March 22, 2018

Ceremonial and Canadian Symbols Promotion
State Ceremonial and Protocol Directorate
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Ottawa Ontario, K1A 0M5

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PB301-1869 Upper Water Street
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Halifax, Nova Scotia B3J 1S9

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ATTENTION: ENFORCEMENT

Dear Madam/Sir;

RE: Use of the Canadian Flag Symbol – Unauthorized Use

We wish to draw your attention to a matter of some concern to us as the Assembly of Nova Scotia Mi’kmaw Chiefs who represent the 13 Indian Act (RSC 1985, c.I-5) Bands of Nova Scotia and the Mi’kmaw of Nova Scotia. The Mi’kmaw of Nova Scotia are the sole holders of Aboriginal and treaty rights and title in Nova Scotia and our Registered or Status Indian members (as defined in the Indian Act, s.2) are the only people in Nova Scotia entitled to take advantage of the tax exemption set out in s.87(1) of that Act.

Section 9(1)(d) of the Trade-marks Act, RSC 1985 c.T-13 provides as follows:

Prohibited marks
9 (1) No person shall adopt in connection with a business, as a trade-mark or otherwise, any mark consisting of, or so nearly resembling as to be likely to be mistaken for,
(d) any word or symbol likely to lead to the belief that the goods or services in association with which it is used have received, or are produced, sold or performed under, royal, vice-regal or governmental patronage, approval or authority...
use of the Canadian flag on the Unama’ki Voyageurs Métis Nation and the Bras D’Or Lake Métis Nation membership cards inexorably leads the viewer of the cards to an assumption that the holder of the card is entitled to a tax exemption with the approval or authority of the Queen in Right of Canada. This is simply not true.

We ask that you promptly investigate this matter and, given the uses to which these cards are being put, that you immediately order any and all alleged Métis communities in Nova Scotia to cease and desist their use of the Canadian flag symbol on their membership cards as the use thereof is clearly intended to confuse retailers to fraudulently obtain a tax exemption to which the card holder is not entitled. We also request that you initiate investigations to determine if charges should be brought against the offending organizations.

Yours in Recognition of Mi’kmaq Rights and Title,

[Signature]
Chief Terry Paul
Co-Chair
Assembly of Nova Scotia Mi’kmaq Chiefs

[Signature]
Chief Sidney Peters
Co-Chair
Assembly of Nova Scotia Mi’kmaq Chiefs

Cc:
The Assembly of Nova Scotia Mi’kmaq Chiefs
Ritu Sood, Lead Negotiator, INAC
Owen Evert-Lind, Lead Negotiator, Nova Scotia Office of Aboriginal Affairs

On 8 February 2018 the Supreme Court of Canada denied leave to appeal in John (Jackie) Vautour et al v. Her Majesty the Queen, 2018 CanLII 4687 (SCC), http://canlii.ca/t/hq8fr. In Vautour et al v. R., 2017 NBCA 21, http://canlii.ca/t/h3mg4, the New Brunswick Court of Appeal ruled that “Since the trial judge found on the evidence there was neither a historic rights-bearing community nor a contemporary rights-bearing community, it follows there can be no valid claim of Métis rights under s. 35 of the Constitution Act, 1982.” The reasoning in Vautour and subsequent leave dismissal apply equally in Nova Scotia – see R. v. Hatfield, 2015 NSSC 77 CanLII, http://canlii.ca/t/ggmz5, para.14.