

CANADIAN JUDICIAL COUNCIL

IN THE MATTER OF AN INQUIRY PURSUANT TO
SUBSECTION 63(1) OF THE *JUDGES ACT*
REGARDING THE HONOURABLE MICHEL GIROUARD,
JUDGE OF THE SUPERIOR COURT OF QUEBEC

NOTICE OF ALLEGATIONS OF DECEMBER 23, 2016
AMENDED ON FEBRUARY 22, 2017
AND AGAIN AMENDED ON MAY 17, 2017
(in accordance with section 64 of the *Judges Act*
and subsection 5(2) of the *Canadian Judicial Council Inquiries
and Investigations By-laws, 2015*)

WHEREAS on November 30, 2012, the Honourable François Rolland, Chief Justice of the Superior Court of Quebec, requested that the Canadian Judicial Council review the conduct of the Honourable Michel Girouard while he was a lawyer;

WHEREAS following Chief Justice Rolland's request, and in accordance with subsection 63(3) of the *Judges Act*, the Council constituted an Inquiry Committee comprised of Chief Justice Richard Chartier, Chief Justice Paul Crampton, and Me Ronald Leblanc, Q.C. (the "First Committee");

WHEREAS on November 18, 2015, the First Committee submitted to Council the report of its inquiry into the conduct of Justice Girouard;

WHEREAS in the First Committee's report, the majority found that Justice Girouard's testimony during the inquiry contained several "contradictions, inconsistencies and implausibilities" that raised "deep and serious concerns" about his credibility and, consequently, about his integrity (the "Majority Opinion");

WHEREAS the Majority Opinion found that Justice Girouard attempted to mislead the First Committee by concealing the truth and by lacking forthrightness, honesty and integrity during its inquiry (collectively referred to as the "Misconducts");

WHEREAS according to the Majority Opinion, Justice Girouard's Misconducts were incompatible with the due execution of his office and his testimony had undermined the integrity of the judicial system;

WHEREAS according to the Majority Opinion, the Misconducts were serious enough to warrant a recommendation to Council to remove Justice Girouard from office;

WHEREAS on April 20, 2016, the Council submitted its report to the Minister of Justice, in accordance with subsection 65(1) of the *Judges Act* (the "Report of Council");

WHEREAS the Report of Council recommended to the Minister of Justice that Justice Girouard not be removed from office, notably because the Misconducts stated in the Majority Opinion were not set out in a distinct notice of allegations and, therefore, Justice Girouard did not have the opportunity to respond to them;

WHEREAS on June 14, 2016, following the Report of Council, the federal and provincial Ministers of Justice requested that the Council hold an inquiry into Justice Girouard's conduct, in accordance with subsection 63(1) of the *Judges Act* (the "Ministerial request for an inquiry");

WHEREAS in their Ministerial request for an inquiry, the Ministers of Justice notably stated the following:

- 1) they *acknowledge* the Council's view that Justice Girouard was entitled to (advance) notice regarding the Misconducts stated in the Majority Opinion;
- 2) they are *very concerned* by the *findings of misconduct* set out in the Majority Opinion; and
- 3) they are of the view that allowing such *serious findings* as those contained in the Majority Opinion to go unresolved *would run the risk of compromising the public's confidence not only in the judicial discipline process, but in the judiciary and justice system as a whole.*

WHEREAS public confidence in the integrity of judges and the judicial system in which they operate is the backbone of the Canadian system of justice and the social order it is meant to support and promote;

WHEREAS judges have a mandatory duty to cooperate with transparency, honesty and integrity in inquiries that concern them, and any breach of this duty could well constitute misconduct within the meaning of paragraph 63(2)(b) of the *Judges Act* and/or a failure in the due execution of the office of judge within the meaning of paragraph 63(2)(c) of the aforesaid *Act*;

WHEREAS the majority of the First Committee found that Justice Girouard had failed in his duty of transparency, honesty and integrity during the inquiry concerning him;

WHEREAS the findings of the majority of the First Committee are deemed to be those of a superior court pursuant to subsection 63(4) of the *Judges Act*;

WHEREAS following the Ministerial request for an inquiry, the Council received, on July 25, 2016, a letter from Ms L.C. (the "Letter of denunciation"), in which she questions and refutes the veracity of certain parts of the testimony given by Justice Girouard during the First Committee's inquiry;

WHEREAS the Letter of denunciation contains serious claims which, if substantiated, imply that Justice Girouard would have given false testimony during the inquiry concerning him, notably with respect to the following statements:

- a) that he never used drugs while he was a lawyer;
- b) that he never obtained drugs while he was a lawyer.

WHEREAS the Letter of denunciation claims on the contrary that, beginning in 1992, Justice Girouard:

- a) would have used drugs, notably in the company of L.C.'s spouse, a long-time friend and business partner of Justice Girouard;
- b) would have obtained drugs.

WHEREAS the Letter of denunciation, the content of which has not yet been verified by oath, falls along the same lines as the findings of the Majority Opinion;

WHEREAS Justice Girouard should be given the opportunity to respond to the findings of the Majority Opinion and the claims contained in the Letter of denunciation;

WHEREAS during the hearings of this Inquiry Committee, Justice Girouard claimed that he never used cocaine while he was a lawyer;

WHEREAS Volume 3 of the Summary of the Testimony and Supplementary Evidence prepared by Me Raymond Doray, dated August 13, 2013, (the "Doray Report") provides the basis for some of the contradictions, inconsistencies and implausibilities identified in the findings of the Majority Opinion;

WHEREAS Justice Girouard stated under oath before this Inquiry Committee that he never became acquainted with and was never provided a copy of Volume 3 of the Doray Report before May 8, 2017;

WHEREAS the amendment of February 22, 2017 is in italics in the first allegation;

WHEREAS the amendments of May 17, 2017 are underlined in allegations 3 and 4;

JUSTICE GIROUARD IS SUBJECT TO THE FOLLOWING ALLEGATIONS:

- 1) Justice Girouard has become incapacitated or disabled from the due execution of the office of judge by reason of his misconduct during the inquiry conducted by the First Committee, *which is more fully set out in the findings of the Majority at paragraphs 223 to 242 of its Report:*
 - a) Justice Girouard failed to cooperate with transparency and forthrightness in the First Committee's inquiry;

b) Justice Girouard failed to testify with transparency and integrity during the First Committee's inquiry;

c) Justice Girouard attempted to mislead the First Committee by concealing the truth;

2) Justice Girouard has also become incapacitated or disabled from the due execution of the office of judge by reason of his misconduct and his failure in the due execution of the office of judge (ss. 65(2)(b) and (c) of the *Judges Act*), by falsely stating before the First Committee that:

a) he never used drugs;

b) he never obtained drugs.

3) Justice Girouard has also become incapacitated or disabled from the due execution of the office of judge by reason of his misconduct and failure in the due execution of the office of judge (ss. 65(2)(b) and (c) of the *Judges Act*), by falsely stating before this Inquiry Committee that he never used cocaine while he was a lawyer.

4) Justice Girouard has also become incapacitated or disabled from the due execution of the office of judge by reason of his misconduct and failure in the due execution of the office of judge (ss. 65(2)(b) and (c) of the *Judges Act*), by falsely stating before this Inquiry Committee that he never became acquainted with and was never provided a copy of Volume 3 of the Doray Report before May 8, 2017, his testimony on point being:

"A. That is... that is... I was never shown Volume 3, even in the first inquiry, never; I saw it for the first time on Monday, May 8, this week; O.K.?"

That is...

Q. But..

A. ... the truth!"

Signed:

May 17, 2017

May 17, 2017

The Honourable J. Ernest Drapeau

The Honourable Glenn D. Joyal

May 17, 2017

The Honourable Marianne Rivoalen

May 17, 2017

Me Bernard Synnott, Ad.E.

May 17, 2017

Me Paule Veilleux