of the *Indian Act*:

Stan Ashcroft:	So, in those roles, have you come to understand the differences between a First Nation that's governed by section 10 of the Indian Act like Peters First Nation as opposed to one governed under section 11 of the Indian Act which is under Indigenous services Canada?
Leanne Peters:	Yes, so section 10 as soon as section 10 comes into play and you're deemed section 10 Band that means that the IRA, or that means INAC or Canada, no longer has anything to do with your membership at all. So as soon as you say membership, they say no that's not ours we don't deal with that at all. So, in '87 when we received our membership code, they said that's it so they have nothing left to do with it because as soon as we made that agreement and accepted to become a section 10 it's fully on our membership code and Peters First Nation and the membership committee deal with all of the membership, and Canada has nothing to do with it. And also, because we were section 74 of the Indian Act where we have voting every two years, Canada, we have voting every two years so instead of the person who does the votes, like the voting person, they come in and they ask the Band, the Chief and Council or the membership clerk for the membership list. And so, that's everyone of the age of 18 and older. Whereas in section 11 as soon as you are registered, a registered Indian, you're automatically put onto the Band list and as soon as you turn the age of whatever your voting is, is when you are automatically put onto the voting list.
Stan Ashcroft:	And can you also explain the difference between who does status as opposed to membership?
Leanne Peters:	So, the IRA clerk can help you do, help you fill out the forms to become a registered status Indian and that's part of the thing that the IRA does is help you fill out those forms. INAC then sends all the paperwork and information to Ottawa and they figure out if you are eligible to become a member of the affiliated Nation.
Stan Ashcroft:	When you say become a member of the affiliated Nation, INAC doesn't determine that if you're a section 10 Band though. Is that right?
Leanne Peters:	That's correct. So, for Peters because we are section 10, in order for people to become a Band member when you receive your status, what they do – sorry – what they do is they send they send you a piece of paper and they tell you that Peters First Nation is a section 10 Band and you need to apply within. Bring this paper with you and apply within to show that you're a registered First Nation affiliated with Peters First Nation and the

	committee, the membership committee, will need to accept you before you can become a member of Peters First Nation.
Stan Ashcroft:	Now, you say affiliated. How are people affiliated with a particular First Nation? Is it the individual who designates it or is it the First Nation? How does that work?
Leanne Peters:	So, it's Canada who affiliates you by your heritage to show like, if your grandparents are from this Nation, they look at all those documents 'cause they have certain criteria they need to follow. They look at those documents and they say "okay so this person's affiliated with Peters First Nation." Then they get registered with Peters as an affiliate until they fill out the forms and request to be a Band member.
Stan Ashcroft:	And so, they're not a Peters member until they're accepted into membership by Peters. Is that how it works?
Leanne Peters:	Yes, that's correct.

(d) Leanne Peters explained why the Membership Code was put into effect as follows:

Stan Ashcroft:	Now in your role as council member for Peters and administrator you're familiar with the Peters Membership Code correct?
Leanne Peters:	Yes.
Stan Ashcroft:	Just going to call that up. And so, you see the membership code?
Leanne Peters:	That's right, yes.
Stan Ashcroft:	If I could you to – well let's start with the introduction. What do you understand the introduction to be about?
Leanne Peters:	It's to promote harmony and the common good, so we're a very small First Nation and we live on a small reserve land right. And we want everything to be together, I know everyone out here and everyone likes it nice and quiet and calm, like it's always been. And because we're so small right like the membership code came into effect so we're not going to get bombarded and overrun by people who have no connection of the community. So, you know, everyone here likes to be nice and quiet and peaceful and just keep everything everything quiet and peaceful.
Stan Ashcroft:	So, if I can take you to Part 3 of the code the membership criteria. What is your understanding as to why these membership criteria were put in the membership code?
Leanne Peters:	We had rules and regulations to follow from INAC in order to be fair. That we had to have certain criteria put in before you could be accepted to have a membership code and INAC agreed to our membership code the way it is. I know that when I was

	council we tried to have make amendments to the membership code to make it better, to raise the age so it wasn't just children and others could become members, but you need 75 – I think it's 75% of the Band membership to agree to that and we don't have the numbers on board; however, I know that there's talk to, I know that there's talk with Chief and Council to visit this again to amend our membership code, to update it.
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Stan Ashcroft:	And my question is, is this something the community wanted as well or just INAC?
Leanne Peters:	Yes. No, it was something the community wanted. That's the only reason why we are a section 10 Band is because that's what the community agreed to.

- (e) In response to Andrew Genaille's allegation regarding Carol Raymond, Neil Peters, Deborah Senger, Gordon Lock and the age restriction issue, Leanne Peters had this to say:

Leanne Peters:	Yeah well it's hard because Andrew and Fran had taken documents, confidential IRA documents that only the IRA is supposed to have with Canada as well as other very confidential information was taken from our office. So, we had to search through tons and tons of paper to try and look through and sort all of this out. And we're still continuing to try and gather information that was taken from our office.
Stan Ashcroft:	Now he said that council did not want to let Carol Raymond in because her daughter Patricia was causing problems. Do you agree with that?
Leanne Peters:	No.
Stan Ashcroft:	Do you know who Carol Raymond was?
Leanne Peters:	No. I've met Carol Raymond once.
Stan Ashcroft:	And what about Patricia Raymond?
Leanne Peters:	I met her the day that she came in because she ran as Chief of Peters First Nation and I was in the room, I think it was approximately 8:00 pm at night when they made the decision – or they didn't make the decision, they counted the ballots to see who won the election. And, Carol's daughter, Patricia, lost. And that was when I met her.
Stan Ashcroft:	So, you said you only met Carol once and Patricia once. Is that right?
Leanne Peters:	Yes. Yeah.

Stan Ashcroft:	And, Neil Peters. Andrew Genaille's evidence was that they didn't like him -presuming meaning Council. Did you know Neil Peters?
Leanne Peters:	No. I don't know Neil. You can't like someone you don't know. If that makes sense.

- (f) Leanne Peters got along with Doris Peters, the mother of Deborah Senger, Gordon Lock and Harold Lock and "lived with her for a short period".
- (g) In response to Andrew Genaille's statements regarding the age restriction in the Membership Code and discussions of ways to keep people from becoming members, Leanne Peters said:

Stan Ashcroft:	He said, Andrew Genaille said that he saw that he said that he came across them on a 1987 list, that being Deborah Senger and Harold Lock. Do you know anything about that?
Leanne Peters:	No.
Stan Ashcroft:	Andrew Genaille also said the age restriction came up in meetings about how to keep people out. Do you recall anything like that?
Leanne Peters:	No.
Stan Ashcroft:	Were there meetings about ways in which to keep people out?
Leanne Peters:	No. We were having lots of meetings and just trying to understand where all the paperwork was and trying to gather information trying to figure out who everybody is and all of this other information. And that took a lot of time to find paperwork that was taken from our office.
Stan Ashcroft:	And did you have any pre-determined views on any of the five complainants in this case?
Leanne Peters:	No.

14. Councillor Victoria Peters gave the following evidence at the hearing before Fagan:

- (a) She was born on January 1, 1962 in Hope. Her parents were Clifford and Nora Peters who were both members of Peters when she was born. Her parents first applied for her to obtain Indian status and, once that was achieved, they applied for her to become a member of Peters as a baby, which is what occurred. She has never been a Bill C-31 member as alleged by some of the Complainants.
- (b) Victoria Peters was first elected as a Councillor of Peters in 1988. She has been on Council since then, with the exception of a two year period from 2004-2006.

- (c) She has lived on the Peters reserve her whole life, with the exception of a short period of time when she lived in Chilliwack while working at Bozzini's restaurant, approximately three months when she lived in the basement of Harold Lock's house (she knew him as Roland Lock) while attending the British Columbia Institute of Technology in the 1980's, for an approximately two year period while she was working in Manning Park from 1980 to 1982, approximately eight months when she lived with Doris Peters, the mother of Deborah Senger, Harold Lock and Gordon Lock in Kelowna in 1987, while she went to school and partially 2016 to 2019 when her house sustained a furnace fire and then became infested with bats.
- (d) With respect to the members of Peters she testified that there are currently seventy-four (74), however there are some applications pending for children who are still waiting to achieve Indian status.
- (e) There are three Peters reserves – I.R. 1, I.R. 1A and I.R. 2. Forty-eight (48) people live on I.R. 1, forty-two (42) of which are members of Peters, none live on I.R. 1A which is an island, and three people live on I.R. 2, two of whom are members of Peters. No persons live on I.R. 2. There are currently thirteen houses on I.R. 1 and one on I.R. 2.
- (f) In regards to the impetus for the Peters Membership Code coming into force she recalls that there was a great push amongst the Peters membership to take control of its membership from Canada as they, and she, wanted to ensure that Peters would continue to be a cohesive community. There was a great concern amongst the membership that if Peters did not take over control of its membership the floodgates would be opened to people who did not have a connection to the Peters reserve or the members living on it, and that this would result in a diminishment of their way of life.
- (g) When she makes decisions on applications for membership in Peters she does so solely based on the provisions of the Membership Code and how it has been applied since it came into effect.
- (h) In regards to Neil Peters she said that:
 - (i) She and the other Council members went over his application for membership with him on January 25, 2017.
 - (ii) She does not believe that she is related to him, has had no relationship with him and only met him on that one occasion when she reviewed his application with him. That is the only time that she has seen him on the Peters reserve.
 - (iii) She and the other Council members rejected his application solely based on the provisions of the Membership Code; and
 - (iv) In regards to Neil Peters' evidence that he wanted to buy his uncle

Harold's house on the Peters reserve she testified that Harold did not have a house on the Peters reserve, he only held land under a Certificate of Possession. She was on Council at the time and had no knowledge of Neil Peters wishing to buy Harold's land. If Frances Genaille said the things that he alleges, she had no authority to do so as she was just the Administrator of Peters; Frances Genaille was not a Council Member.

- (i) With respect to Carol Raymond, Victoria Peters said as follows:
 - (i) She is not related to Carol Raymond and has no relationship with her.
 - (ii) She only met her once, that being when she attended at the Peters office and met with Council to go over her membership application. Victoria does not know Carol Raymond's family members other than her daughter Patricia Raymond who she met once while personally delivering a cheque payable to Patricia's daughter for post-secondary educational funding.
 - (iii) She signed the letter dated June 27, 2018 (Ex. C-13) rejecting her application for membership. She and the other Council members have not had a chance to meet and discuss the implications of the Federal Court decisions on the applications of Carol Raymond and Neil Peters due to both her and Councillor David Peters suffering from medical conditions.
- (j) With respect to Deborah Senger and Gordon Lock and Harold Lock, Victoria Peters gave the following evidence:
 - (i) They are all children of her aunt, Doris Peters, who was a member of Peters.
 - (ii) Deborah Senger is the half-sister, and Gordon and Harold Lock are the half-brothers, of Linda Lock (also spelt Locke), who is a member of Peters.
 - (iii) Contrary to allegations made by Andrew Genaille that she called Doris Peters a "drunk" she replied that Doris was a friend of hers who she lived with for a period of time and did not drink.
 - (iv) She does not know Deborah Senger or Gordon Lock personally. She only saw Deborah Senger on the Peters reserve once when Victoria was approximately seven years old while Deborah was visiting Victoria's grandmother Emma Peters, and has never seen Gordon Lock on the Peters reserve.
 - (v) With respect to Deborah Senger and Gordon Lock, she has never seen an application for membership from either of them. If one or more of

them did submit applications she would review them having regard to the Federal Court decisions.

- (k) In her experience the same process is used for all applicants for membership in Peters. It does not vary due to family relationships or any other factors.
 - (l) The custom or tradition of Peters since the Membership Code came into effect is that only children who have at least one parent who is a member can apply. This has not varied despite changing Councils who are elected every two years. Council tried to amend the Membership Code and increase the age limit to 30, but there was a huge kerfuffle amongst the membership and Council could not get it passed.
 - (m) Peters does not hold any cultural events.
 - (n) To her knowledge none of the Complainants have been prevented from coming on to the Peters reserve or from visiting family on the Peters reserve.
 - (o) There is funding available to affiliates of the Complainants for dental work, medication, counselling and post-secondary education. As well, they pay no tax for purchases on reserve. All liveable land on the Peters reserve is held by Certificate of Possession holders.
 - (p) There are people buried on the Peters reserve who were not members of Peters, such as her late husband. If the Complainants wish they can be buried on the Peters reserve, if there is enough space.
15. Fagan awarded benefits that are only available to members of Peters who are on the Peters membership list to Carol, Deborah, Neil and Gordon despite the fact that none of them are members of Peters. Fagan did not, and could not, order that they become members, as she acknowledged in paragraph 205 of her Decision. Fagan ordered this despite the fact that Deborah and Gordon had not even applied to be members.

Grounds for Review

The Decision is Incorrect and Unreasonable

16. Fagan erred in law, and exceeded her jurisdiction, as follows:
- (a) In finding that what the Respondents were alleging constitutes a “service” within the meaning of section 5 of the *Canadian Human Rights Act* (the “CHRA”).
 - (b) Fagan erred in law in finding that “the public is comprised of applicants for membership, including both those who have sought membership by

submitting paper applications and those who have clearly expressed a desire for membership verbally to a member of Council”. This is a far too expansive application of the word “service” set out in section 5 of the CHRA. Peters relies on the cases of *West v. Cold Lake First Nations*, 2021 CHRT 1, *Canada (Human Rights Commission) v. Canada (Attorney General)*, (2018) SCC 31 and *Matson v. Canada (Indian and Northern Affairs)*, 2013 CHRT 13.

- (c) The prospect of becoming a member of Peters is not held out to the “public”, but rather a select few individuals who are entitled to apply for membership if they fall within the criteria set forth in the Code. The Federal Court has the exclusive jurisdiction to decide whether an applicant who has had their application for membership rejected should become a member of Peters. Fagan exceeded her jurisdiction by usurping that function and awarding benefits to the Respondents as if they were members, or had been ordered to be members by the Federal Court. In effect, the Respondents are achieving by way of an end run through complaints pursuant to the CHRA and Fagan’s decision, remedies and benefits that would not be available to them had they pursued seeking to be declared members by this Honourable Court as they should have done. In effect they were attempting to bypass the jurisdiction of this Honourable Court which they have succeeded in doing by way of Fagan’s Decision.
- (d) Effectively the Respondents are challenging Part III, section 1 of the Code, and in particular 1(B) and (C) despite their position that they are not doing so but rather, they say are seeking relief based on Council’s interpretation of the Code. Neil, Deborah and Gordon did not have a parent who was on the Peters membership list when Peters took control of its membership on June 25, 2017 and thus they did not fall within any of the categories set forth in Part III. Carol was not on the Peters membership list when it took control of its membership. Fagan is confusing status with membership.
- (e) Fagan erred in her interpretation of section 1.2 of the CHRA in her failing to adequately distinguish between the words “legal traditions” set forth therein and “custom” as has been set forth in the case law. She also unreasonably considered the evidence regarding Shane and Scott Stromquist.
- (f) Fagan exceeded her jurisdiction in awarding payments to Carol, Deborah, Gordon and Neil equivalent to what actual members received as a result of the Seabird Island Specific Claim settlement and the agreement with Trans Mountain/Kinder Morgan in regards to the expansion of their pipeline through the Peters reserves. None of the Respondents participated in those processes. Those benefits were only available to persons who were members of Peters and included on the membership list of Peters at the time that the payments were made. Not only did Fagan order payments to be made to non-members, she did not consider the hardship that would be imposed upon Peters and its members by making such retroactive

payments. The distributions were based upon the then membership numbers. Being required to pay an additional \$968,000.00 to these individuals would impose a burden on, and hardship to, the members who rely on Peters for many of their necessities of life and to Peters itself who is trying to better the living conditions of its members. It also raises the spectre of some or all of the 175 other persons who are "affiliates" of Peters seeking similar benefits.

- (g) As Fagan noted at paragraph 28 of her decision "Part IV of the Membership Code outlines the procedure to apply for membership". In granting benefits to Deborah and Gordon on the basis that they had indicated a desire to fill out a membership application but felt it was too "onerous", Fagan breached a principle of natural justice and procedural fairness as required by law and failed to consider, or adequately consider;
 - (i) that Neil and Carol had completed applications and neither of them gave evidence that it was too "onerous";
 - (ii) Deborah and Gordon were ably represented by legal counsel who could have assisted with the filling out of their applications or advised the Council that certain information could not be obtained; and
 - (iii) the fact that their sister, Linda Lock, who is a lawyer, filled in her own application and was accepted as a member of Peters. No reason was given why she could not have assisted them.
- (h) Fagan further breached a principle of natural justice and procedural fairness, and erred in law, in failing to consider the fact that Carol rejected the offer by Peters for a membership vote on whether she should become a member in accordance with the Code. Carol was obliged to avail herself of this remedy before seeking to pursue a remedy through the Canadian Human Rights Commission and the Tribunal.
- (i) Fagan's finding that discrimination occurred based on "family status" is unreasonable and a direct challenge to the clear words of the Code regarding entitlement to membership.
- (j) Fagan's finding of bad faith on the part of Peters and her awards for pain and suffering and "willful and reckless discrimination" are unreasonable and not justified by the evidence.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL: (List the supporting affidavits, including documentary exhibits, and the portions of transcripts to be used.)

1. Materials filed at the Canadian Human Rights Tribunal hearing of the complaints of *Gordon Lock, Deborah Senger, Harold Lock, Carol Raymond and Neil Peters* (Complainants) and *Canadian Human Rights Commission* (Commission) and

Peters First Nation (Respondent), Canadian Human Rights Tribunal File Numbers T2697/7321; T2698/7421; T2716/9221; T2717/9321.

2. The affidavit #1 of Norma Peters sworn December 21, 2023.
3. The Applicant further relies on the following:
 - a. *Federal Courts Act*, RSC 1985, c. F-7, ss. 18, 18.1;
 - b. *Federal Courts Rules*, SOR/98-106, Rule 301;
4. Peters First Nation Membership Code;
5. Audio recordings of the hearing before Fagan.
6. Such further and other material as counsel may advise and this Honourable court may permit.

December 21, 2023



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