



MAY 12 2021

E4218-2/051

**REGISTERED MAIL**

Mr. Michel Poirier  
590 Boulevard Perron  
Carleton-sur-Mer, QC G0C 1J0

Dear Mr. Poirier:

This is with further reference to our letter forwarding copies of a notice of appeal lodged against the Listuguj Mi'gmaq Government general election held on November 7, 2020.

The Department of Indigenous Services Canada concluded that, based on an examination of all particulars and documents filed in connection with the notice of appeal, there were no contraventions or violations of the *Indian Act* or the *Indian Band Election Regulations* that might have affected the results of the election.

The rationale for dismissing the appeal is as follows:

- The electoral officer, Michel Poirier, was under no legal obligation to proceed with a recount for an election conducted under the *Indian Act*. Moreover, the rationale for a recount must be Regulation-based such as the possibility of irregularities and not solely based on a close vote spread for the position of chief as was the case in the November 7, 2020 election. Nevertheless, a full recount of all the ballots cast for the position of chief was completed on November 11, 2020 by the electoral officer. The Elections Unit also conducted a recount of the valid ballots for the position of chief, the rejected mail-in ballots, the ballots cast and rejected and the spoiled ballots. The Unit found that the vote count for chief elect, Darcy Gray, remained the same at 588 valid ballots and 586 valid ballots were cast for the appellant Scott Martin Sr. The allegation is dismissed as there was no contravention in the manner in which the ballots were counted and reported by the electoral officer.

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- Given the lack of any specifics that would allow for further investigation by the electoral officer or by the Elections Unit, the appellant failed to demonstrate that the election results were affected by numerous unidentified off-reserve electors who allegedly did not receive their ballots. As proper procedures were in place and carefully followed by the electoral officer and because the claim was impossible to substantiate, the allegation is dismissed.
- The appellant did not submit any evidence to substantiate how many unidentified elderly band members were unable to exercise their right to vote because ballots were not hand-delivered or sent to them. In addition, the claim that this cohort was not accommodated by the electoral officer was based solely on hearsay. Given the lack of evidence, we have no reason to believe that requests for a mail-in ballot package from any elderly or infirm elector would not have been pursued by the electoral officer. Hence, the allegation is dismissed.
- The electoral officer refuted the appeal allegations that the mail-in ballots were not properly secured against corrupt practices such as theft and/or manipulation. Michel Poirier maintained all of the ballots were kept in a locked briefcase and placed in his home safe until they were delivered to the polling station when they would be verified and counted at the close of the poll. As for the mail-in ballots delivered to the band office to the deputy electoral officer, Tina Barnaby, there was no evidence to determine that Ms. Barnaby did not take steps to secure any ballot packages delivered to her. The claims submitted in the appeal and in the supporting affidavits failed to establish any evidence that the security of the mail-in ballot process was compromised in any way. This allegation is therefore dismissed.
- The electoral officer confirmed that, according to his *Master Mailing List*, ballot packages were sent to the appellant Scott Martin's brother, William Patrick Martin III, and five other members of his family to the same address as had been requested. All six mail-in ballots were returned before the close of the poll on November 7, 2020. As for the claim that Tom Lapoite (sic) sent his new address on three occasions to Listuguj but never received his ballot package, Michel Poirier confirmed that neither he nor his deputy electoral officer received any email or telephone message from a Tom Lapoite or a Tom Lapointe. Finally, the screenshot of the envelope addressed to Mary Lillian Vicaire, submitted by Dr. Cathy Martin, alleging it was her mail-in ballot package received on November 11, 2020 was patently false and misleading.

The electoral officer maintained that no ballots were expedited after the election. In fact the envelope contained the election results mailed to off-reserve members in accordance with 8. (2)(b) of the Regulations. It is important to note that the onus rests with each elector, whether on-reserve or off-reserve, to ensure the electoral officer had their correct mailing address in order to receive all the mail-outs via the postal system. Michel Poirier, the electoral officer, properly followed the Regulations by sending ballots through the postal system in accordance with subsection 5.(4). Thus the allegation is dismissed.

Accordingly, the appeal is dismissed and the results of the Listuguj Mi'gmaq Government general election, held on November 7, 2020, stand.

Sincerely,

*for* 

Christopher Duschenes  
Director General  
Economic Policy Development Branch  
Indigenous Services Canada

c.c.: Véronique Pouliot, Manager, Capacity Development & Governance, Québec Region  
Véronique Mercier, Governance Advisor, Québec Region

