

**LITTLE RIVER BAND OF OTTAWA INDIANS
ELECTION BOARD**

IN THE MATTER OF:

ELECTION CHALLENGE #4 FILED BY
GARY DIPIAZZA

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

On March 10, 2022, Ryan L. Champagne resigned his membership in the Little River Band of Ottawa Indians (the Tribe) and on March 16, 2022 he transmitted a copy of his resignation from his position on the Tribal Council of the Little River Band of Ottawa Indians (Tribal Council) to the Little River Band of Ottawa Indians Election Board (Election Board). Thereafter, pursuant to its Constitutional Mandate, the Election Board announced a special election for the now vacant seat on the Tribal Council. This Special Election was set for June 8, 2022.

In an undated campaign letter for the Tribal Council position vacated by Mr. Champagne, Shannon Paul Crampton sent a campaign letter to his constituents which listed his purported accomplishments. On May 24, 2022, Tribal Council Member Gary DiPiazza submitted an Election Dispute which challenged the veracity of certain the statements contained in Mr. Crampton's campaign letter. Mr. DiPiazza also submitted documentary evidence that supported his position, namely that Mr. Crampton's letter contained various misrepresentations and false attributions. The Election Board reviewed his Dispute and denied same on the basis that his request was outside the scope of the Election Board's authority and constitutional mandate.

On June 15, 2022, Mr. DiPiazza renewed his objections to the letter mailed in support of Mr. Crampton and filed an Election Challenge making the identical assertions.

While review of the documents submitted by Mr. DiPiazza appear to evidence his position [that Mr. Crampton has made significant misrepresentations] the Election Board understands that its jurisdiction is wholly guided by the Election Ordinance and the Tribe's Constitution and such documents provide the means by which the Election Board is to function and the scope of its authority. Because of this, the Election Board has no jurisdiction to monitor or otherwise challenge potential misconduct of a candidate based on speech. In fact, allegations of potential election fraud are not within the Election Board Regulations, but rather, are within the purview of the Tribal Prosecutor and must be addressed through him.

Moreover, Tribal Members are guaranteed the right of free speech under the LRBOI Constitution and the Indian Civil Rights Act. This extends to speech that some may believe is negative speech, offensive speech or even speech which may misrepresent some facts or issues. Communications by candidates and rhetoric made by politicians during an election and are therefore not typically regulated by any election commission and certainly not within the scope of this Election Board, but are best handled by a fair and open press or by exposure on social media.

After consideration of the record in this matter, the Election Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Election Board is the Tribal entity charged with carrying out the provisions of the Election Regulations to ensure all Tribal elections are conducted fairly and honestly and in the best interest of the Tribe and its members.

2. An Election Challenge is decided by the Election Board under authority of the Tribal Constitution.

3. The Election Board is the administrative body that is tasked with developing regulations to implement its Constitutional requirements and ensure a fair election process. 'Fair' means that all candidates have an equal right to contest the election, campaign for voter support, and hold meetings/rallies. A fair election is also one in which all voters have an equal opportunity to register, all votes are counted, and the announced results reflect actual vote totals.

4. Mr. DiPiazza has provided credible evidence that the statements made by Mr. Crampton are false, however the Election Board has no Constitutional authority to monitor or otherwise act on such misrepresentations.

CONCLUSIONS OF LAW

The Election Board has considered the foregoing Findings of Fact, Mr. DiPiazza's Challenge, as well as all evidence in the Election Board's possession and control and has considered all reasonable inferences drawn therefrom, and based on the foregoing, makes the following Conclusions of Law:

1. Article IX, Section 1 (d) and 4 (e) of the Constitution of the Little River Band of Ottawa Indians "authorizes the Election Board to issue such rules regulations and procedures as may be necessary to carry out Tribal Elections and to provide for ongoing Voter registration. Accordingly, the Election Board adopts and issues these Regulations under the authority of the Tribal Constitution."

2. Article III of the LRBOI Constitution and the Indian Civil Rights Act guarantees all members the right to freedom of speech. While this does not guarantee this freedom to *any*

speech as we understand that there is such a thing as illegal speech, however the Election Regulations does not specifically authorize the Election Board to monitor the content of speech.

3. Chapter 1, Section 2 subsection M defines an “Election Dispute” as “any election dispute other than that which challenges the outcome of an election, the object of which is to effect how the Tribal election is conducted as the election process moves forward.”

4. Chapter 1 section 2 (K) of the Election Regulations defines a Challenge as “a challenge to the results or outcome of an Election. An Election Challenge is decided by the Election Board under authority of the Tribal Constitution.”

5. The Election Ordinance only affects fraud in certain instances: fraud in signature collection, fraud in reporting candidacy packet submission and fraud in campaign finance reporting. In each of these areas, when fraud has been uncovered, the Election Board is directed to report the instance to the Tribal Prosecutor for investigation of the violation.

6. Nowhere in the Election Regulations is the Election Board tasked with monitoring the content of speech, only the where and when it may take place when it comes to controlling electioneering and the like, and even that portion of the Regulations *never* refers to the underlying *content* of that speech.

7. Given that the subject matter underlying the content of Mr. DiPiazza’s Challenge is outside the Constitutional and Regulatory authority of the Election Board, the Election Board is precluded from holding a hearing on this matter.

ORDER

NOW, THEREFORE, it is hereby, ORDERED, ADJUDGED AND DECREED that Gary DiPiazza’s election Challenge relating to the content of Mr. Crampton’s campaign letter is DENIED.

Dated this 21st day of June, 2022.

By: Valerie McDonnell
Valerie McDonnell
Election Board Chairperson

By: _____
Mike Ceplina
Election Board Member

By: Kathy Gibson
Kathy Gibson
Election Board Member

By: Laura D. Echelbarger
Laura Echelbarger
Election Board Secretary

By: Karen Love
Karen Love
Election Board Member