APPEAL COMMITTEE OF THE NORWAY HOUSE CREE NATION

CONSTITUTED PURSUANT TO THE *ELECTION PROCEDURES ACT*

IN THE MATTER OF: The Appeal by James Queskekapow dated April 7, 2026 respecting the Norway House Cree Nation *Election Procedures Act*

-and-

The Appeal by Anthony Apetagon dated April 8, 2026 respecting the Norway House Cree Nation *Election Procedures Act*

-and-

The Appeal by Gem Osborne dated April 9, 2026 respecting the Norway House Cree Nation *Election Procedures Act*

-and-

The Appeal by Irvin Balfour dated April 9, 2026 respecting the Norway House Cree Nation *Election Procedures Act*

NOTICE OF DECISION AND REASONS OF APPEAL COMMITTEE

Panel of the Appeal Committee:

Keith Olson (Moderator)
Freda Albert
Ronald Robertson
Myra Saunders
Gayle Sinclair

Legal Counsel for This Panel of the Appeal Committee:
Ari Hanson, Dean Giles & Avril Brown

Legal Counsel for the Appellant, Anthony Apetagon:
Scott Gray

Legal Counsel for the Respondent, Larson Anderson:
David Barbour

Legal Counsel for the Respondent, Tyler Duncan:
Martin Pollock & Matthew Reimer

Legal Counsel for the Respondent, Christina Mitchell:
Evan Podaima

Legal Counsel for the Respondent, Tim Folster:
Kris Saxberg & Jeremy McKay

Legal Counsel for the Respondent, Stephanie Connors (Electoral Officer):
Devon Mazur & Aidan Geary

Hearing Dates: April 16, 2026 (Osborne/Balfour Appeals)
April 17, 2026 (Apetagon/Queskekapow Appeals)

Introduction

1. The within decision and reasons arise from four separate notices of appeal to the Norway House Cree Nation ("NHCN") Elections Appeal Committee (the "Committee") pursuant to the NCHN *Election Procedures Act* (the "*EPA*"):

   (a) the appeal filed by James Queskekapow ("Mr. Queskekapow") on April 7, 2026, respecting certain conduct by Christina Mitchell ("Ms. Mitchell");

   (b) the appeal filed by Anthony Apetagon ("Mr. Apetagon") on April 8, 2026, respecting certain conduct by Ms. Mitchell and Tim Folster ("Mr. Folster"), and one ballot counted by the Electoral Officer which Mr. Apetagon says ought to have been rejected;

   (c) the appeal filed by Gem Osborne ("Ms. Osborne") on April 9, 2026, respecting certain conduct by Tyler Duncan ("Mr. Duncan"); and

   (d) the appeal filed by Irvin Balfour on April 9, 2026, respecting certain conduct by Larson Anderson ("Mr. Anderson").

2. All four of the appeals are brought under Article 7.1(a) of the *EPA*, alleging that each of the impugned candidates for Council (Ms. Mitchell, Mr. Folster and Mr. Duncan) or Chief (Mr. Anderson) engaged in corrupt practices by:

(a) in the case of Mr. Duncan and Mr. Anderson, holding campaign rallies in support of their bids for office, at which they provided attendees with food and live musical entertainment at no charge; and

(b) in the case of Ms. Mitchell and Mr. Folster, providing community members with free coffee and tea (Ms. Mitchell) or food (Mr. Folster).

3. In his notice of appeal, Mr. Apetagon also relies on Article 7.1(b) of the *EPA*, alleging that the Electoral Officer, Stephanie Connors ("Ms. Connors"), improperly accepted one ballot that was cast for several Councillor candidates, including Ms. Mitchell.

4. In the paragraphs that follow, the Committee provides its decision along with the background facts relevant to the appeals, a summary of the submissions made by the participants in connection with each appeal, and the reasons why the Committee came to its decision in the appeals.

Decision

5. The Committee unanimously dismisses the appeals of Ms. Osborne, Mr. Balfour, Mr. Queskekapow, and Mr. Apetagon, finds that none of the impugned conduct of Mr. Duncan, Mr. Anderson, Ms. Mitchell and Mr. Folster constituted a corrupt practice under Article 7.1(a) of the *EPA*, and that the Electoral Officer's decision to accept the ballot put in issue by Mr. Apetagon should not be overturned.

Background Facts

Election

6. The background information respecting the election is as set out in the Committee's decisions issued on April 2, 2026, respecting the first appeal of Mr. Anderson heard on March

26, 2026 (the "First Anderson Appeal"), and on April 24, 2026 respecting the appeals of Season Roulette ("Ms. Roulette") and Mr. Anderson (together, the "Roulette/Anderson Appeals"). The relevant portions thereof are summarized in the paragraphs below for convenience.

7. According to Article 3.2 of the *EPA*, "[a]n election for Chief and Councillors shall be held every four (4) years, within thirty (30) days of the second Tuesday in March."

8. NHCN's last election was held in 2022. Therefore, an election was scheduled to take place four years later on March 10, 2026 (the "2026 Election").

9. Pursuant to Article 3.3 of the *EPA*, Chief and Council appointed Ms. Connors as the Electoral Officer for the 2026 Election.

10. Eligible voters were permitted to vote in the 2026 Election in three ways: in-person voting at NHCN's Multiplex Auditorium building on March 10, 2026, online voting through a platform offered by a third party company called OneFeather on March 10, 2026, and mail-in voting.

11. The in-person polling station was open on March 10, 2026, from 9:00 a.m. until 6:00 p.m. Throughout this period, voters were permitted to attend at the polling station to cast their vote for Chief and Council. Voters were directed to complete their ballots by marking an "x" or a "✓" (*i.e.*, a "checkmark") on their ballot immediately to the right of the name of the candidates of their choice. Voters were required to choose only one candidate for Chief, and permitted to choose up to six candidates for Councillor.

<u>Facts Pertaining to These Appeals</u>

12. There is no real dispute among the parties as to the nature of the impugned conduct engaged in by the four candidates at issue, and which the Appellants allege constituted corrupt practices. Simply put, in the weeks and days prior to the 2026 Election, various candidates held

campaign rallies and engaged in other activities in an effort to promote their bids for office. A summary of the impugned conduct respecting each candidate follows.

13. With respect to Mr. Duncan: On March 4, 2026, Mr. Duncan hosted a campaign rally in support of his candidacy for Councillor at the Multiplex Auditorium in Norway House. Attendees were provided with free food (pizza) and musical entertainment from Errol Ranville and the C-Weed Band. A Facebook post by Mr. Duncan on March 4, 2026 began with the words, “I am inviting you all to our campaign rally this afternoon”, and depicted a photo advertisement for the event, stating “Campaign Rally in Support of … Vote Tyler Duncan for Councillor,” with pictures of Mr. Duncan and musicians beside that. Also shown on the photo are the words:

(a) “Errol Ranville and the C-Weed Band”;

(b) “Flossy’s Pizza Provided”; and

(c) “Invited Candidates Can Speak” (the latter phrase appears twice).

14. A second Facebook post by Mr. Duncan dated March 5, 2026 described the event as a “huge success”. The post indicated that more than 600 people attended the event, and that over 60 pizzas were served.

15. Mr. Duncan’s evidence is that anyone who wished to attend the event was free to do so, and any candidates for Chief and Council who attended were given an opportunity to speak at the event if they wished. On cross-examination, Ms. Osborne gave evidence that although any community member was free to attend Mr. Duncan’s event and nothing prevented her from doing so, her understanding from the photo attached to the March 4, 2026 Facebook post was that only “Invited Candidates” would be permitted to speak. To that end, because she was a candidate and was not personally invited to the event by Mr. Duncan, she understood that she would not be invited to speak, and decided not to attend.

16. With respect to Mr. Anderson: The Appellant, Mr. Balfour, alleges that on February 19, 2026, Mr. Anderson hosted and/or attended a campaign rally held at a Smitty's Restaurant in Winnipeg for which invitations titled "Chief Larson Anderson's Campaign Rally" informing attendees of the time and place of the event were issued. Attendees were provided with free food and refreshments, live musical entertainment by Trenton Spence, and transportation to and from the event if required. Posters and promotional materials on display at the event depicted various proposed developments and "campaign promises" for NHCN, including a new gas bar, airport and a "Sea Falls Resort".

17. Mr. Balfour alleges that Mr. Anderson also hosted and/or attended a fish fry in Rossville, a town near Norway House, at some point during the campaign period. It is alleged that, at this event, Mr. Anderson offered free pickerel to voters, along with lakefront activities for attendees' children including sliding and skating.

18. Mr. Anderson did not file any evidence or testify at the hearing of these appeals. Accordingly, although the above summary of the impugned conduct is found only in the notice of appeal of Mr. Balfour and the documents attached thereto, there is no evidence before the Committee to suggest that these facts are erroneous, and the Committee accepts them as accurate.

19. With respect to Ms. Mitchell: On March 6, 2026, Ms. Mitchell arranged for an event at the "Northern C Store", a local Tim Horton's outlet, at which one free large coffee or tea was provided to the first 400 individuals who attended. All members of the public were welcome at the event and the cups of coffee or tea were distributed on a "first come, first served" basis.

20. A Facebook post by Ms. Mitchell on March 6, 2026 depicted a photo advertisement for the event, stating "Giving the First 400 Large Cups Free." Also shown on the post are the words

"Vote for Councillor", with a picture of Ms. Mitchell below that. A second post dated March 7, 2026, included a photo of a free coffee cup featuring a sticker in support of Ms. Mitchell's candidacy. It further noted that the "free cups" were not only for treaty members, but for everyone who came in that day. A third post on March 9, 2026 encouraged people to vote.

21. The evidence of Ms. Mitchell, which was not contested by the Appellants, is that she did not attend the event as she was at her place of employment, the local school, at the time. Ms. Mitchell acknowledges that she organized the event and that it was paid for by a group of her family members. She was unsure of the precise cost of the event, but had no evidence to dispute the Appellants' contention that the cost was approximately $800 to $1,200 (*i.e.*, $2.00 to $3.00 per beverage).

22. Ms. Mitchell says that no one who attended the event on March 6, 2026 was told that receiving the free coffee or tea was conditional upon casting a vote for her candidacy.

23. With respect to Mr. Folster: In a Facebook post dated February 17, 2026, Mr. Folster announced that he was giving away various types of fish and told anyone who wanted some to contact him by text or phone. A second Facebook post on the same date referenced making a list of those who commented first and giving priority to elders.

24. In a third Facebook post dated February 27, 2026, Mr. Folster noted that he had been handing out pizzas that evening at the Mainstay, a hotel in Winnipeg partially owned by NHCN and regularly frequented by community members on their trips to Winnipeg. That post included pictures of pizza boxes from Little Caesars.

25. Mr. Folster's evidence is that he purchased 20 medium-sized pizzas from a Little Caesars restaurant in Winnipeg, and brought them to the Mainstay. He distributed eight of the pizzas to people at the Mainstay, and left the other 12 pizzas in a common area at the hotel for other

people to take at their convenience (these are the pizzas depicted in Mr. Folster's February 27, 2026 Facebook post).

26. Mr. Folster says he did not tell any of the people to whom he gave fish or pizza that he would only provide it if they voted for him. Rather, he was prepared to give fish and/or pizza to people whom he knew would not be voting for him.

27. Ballot Appeal: As to Mr. Apetagon's second ground of appeal related to a single ballot, in the course of counting the ballots, Ms. Connors reviewed the ballots, accepting those that she believed to be compliant with the instructions issued to all voters, and rejecting a number of them on the basis that they did not conform to those instructions. Among the accepted ballots is the one that Mr. Apetagon submits ought to have been rejected (the "Impugned Ballot"). A copy of the Impugned Ballot is attached at **Schedule A**.

28. The results of the 2026 Election were announced on March 11, 2026. Along with six Councillors, Ms. Roulette was declared to be NHCN's newly-elected Chief.

29. Previous Appeals: Mr. Anderson filed the First Anderson Appeal to the Committee with respect to the 2026 Election on March 11, 2026, in which he raised two grounds of appeal:

(a) first, that Ms. Connors improperly rejected a ballot that, if accepted, would have resulted in a tie for the Chief election between Mr. Anderson and Ms. Roulette; and

(b) second, that several members of NHCN were not permitted to vote due to a purported closure of the polling station before its scheduled closing time, despite being in line to vote before the station closed, and that several other voters were unable to vote using the online platform.

30. The First Anderson Appeal was heard by the Committee on March 26, 2026.

31. Ms. Roulette filed her own notice of appeal on March 31, 2026, alleging that certain additional ballots rejected by Ms. Connors ought to have been accepted.

32. The Committee released its decision respecting the First Anderson Appeal on April 2, 2026. The majority of the Committee allowed Mr. Anderson's appeal on the issue of the rejected ballot and found that the ballot should be allowed. The Committee dismissed his appeal respecting voters allegedly turned away and/or having difficulty voting online, based on a lack of evidence presented to support these allegations. As the majority of the Committee accepted Mr. Anderson's first ground of appeal regarding the rejected ballot, this created a tie between Ms. Roulette and Mr. Anderson in the election for Chief.

33. Mr. Anderson filed a second notice of appeal on April 9, 2026 alleging that two ballots containing votes for Ms. Roulette should not have been counted.

34. Ms. Roulette's appeal and Mr. Anderson's second appeal were heard together on April 14, 2026, and a decision dismissing them both (resulting in the election for Chief remaining tied) was issued on April 24, 2026.

The Appeals

35. The Committee is a body created by statute (the *EPA*), and its jurisdiction is limited to the issues which Article 7.1 of the *EPA* specifically empowers the Committee to consider:

> 7.1 Within thirty (30) days after the posting of the written statement by the **Electoral Officer**, pursuant to Article 5.15, any **candidate** or **elector** who has reasonable grounds to believe:
>
> a) that there was a corrupt practice in connection with the election, or
>
> b) that these procedures were not complied with, or
>
> c) a person did not qualify to be a candidate or elector as defined herein, may appeal the election of a **candidate** or **candidates** by

> filing a written notice of appeal with the **Electoral Officer** setting out the grounds of the appeal.

36. Article 7.3 of the *EPA* requires the Committee to hear an appeal within thirty days after the filing of the notice of appeal.

37. Upon receiving notices of appeal from Mr. Queskekapow and Mr. Apetagon, the Committee proceeded to organize and schedule a hearing for April 16, 2026, and issued a Notice of Hearing dated April 9, 2026, setting out the procedure for the hearing.

38. Later in the day on April 9, 2026, the Committee received notices of appeal from Ms. Osborne and Mr. Balfour. Thereafter, on the morning of April 10, 2026, the Committee received correspondence from counsel for the Electoral Officer indicating that they were not available to attend the hearing of Mr. Apetagon's appeal at the appointed time on April 16, 2026, and requesting that alternate arrangements be made.

39. Upon receiving the notices of appeal from Ms. Osborne and Mr. Balfour and the correspondence from counsel for Ms. Connors, the Committee noted that the grounds of appeal raised by Mr. Balfour and Ms. Osborne were substantially similar, as were the grounds of appeal raised by Mr. Queskekapow and Mr. Apetagon. On that basis, the Committee determined that the most efficient means of proceeding so as to include all affected participants would be to hear the appeals of Ms. Osborne and Mr. Balfour at the same time on April 16, 2026, and to hear the appeals of Mr. Queskekapow and Mr. Apetagon at the same time on April 17, 2026. In light of the similarities between the four appeals, and because the majority of the participants would have been invited to all of the hearings in any event by virtue of their positions as incoming or

outgoing Chief and Council members,[1] the Committee provided the participants with a Revised Notice of Hearing so advising on April 10, 2026.

40. The hearings on April 16 and 17, 2026 took place in a hybrid format with many in-person attendees at NHCN's Chief and Council Chambers, several more attendees in person at NHCN's band office in Winnipeg, and additional participants attending from other locations via videoconference.

41. During the hearing on April 16, 2026, which lasted approximately two and a half hours, evidence and submissions were presented by Ms. Osborne, Mr. Balfour, counsel for Mr. Anderson, Ms. Mitchell and her counsel, along with Mr. Duncan and his counsel, followed by one former Council member (Anthony Apetagon). At the April 17, 2026 hearing, which lasted approximately five hours, the Committee heard evidence and/or submissions from Mr. Queskekapow, Mr. Apetagon and his counsel, Ms. Mitchell and her counsel, Mr. Folster and his counsel and counsel for Ms. Connors, as well as from former Councillor David Swanson.

Reasons

42. After considering the evidence and submissions of the participants, the Committee has decided to dismiss the appeals of Ms. Osborne, Mr. Balfour, Mr. Queskekapow and Mr. Apetagon. A discussion of the law applicable to appeals alleging corrupt practices generally, the positions of the participants in each appeal, and the Committee's reasons follows.

[1] For a discussion of the Committee's rationale respecting the participants invited to attend its hearings, see the Committee's Reasons in the First Anderson Appeal at paragraph 71.

Governing Legal Principles

43. In the course of their submissions across all four appeals, many of the parties referred to *Wilson v. Norway House Cree Nation Election Appeal Committee*[2] to define what constitutes a corrupt practice. That case arose out of NHCN's 2006 election, where it was alleged that three successful candidates promised houses or trailers to members of the Nation as a means of securing their votes.

44. The Federal Court in *Wilson* began by noting that the *EPA* does not define what constitutes a corrupt practice, before going on to state as follows:

> [23] In my view, no exhaustive definition can be given as to what constitutes corrupt practice in the context of an election. However, at least one core concept of corrupt practice is any attempt to prevent, fetter, or influence the free exercise of a voter's right to choose for whom to vote. What is relevant is the motive or intent behind the impugned conduct. Is the conduct directed to improperly affecting the result of an election?[3]

45. The Court went on to find that neither direct evidence of explicit efforts to buy votes nor voter testimony indicating that their vote was bought is required to establish a corrupt practice.[4] Instead, the Appeal Committee was required to consider the candidates' intent and whether their conduct, viewed as a whole, showed that they "intended or attempted to improperly influence the outcome of the election."[5] The Court ultimately found that the Appeal Committee erred in law in its interpretation of what constitutes corrupt practice.

46. The Court in *Wilson* referred to *Sideleau v. Davidson (Controverted election for the Electoral District of Stanstead)*,[6] where it was alleged that whisky and money were distributed by

---

[2] 2008 FC 1173 ("*Wilson*").
[3] *Wilson*, at paras. 20 and 23.
[4] *Wilson*, at para. 30.
[5] *Wilson*, at paras 33 and 34.
[6] 1942 CanLII 50 (SCC) ("*Sideleau*").

a candidate and his agent during a federal election. The Supreme Court of Canada found that the whisky had been distributed to local organizers and voters in surrounding municipalities who were not asked to give an account of their disbursements. Such conduct created a presumption that the actions were undertaken with the intention of corrupting voters.

47. One of the Appellants (Mr. Apetagon) referred to *Whitford v. Red Pheasant First Nation*[7] for the proposition that engaging in vote buying amounts to an attempt to corrupt the election process.[8] In that case, it was alleged that several successful candidates had engaged in electoral corruption by, among other things, vote buying, forging requested mail-in ballots, and paying electors to request their mail-in ballots.[9] The Federal Court found that being directly involved in offering to or purchasing either a request for mail-in ballot, mail-in ballot, or voter declaration form, are all acts of serious electoral fraud.[10]

48. Many of the parties also referred to *Henry v. Roseau River Anishinabe First Nation,*[11] where the Federal Court held that consideration is a necessary component to establish vote buying. In that case, it was alleged that a successful candidate for councillor had bought the vote of an elector by giving her money on the day of the election.

49. The Court in *Henry* found that the purpose of that First Nation's own custom election law was to hold fair elections reflecting the free choice of the voters in deciding their leadership, and that the practice of vote buying would be contrary to this purpose. It further found that, at common law, bribery occurs when a vote is obtained from a voter for valuable consideration, such that both the candidate and the voter agree to the exchange in return for the voter promising to vote a

[7] 2022 FC 436 ("*Whitford*").
[8] *Whitford*, at para. 11.
[9] *Whitford*, at para. 26.
[10] *Whitford*, at para. 80.
[11] 2017 FC 1038 ("*Henry*").

certain way.[12] Conversely, “there is no bribery, or vote buying, when money is given without any condition to vote in a certain way.”[13] The Court ultimately found that the candidate did not engage in vote buying, largely because he had a pre-established history of lending money to the voter in question and did not expressly ask for their vote in exchange for the money.[14]

50. Two of the Respondents (Ms. Mitchell and Mr. Folster) also referred to *Flett v. Pine Creek First Nation,*[15] where the Federal Court held that a candidate offering food or beverages will not automatically lead to a finding of vote buying. In that case, it was alleged that the successful candidate for Chief, Mr. Nepinak, had attempted to buy votes by providing voters with tickets for a hot dog and a drink from a “Willy Dogs” mobile food cart located outside the advance polling station. Mr. Nepinak admitted he had purchased 60 tickets from the food vendor at a cost of $6.25 per ticket, for the purpose of distributing them to friends, family and others in the vicinity of the hotel where the polling station was located.[16] His evidence was that it is customary and cultural to offer food or feast in advance, during or after cultural or political events.[17] The question before the Court was whether Mr. Nepinak offered the tickets for the purpose of obtaining votes.[18]

51. The Court found Mr. Nepinak to be credible, and accepted his evidence that he handed out the tickets as a gesture of kindness to those participating in the voting process.[19] Mr. Nepinak did not ask or tell anyone to vote for him, nor did he say that the ticket was being offered in exchange for a vote.[20] It was further held that Mr. Nepinak gave the tickets to voters and non-

[12] *Henry*, at para. 57.
[13] *Henry*, at para 59.
[14] *Henry*, at para. 67.
[15] 2022 FC 805 (“*Flett*”).
[16] *Flett*, at para. 21.
[17] *Ibid*.
[18] *Flett*, at para. 19.
[19] *Flett*, at para. 36.
[20] *Flett*, at para. 36.

voters alike, as well as to other candidates or people he believed to be associated with other candidates.[21]

52. The Court concluded that the offering of food and beverages does not automatically lead to a finding of vote buying, stating:

> [37] Nor does the offer of food and beverages inevitably lead to a finding of vote buying. In *Good v Canada (Attorney General)*, 2018 FC 1199 [*Good*] one of the many allegations of vote buying made in that case involved the providing of a hospitality room at the hotel where an advance poll was located by a candidate for the position of chief where he provided food and soda. Having assessed the evidence, some of which was directly contradicted by other evidence, Justice McVeigh found that having a "come and go" hospitality room was not out of the ordinary for candidates in any and all political forums. And, on the facts before her, that the provision of the hospitality room or the events that occurred within it did not comprise an inducement to buy a vote. She held that a contravention s 16(f) of the FNE Act had not been established (at paras 270-273).
>
> [38] Similarly, in *Bird*, Justice McVeigh found that a candidate had not contravened s 16(f) of the FNE Act by hosting a soup, bannock and champagne luncheon six days before an election as it is common practice, in any election, to sponsor events, including lunches, during campaign periods (at paras 68-70). In the alternative, even if there was a contravention of s 16(f), it would not have affected the results of the election because it was speculative to assume that the lunch alone had successfully influenced 50 votes (at para 71).[22]

53. Ultimately, on the basis of the evidence before it, the Court was not satisfied that the offer of hot dog tickets was an attempt to influence voters, and found there was no evidence that the offer was conditional on the voter agreeing to vote in a certain way.[23] It also found that a hot dog ticket valued at $6.25 did not constitute "valuable consideration."[24]

---

[21] *Flett*, at para. 40.
[22] *Flett*, at paras. 37 and 38.
[23] *Flett*, at para. 43.
[24] *Flett*, at para. 46.

54. As an example of a finding of corrupt practice in exchange for the provision of food, one of the Appellants (Mr. Queskekapow) referred to *Dedam v. Canada (Attorney General)*.[25] In that case, it was alleged that several elected officials gave money to individuals in exchange for their votes, and also failed to provide voters with privacy to complete their ballots in secret while attending a lobster dinner at one of the candidates' homes.

55. The Federal Court in *Dedam* reiterated that motive and intention are relevant to determining whether the alleged corrupt conduct was directed at improperly influencing the outcome of an election.[26] The Court relied on the definition of corrupt practice set out in *Wilson*, noting that compelling circumstantial evidence can be used to infer that the conduct was intended to corrupt voters.[27]

56. Ultimately, the Federal Court in *Dedam* found that there was enough evidence to determine that corrupt election practices had occurred on the basis of the provision of lobster and lack of voter privacy when voters filled out their election ballots in the open at their tables during the lobster dinner. The Court found that the lack of privacy in particular could have put substantial pressure on the voters to vote in favour of the candidates in attendance at the lobster dinner.[28]

Ms. Osborne's Appeal

The Appellant's Position

57. In her notice of appeal, Ms. Osborne argues that Mr. Duncan engaged in a corrupt practice in contravention of Article 7.1(a) of the *EPA* by offering benefits and inducements to voters in an effort to influence their votes. All of these alleged benefits and inducements, which included pizza

[25] 2012 FC 1073 ("*Dedam*").
[26] *Dedam*, at para. 37.
[27] *Dedam*, at paras. 70 to 72.
[28] *Dedam*, at para. 75.

and musical entertainment by Errol Ranville and the C-Weed Band, are said to have been provided to attendees at Mr. Duncan's campaign rally held on March 4, 2026 at the Multiplex Auditorium in Norway House.

58. Ms. Osborne acknowledges that the term "corrupt practice" is not defined in the *EPA*, but says that election law principles and First Nations election authorities have consistently recognized that the provision of benefits, gifts, food, transportation, entertainment or other valuable consideration to electors in an attempt to influence voters constitutes "vote buying" and is therefore an attempt to corrupt the election process. No specific authorities were cited respecting these submissions.

59. In a written submission provided to the Committee by Ms. Osborne (made jointly with Mr. Balfour) on April 14, 2026, and again in her submissions at the hearing, Ms. Osborne took the position that giving away food and drink such as coffee, tea, fish or pizza, and the provision of entertainment, should not in and of itself be considered a corrupt practice.

60. Ms. Osborne acknowledges that many of the candidates running for Chief and Council positions in the 2026 Election engaged in similar promotional activities to the Respondents whose conduct is impugned in these appeals. On cross-examination, she admitted that she held a "standard campaign rally" of her own where she provided food (including bannock, stew, and candy apples) to the attendees and arranged for recorded music to be played on a speaker.

61. Ms. Osborne's evidence is that she did not ask anyone who attended her rally and received food and entertainment to promise to vote for her. She submitted no evidence that Mr. Duncan did so either. Ms. Osborne admits that it is a typical practice for candidates to hold rallies of this sort, in the context of elections both on First Nations and in other communities.

62. Despite the foregoing, Ms. Osborne's position is that if the Committee concludes that the giving away of food and beverages (*i.e.*, by Mr. Folster and Ms. Mitchell) constitutes a corrupt practice, this rationale should be applied consistently such that the food and entertainment provided by Mr. Duncan and Mr. Anderson at their campaign rallies should also be found to constitute corrupt practices.

The Respondent's Position

63. The Committee notes that at the outset of the hearing, counsel for Mr. Duncan, along with the other three Respondents, all moved for dismissal of the appeals before the calling of evidence. They argued that none of the notices of appeal, even if the factual allegations therein are taken to be true, constitute reasonable grounds for the Appellants to believe there was a corrupt practice in connection with the 2026 Election pursuant to Article 7.1(a) of the *EPA*. This is particularly true of the appeals by Ms. Osborne and Mr. Balfour, given the admissions made in their joint letter of April 14, 2026.

64. The Committee heard the motion to dismiss and deferred its decision on same, directing the parties to proceed with introducing their evidence. Further commentary on the parties' positions on the motion and the Committee's reasons respecting it can be found below.

65. Mr. Duncan readily admits that he held a rally at which he served pizza and provided musical entertainment at no cost to the attendees. He says that, in addition to providing food and entertainment, he also provided the other candidates who attended with an "open mic" to speak if they wished. This evidence was contested to some degree by Ms. Osborne, who acknowledged on cross-examination that there was nothing preventing her from attending Mr. Duncan's rally, but said she did not attend because the Facebook post advertising the rally indicated that only "Invited Candidates" could speak, and she did not receive a personal invitation.

66. Finally, Mr. Duncan submits that his actions in hosting the campaign rally are entirely consistent with other cases involving candidates who arranged and paid for rallies or hospitality rooms where free food and drink was provided to attendees which were not found to amount to corrupt practices.[29]

Mr. Balfour's Appeal

The Appellant's Position

67. Mr. Balfour provided minimal submissions at the hearing, advising that he adopts the position taken in his notice of appeal and in Ms. Osborne's letter. In short, Mr. Balfour's view is that if Ms. Mitchell and Mr. Folster are found to have engaged in corrupt practices, the food and entertainment provided by Mr. Anderson at his campaign rally at a Smitty's restaurant in Winnipeg and his fish fry in Rossville should also be determined to be corrupt practices.

The Respondent's Position

68. Mr. Anderson's position is effectively the same as that of Mr. Duncan. He acknowledges that he hosted the campaign rally in Winnipeg and the fish fry in Rossville, with food and entertainment provided as alleged above. Mr. Anderson says that both events were open to anyone, including his supporters and critics. In Mr. Anderson's view, the events were intended to act as a forum for voters to pose questions and receive answers from him and the other candidates who attended.

69. Like Mr. Duncan, Mr. Anderson's position is that there is no evidence that he required attendees to promise to vote for him in order to attend his campaign events or obtain any of the food or entertainment provided. In Mr. Anderson's view, campaign events such as the ones he

[29] See para. 52 above citing *Flett*, which referenced *Good v. Canada (Attorney General)*, 2018 FC 1199 and *Bird v. Paul First Nation*, 2020 FC 475.

hosted are a well-known and common practice in the NHCN community that have taken place for many years.

Mr. Apetagon's Appeal

The Appellant's Position

70. Mr. Apetagon's position is that both Mr. Folster and Ms. Mitchell offered free food and/or drink in exchange for votes and support in the election. He contends that such conduct constitutes a "corrupt practice" as contemplated in the *EPA*.

71. Acknowledging that "corrupt practice" is not a defined term in the EPA, Mr. Apetagon relies upon the statement of Justice Dawson in *Wilson* that, "…at least one core concept of corrupt practice is any attempt to prevent, fetter, or influence the free exercise of a voter's right to choose for whom to vote." In that regard, Mr. Apetagon submits that the offer of free coffee or tea (in the case of Ms. Mitchell) and fish and pizza (in the case of Mr. Folster) represented such an attempt.

72. It was further argued by counsel on Mr. Apetagon's behalf that activities of the sort engaged in by the Respondents, including campaign rallies or the provision of food and beverages, necessarily cost money and are not something every candidate can afford. The concern was forcefully expressed that discouraging or censuring such activities will work to ensure the best candidates, regardless of financial means, are elected.

73. An additional position advanced by Mr. Apetagon in his appeal against Mitchell is that the Electoral Officer wrongfully counted a vote for Ms. Mitchell that ought to have been excluded. On the Impugned Ballot,[30] the voter marked their selections for Chief and Council – which included

[30] See Schedule A.

Ms. Mitchell – with a star rather than an X or checkmark, as called for by the *EPA* and the instructions to voters.

74. According to Mr. Apetagon, because a permitted symbol was not utilized, the Impugned Ballot does not comply with the *EPA* and should be rejected. Because Mr. Apetagon received only one vote less than Ms. Mitchell, the result of rejecting the Impugned Ballot would be a tie between the two, necessitating a run-off election.

The Respondents' Position

75. In response to the above arguments, Ms. Mitchell emphasizes that the cost associated with providing 400 free cups of coffee or tea, both individually and in the aggregate, was not significant; that she did not impose as a condition of receiving the beverage that the recipient must vote for her; and that, overall, there was no malicious or nefarious intent behind her actions that would justify characterizing them as a corrupt practice.

76. For his part, Mr. Folster gave evidence concerning his longstanding practice of distributing food to NHCN community members. With respect to the fish referred to in his Facebook postings, at no point did he indicate that providing it was conditional upon the recipient voting for him. To the contrary, he was prepared to give it to anyone. He testified that the pizzas were distributed on the same basis. According to Mr. Folster, the practice of sharing food with others is closely tied to traditional practises and a desire to help the people of NHCN. It was never intended, in this or any other context, as an inducement to vote in a particular manner.

77. It was acknowledged that the activities of all four Respondents were directed (at least in part) at influencing voters to cast their ballots in a certain way, which is the point of any election. In this regard, the Committee was cautioned against characterizing ordinary campaigning or incidents of community hospitality and general gift-giving as corruption, as doing so would run

counter to both the *EPA* and established case law. In Mr. Folster's submission, the critical consideration in each case is whether the activity in question was directed at "buying votes" or otherwise interfering with a voter's right to choose. Like Ms. Mitchell, considerable emphasis was placed on the relatively modest financial outlay associated with providing the free pizza.

78. In support of his position, Mr. Folster directed the Committee to several of the frequently-cited authorities involving allegations of corrupt practice, arguing that the Appellants collectively had misunderstood the test to be applied. Taken together, those authorities make it clear that seeking to influence others to vote for a particular candidate – whether successful or not – is not the issue. Rather, the impugned conduct will rise to the level of a "corrupt practice" only where, in the words of Justice Dawson in *Wilson*, there has been an attempt to "prevent, fetter, or influence the free exercise of a voter's right to choose."

79. Reference was also made to the decisions of the Federal Court in *Henry* and *Flett* for the proposition that there is no bribery or vote buying where benefits are provided without any condition to vote in a certain way. It was emphasized that, in the context of the present appeals, the critical requirement of a *quid pro quo* ("something for something") is wholly absent, as Mr. Folster (and for that matter, the other Respondents as well) placed no conditions on the food and drink he provided or otherwise required anything in return.

80. Ms. Connors submits that the Impugned Ballot was properly accepted. In support of that position, reference is made to the "presumption of regularity" that attaches to election results and the onus on the challenging party to demonstrate, on a balance of probabilities, that there were "irregularities" that affected the outcome.[31]

[31] On the law respecting the "presumption of regularity", see *Opitz v. Wrzesnewskyj*, 2012 SCC 55, and the discussion of same at paragraphs 38 to 41 the Committee's Reasons in the First Anderson Appeal.

81. According to Ms. Connors, Article 5.12(a)(ii) of the *EPA* does not direct the Electoral Officer to reject any ballot that deviates from the requirement that they be marked with an X or a checkmark, but rather confers a broad discretion to determine whether such a ballot is nevertheless "properly marked" in accordance with the specified procedures.

82. Ms. Connors further submits that the internal inconsistency within the *EPA* itself – with Article 5.10 requiring that each ballot be marked with an X and Schedules "B"(II), "B"(III) and "C" requiring the use an X or a checkmark – further supports the notion that the Electoral Officer has the affirmative authority and corresponding discretion to determine whether a ballot is property marked in accordance with these procedures. Ms. Connors therefore asserts that the standard of "properly marked" is not one that should be applied mechanically and that ballots ought not to be rejected on purely technical grounds, as to do so runs counter to the broader principle of voter enfranchisement at the heart of First Nations electoral processes, and election legislation generally.

83. With the above principles in mind, Ms. Connors submits that the star markings on the Impugned Ballot are placed directly opposite the names of the selected candidates, in a manner that makes the voter's intention plain and unambiguous on the face of the ballot. Citing the decision of the Alberta Court of Appeal in *Lukaszuk v. Kibermanis*, she notes that the star is a recognized mark of selection and approval, and the particular placement of stars within the designated fields together with various other factors amounts to substantial compliance with prescribed procedures.[32] In these circumstances, Ms. Connors submits that to nevertheless reject the ballot on purely technical grounds would be inconsistent with both the *EPA* and the established case law stressing the fundamental importance of voter enfranchisement.

---

[32] 2005 ABCA 26*, e.g.* at para. 41.

84. Ms. Mitchell advances essentially the same position with respect to the Impugned Ballot, namely that the use and placement of the stars are such that the voter's intention can be clearly discerned. She submits that to find otherwise would be contrary to the principle reaffirmed by the Committee in its decision on the First Anderson Appeal that First Nations election legislation must be interpreted purposively, with the object of allowing eligible voters to exercise their right to vote.[33]

Mr. Queskekapow's Appeal

The Appellant's Position

85. Mr. Queskekapow's position, simply put, is that Ms. Mitchell provided free coffee and tea with the intent of influencing the election. He contends that this was unfair to candidates like him and others who did not resort to giving out gifts. While acknowledging that nothing in the Facebook posts or on the coffee/tea cups themselves expressly stated that receiving the beverage required a commitment to vote for Ms. Mitchell, Mr. Queskekapow argues that this nevertheless was the "subtle inference" and the intent behind the giveaway.

86. According to Mr. Queskekapow, his position is supported by the decision of the Federal Court in *Wilson*, where it was held that direct evidence of explicit efforts to buy votes is not required in order to establish corrupt practice.

[33] Reasons of the Committee in the First Anderson Appeal, para. 46.

The Respondent's Position

87. Ms. Mitchell's evidence and submissions in response to Mr. Queskekapow's appeal were the same as those presented in answer to the appeal brought by Mr. Apetagon: see paragraph 75 above.

Reasons of the Committee

88. The Committee finds that all of the appeals should be dismissed.

89. Before setting out its reasons, the Committee pauses to address the preliminary motion brought by the Respondents at the start of the hearing on April 16, 2026. As noted above, Article 7.1 of the *EPA* permits any candidate or elector who "has reasonable grounds to believe… there was a corrupt practice in connection with the election" to appeal. The thrust of the Respondents' argument was that, on the information presented to the Committee in advance of the hearings, none of the Appellants had reasonable grounds to believe a corrupt practice had occurred.

90. After hearing submissions on the motion, the Committee indicated that it was deferring its decision and directed the parties to proceed on the basis of the agenda previously circulated. On further consideration, the Committee prefers to decide the four appeals based on all of the evidence presented and submissions made by the parties, rather than dismissing them in a summary fashion.

91. To reiterate, the *EPA* does not define or otherwise provide any guidance on what constitutes corrupt practice in the context of an election. The relevant authorities are similarly clear that no exhaustive definition exists. That being the case, the Committee takes as its starting point the "core concept" articulated in *Wilson* – again, a case that dealt with NHCN's own *EPA* – and adopted in subsequent decisions that a corrupt practice involves "an attempt to prevent, fetter, or influence the free exercise of a voter's right to choose for whom to vote." To be clear,

the test is not whether a candidate has done anything to influence a voter, but whether they did anything to improperly influence the voter. The focus must be on the motive or intent behind the impugned conduct and whether it was directed to improperly affecting the result(s) of the 2026 Election.

92. A comparison of the factual allegations in these four appeals (hosting campaign rallies open to all with food and entertainment in two appeals, and giving away free coffee, fish and pizza to whomever requested it in the other two appeals) to the precedent decisions cited by the participants, the Committee does not find that there was an attempt to improperly influence any voters.

93. This is particularly so when one compares the conduct raised on these appeals with the facts in *Wilson*, which made it abundantly clear that community members had been coerced to vote a certain way in exchange for promises of housing. In that decision, the Federal Court found that direct evidence of influence on voters is not needed, and what matters is whether the candidate's intention was to improperly influence the voting. In an effort to be consistent with the *Wilson* decision, the Committee's view is that in order to make a finding of corruption against a candidate, the evidence viewed as a whole needs to demonstrate that a candidate did something to improperly influence a voter. The Committee does not find that to be the case here.

94. The need to rigorously adhere to this standard is all the more important when one considers the consequences the flow from a finding of corruption against a candidate which, as stated in the *EPA*, not only cause the person against whom such a finding is made to lose their current seat on Chief and Council, but also prohibits them from running again for six years.[34]

[34] *EPA*, Article 9.1(f).

95. With respect to the appeals of Ms. Osborne and Mr. Balfour in particular, the letter from Ms. Osborne to the Committee dated April 14, 2026 is significant. As noted above, the contents of that letter reflected not just her views but also those of Mr. Balfour, as confirmed at the hearing of the appeals. At the hearing of their appeals, Ms. Osborne admitted to hosting her own campaign rally with free food similar to the rallies of Mr. Anderson and Mr. Duncan forming the subject matter of her appeal. Ms. Osborne (and, by extension, Mr. Balfour) went so far as to indicate in their letter to the Committee that they saw nothing wrong with any of the candidates' practices, but were only appealing because, in their view, if the other two impugned candidates (Ms. Mitchell and Mr. Folster) were found to be corrupt, then Mr. Anderson and Mr. Duncan should be found corrupt as well.

96. The Committee wishes to emphasize that its decision should not be taken as support for the concept that "two wrongs make a right." Although the evidence suggests that most if not all candidates hosted a rally with free food and/or gave out some form of promotional item, and the historical practices of NHCN are a contextual factor that must be taken into account, such considerations alone do not form the basis for the Committee's decision. Rather, the Committee is dismissing these appeals due to the lack of any evidence of an intention on the part of these four candidates to influence voters that rose to an improper level, the absence of any direction in the *EPA* respecting what constitutes corrupt practice, and a similar lack of guidance on the type and/or amount of promotional campaign spending that is allowable.

97. Within that factual matrix, the Committee is not prepared to disqualify four candidates when the evidence is clear that other candidates – including at least one of the Appellants – engaged in the same or similar practices.

98. Turning to Mr. Apetagon's additional ground of appeal respecting the Impugned Ballot, the Committee notes that it is the same ballot marked with stars (rather than X's or checkmarks) that

Mr. Anderson challenged in his second appeal (in that appeal, it was known as "Ballot A").[35] The Committee dismisses this aspect of Mr. Apetagon's appeal for the same reasons set out in its decision on the Second Anderson Appeal. In particular, the Impugned Ballot contains no other markings aside from the stars marked for one Chief candidate and a permissible number of Council candidates. On that basis, there are therefore no grounds to overturn the Electoral Officer's decision to accept the Impugned Ballot.

Conclusion

99. For the reasons set out above, the Committee dismisses the appeals of Ms. Osborne, Mr. Balfour, Mr. Queskekapow and Mr. Apetagon.

100. It follows from this decision that no further ballots should be counted or rejected. Thus, the election for Chief remains tied as between Mr. Anderson and Ms. Roulette, and a run-off election between Mr. Anderson and Ms. Roulette needs to be held pursuant to Article 5.14 of the *EPA*.

Postscript

It bears repeating that, during the course of the appeal hearings, concerns were expressed about the inability of actual or potential candidates to finance campaign-related activities, in the form of rallies, food giveaways, or otherwise. Nothing in these reasons should be read as a dismissal or discounting of those concerns. The point is simply that, on the particular facts of these appeals, the wording of the *EPA* and the applicable case law, none of the impugned activities can be characterized as a corrupt practice.

The Committee acknowledges that the *EPA* does not provide it with jurisdiction to make rulings on any matters outside those specifically identified in Article 7.1. To that end, the Committee is not empowered to order that the *EPA* be amended. However, in an effort to alleviate the legitimate

[35] Reasons of the Committee in the Roulette/Anderson Appeals dated April 24, 2026, at paras. 76 and 77.

concerns described above, the Committee suggests that the *EPA* be amended to include a specific definition of "corrupt practice". Consideration might also be given to: (i) imposing a spending limit on candidates running for Chief and Council, and (ii) limiting candidates' promotional activities to campaign rallies (in other words, prohibiting candidates from purchasing foodstuffs or goods, whether or not they bear the candidate's name, and giving those items away outside the context of a campaign rally). The goal of such changes would be to create something closer to a level playing field among candidates, and to ensure that individuals with lesser financial means are not discouraged from seeking office or disadvantaged In the election process.

Dated: April 27, 2026

The Norway House Cree Nation Election Appeal Committee
C/O Ari Hanson, Dean Giles and Avril Brown, Counsel to the Committee
Fillmore Riley LLP
1700 – 360 Main Street
Winnipeg, MB R3C 3Z3

A

TAB C

BALLOT

ANDERSON LARSON
CLARKE DEON
EVANS RONALD G
FOLSTER SAMANTHA
PREDETTE GILBERT
ROSS ALAN (JETT)
ROULETTE SEASON
THROOP ROBERT

ALBERT EDDIE
ANDERSON ADAM
APETAGON ANTHONY
APETAGON ORVILLE
BAYER LORETTA L
CLARKE ELIZA
CLARKE LISA (BUGGOOSE)
CLARKE SANDRA
DIXON DONALD
DUNCAN TYLER
ETTAMACAPPO KATHLEEN
ETTAMACAPPO WARREN
EVANS RONALD G
FOLSTER SAMANTHA
FOLSTER TIM
PREDETTE GILBERT
HART TRUDY
HENRY JOHN L
LAUGHER ALFRED
MITCHELL CHRISTINA
MOORE HENRY

MUSKEGO FRED
MUSKEGO F OLIVER
MUSWAGON JOAN
MUSWAGON LISA
MUSWAGON LUCY
MUSWAGON MIKE
OSBORNE DARLENE
QUESSERAPON JAMES
QUESSERAPON JOHN
ROBERTSON DEAN
ROBINSON (YOBA) GEM
ROWDEN DENICE
SAUNDERS ALLISON
SAUNDERS LANGFORD
SIMPSON ANDREW
SWANSON DAVID
SWANSON DENNIS
TAIT REAUME PAMELA
WILSON ALLAN
WILSON DIANE