

CANADIAN JUDICIAL COUNCIL

INQUIRY UNDER SECTION 63(2) OF THE *JUDGES ACT* CONCERNING THE HONOURABLE MICHEL GIROUARD

AMENDED DETAILED NOTICE OF ALLEGATIONS TO THE HONOURABLE MICHEL GIROUARD (s. 5(2) of the *Canadian Judicial Council Inquiries and Investigations By-laws*)

A. BACKGROUND

1. Upon receiving a request for inquiry dated November 30, 2012 from the Chief Justice of the Superior Court, the Honourable François Rolland, the Canadian Judicial Council initiated an inquiry into the conduct of the Honourable Michel Girouard. On June 18, 2014, further to the Review Panel's decision dated February 6, 2014, the Canadian Judicial Council announced the members of the Inquiry Committee constituted under section 63(3) of the *Judges Act*. On the same date, Marie Cossette was appointed Independent Counsel under section 3(1) of the *Canadian Judicial Council Inquiries and Investigations By-laws* to present the evidence before the Inquiry Committee.
2. The purpose of this Notice is to inform Justice Michel Girouard of the allegations in respect of which evidence will be presented before the Inquiry Committee. This Notice does not set out Justice Girouard's response to the allegations.
3. At the hearing, in accordance with the requirements of the *Canadian Judicial Council Inquiries and Investigations By-laws* and the *Policy on Independent Counsel*, Independent Counsel will present the evidence relevant to the allegations against Justice Girouard to the Inquiry Committee in a full and fair manner to enable the Inquiry Committee to determine, in accordance with section 63(3) of the *Judges Act*, whether the judge has become incapacitated or disabled from the due execution of the office of judge within the meaning of section 65(2) of the *Judges Act*. If so, the Inquiry Committee will determine whether this matter is serious enough¹ to recommend that Justice Girouard be removed from office.

¹ Conduct that may lead to a judge's removal from office is conduct that is so manifestly and totally contrary to the principles of impartiality, integrity and independence of the judiciary that the confidence of individuals appearing before the judge, or of the public in the administration of justice, would be undermined (*Re Therrien*, [2001] 2 S.C.R. 3, at para. 147).

B. ALLEGATIONS

4. Certain allegations concern Justice Girouard's conduct prior to his appointment to the bench. In the interests of clarity, this Notice refers to "Mr. Girouard" when allegations relate to the time prior to his appointment to the bench and otherwise to "Justice Girouard".

Using illicit substances

Count 1: While he was a lawyer, Mr. Girouard allegedly used drugs on a recurring basis.

5. While he was a lawyer, Mr. Girouard allegedly used drugs on a recurring basis;
 - (a) In the course of the investigation conducted by the Sûreté du Québec in a case code-named "Écrevisse" [Crayfish] to dismantle the drug trafficking network (cocaine and marijuana) in Abitibi and the Val-d'Or area, information was gathered alleging that Mr. Girouard had used drugs, including cocaine;
 - (b) In December 2013, Detective Sergeant Yves Langlois, who worked in criminal intelligence in the regional squad in the course of the Sûreté du Québec's Operation Crayfish, obtained an oral statement from a source who was also a drug user and who had allegedly seen Mr. Girouard use drugs many times;
 - i. That source does not wish to be identified and therefore has the protection granted to police informers under the case law (*R. v. Leipert*, [1997] 1 S.C.R. 281). Detective Sergeant Langlois considered the source credible because the source's statement corroborated other information gathered during his investigation;
 - (c) On August 30, 2011, Detective Sergeant Simon Riverin from the Montréal squad, in the course of the Sûreté du Québec's Operation Crayfish, took the statement of a coded source for the Sûreté du Québec whose information had proved to be accurate in the past. That source stated that a lawyer from Val-d'Or who had just been appointed as a judge (one Girouard) was a cocaine user;
 - i. That source cannot be identified because the Sûreté du Québec made an undertaking not to reveal the source's identity and because the source has

the protection granted to police informers under the case law (*R. v. Leipert*, [1997] 1 S.C.R. 281);

- (d) Dominic Veilleux, a Sûreté du Québec patrol officer in Val-d'Or, saw Mr. Girouard under the influence of drugs at Bar Dix in Val-d'Or between 1988 and 1991, when he worked there as a bartender and server before becoming a police officer. He says that he saw Mr. Girouard go into the bar's washrooms with individuals known to be drug dealers and then display symptoms associated with cocaine use in the course of the evening;
- (e) Mr. X, an informer in the Sûreté du Québec's investigation code-named Crayfish, who testified during the trial that resulted in the conviction of Yves Denis, Denis Lefebvre and Serge Pomerleau, stated under oath on May 18, 2012 that he had done lines of cocaine a few times in his office with lawyer Michel Girouard;
- i. When interviewed by Independent Counsel, he suggested that this use in his office, in his presence, was regular;
 - ii. Mr. X himself took the initiative of contacting the Sûreté du Québec to offer his cooperation;
 - iii. He was initially met as a source, which led to seven meetings with a source on January 26, 2011, May 11, 2011, October 7, 2011, October 27, 2011, November 21, 2011, January 18, 2012 and April 11, 2012;
 - iv. At the same time, in January 2012, he asked to become a cooperating witness. The process of declaring him cooperating witness no. 1 of the Office of the Director of Criminal and Penal Prosecutions ("DCPP") then began, and it was in that context that the statements of May 2012 were obtained;
 - v. On June 8, 2012, he took and passed a polygraph test;
 - vi. On October 16, 2012, he signed an agreement with the DCPP and the Sûreté du Québec to define the terms of his cooperation;
 - vii. It was not until after Mr. X referred to Mr. Girouard when providing his chronological account that the detective sergeants with him asked him to

elaborate on his ties to Mr. Girouard and asked whether other officers of the court were involved in drug trafficking or use;

viii. Counsel for Justice Girouard intend to challenge the reliability of his statements;

- (f) These allegations of drug use are contradicted by Robert André Adam, Mr. Girouard's nominal partner in the firm of Girouard, Adam et Associés, who has spent time with Mr. Girouard in a professional capacity and in a personal capacity as a close friend, including at Mr. Girouard's home, from 1996 until now. In his opinion, if Mr. Girouard had a drug problem, he would have known about it and realized it. He could not have put up with such a situation given the type of clients represented by him in the health field. He knows that there were rumours about this over the years, but in his opinion, they were due to Mr. Girouard's "flamboyant" style and the fact that he was very successful in his legal practice;
- (g) The allegations of cocaine use are contradicted by Dr. Joël Pouliot, a cardiologist in Val-d'Or who is a friend of Mr. Girouard. He states that he met Mr. Girouard around 1996 and spent time with him regularly until 2011. He maintains that, because of his medical knowledge and his closeness to Mr. Girouard during dinners and trips, he would have recognized signs of cocaine use if he had seen any, which was not the case;
- (h) The allegations of drug use are contradicted by Guy Boissé, the president of National Brokerage Services, an insurance company. He is a very close friend of Mr. Girouard (he even married his cousin), and they have spent time together regularly since meeting in 1981. They even lived together at that time. Once they started their own families, they travelled together and continued seeing each other at frequent birthday gatherings and dinners. Mr. Boissé never noticed any signs or any behaviour by Mr. Girouard suggesting drug use. He adds that, because of the nature of his contact with Mr. Girouard, he would necessarily have noticed if Mr. Girouard was using drugs;
- (i) Other witnesses who knew Mr. Girouard but saw him less regularly and on a more professional basis in connection with cases or activities related to the Barreau du Québec stated that they had not noted any behaviour or signs associated with drug use either;

Purchasing illicit substances

Count 2: For a period of three to four years between 1987 and 1992, while he was a lawyer, Mr. Girouard allegedly purchased cocaine from Mr. X for his personal use, namely a total of about 1 kilogram with an approximate value of between \$90,000 and \$100,000.

6. For a period of three to four years between 1987 and 1992, while he was a lawyer, Mr. Girouard allegedly purchased cocaine from Mr. X for his personal use, namely a total of about 1 kilogram with an approximate value of between \$90,000 and \$100,000;

(a) Mr. X, an informer in the Sûreté du Québec's investigation code-named Crayfish, who testified during the trial that resulted in the conviction of Yves Denis, Denis Lefebvre and Serge Pomerleau, stated the following under oath:

- i. May 18, 2012: Mr. Girouard was a customer of his for drug purchases; he bought at least 3.5 grams of cocaine a week from him, or a total of 500 grams, at an average price of \$100 a gram;
- ii. May 31, 2012: It was clarified that he actually sold Mr. Girouard a total of 1,000 grams (1 kilogram) of cocaine;
- iii. May 18, 2012: He stated that, before he hired Mr. Girouard in his case involving the predecessor of the Régie des alcools, des courses et des jeux to obtain a permit for his new project, Bar New-York, New-York, in the early 1990s, Mr. Girouard had already been buying drugs from him for about two to three years. He said that Mr. Girouard was his customer until around the end of 1991;
- iv. May 31, 2012: It was clarified that Mr. Girouard was actually his customer until the end of 1987;
- v. When interviewed by Independent Counsel, he stated that he had met Mr. Girouard around 1988 and that his relationship with him for the purchase of cocaine had continued until about 1992, when he had stopped operating Bar New-York, New-York. He stated that he did not understand the meaning of the correction made on May 31, 2012 and that there must have been a misunderstanding when it was made or noted down. He described Mr. Girouard's cocaine use as moderate (he was not an "addict"). He stated that

Mr. Girouard had purchased between 0.5 and 3.5 grams from him almost weekly and that he could not say for certain whether Mr. Girouard had used that supply alone or shared it with others;

- vi. Mr. X himself took the initiative of contacting the Sûreté du Québec to offer his cooperation;
 - vii. He was initially met as a source, which led to seven meetings with a source on January 26, 2011, May 11, 2011, October 7, 2011, October 27, 2011, November 21, 2011, January 18, 2012 and April 11, 2012;
 - viii. At the same time, in January 2012, he asked to become a cooperating witness. The process of declaring him cooperating witness no. 1 of the Office of the Director of Criminal and Penal Prosecutions ("DCPP") then began, and it was in that context that the statements of May 2012 were obtained;
 - ix. On June 8, 2012, he took and passed a polygraph test;
 - x. On October 16, 2012, he signed an agreement with the DCPP and the Sûreté du Québec to define the terms of his cooperation;
 - xi. It was not until after Mr. X referred to Mr. Girouard when providing his chronological account that the detective sergeants with him asked him to elaborate on his ties to Mr. Girouard and asked whether other officers of the court were involved in drug trafficking or use;
 - xii. Counsel for Justice Girouard intend to challenge the reliability of his statements;
- (b) Marie-Christine Bergeron, Secretary of the Régie des alcools, des courses et des jeux, confirms that 2750-3077 Québec inc. (operating as "Bar New York New York") had a liquor permit in the early 1990s and states that the file concerning that company has been destroyed in accordance with the policy on the destruction of records;

Count 3: On September 17, 2010, while his application for appointment as a judge was pending, and more specifically two weeks before his appointment on or about September 30, 2010, Mr. Girouard allegedly purchased an illicit substance from Yvon Lamontagne, who was also his client.

7. On September 17, 2010, while his application for appointment as a judge was pending, and more specifically two weeks before his appointment on or about September 30, 2010, Mr. Girouard allegedly purchased an illicit substance from Yvon Lamontagne, who was also his client;
 - a. A meeting during which that transaction allegedly occurred was held in Yvon Lamontagne's office at the location of a video club he owned, Superclub Vidéotron, at 1625 3^e Avenue in Val-d'Or, and was recorded by a surveillance camera installed by Yvon Lamontagne in his office;
 - b. A video recording of the meeting between Mr. Girouard and Yvon Lamontagne, which lasted from approximately 12:25 to 1:10 p.m., was obtained in the course of a Sûreté du Québec police operation on October 6, 2010;
 - c. More specifically, in the course of the investigation code-named Crayfish, the Sûreté du Québec obtained authorizations to intercept private communications and to observe, by means of cameras and other electronic devices, the activities of 74 persons for the period of January 13, 2010 to January 13, 2011;
 - d. It was in that context that a search of the digital recorder found in the video club owned by Yvon Lamontagne was carried out on October 6, 2010;
 - e. The interception and observation of Yvon Lamontagne's activities revealed that he was responsible for the supply and distribution of cannabis for the criminal organization controlled by Denis Lefebvre and Serge Pomerleau from outside and inside his business (in his office), Superclub Vidéotron, at 1625 3^e Avenue in Val-d'Or;
 - f. Moreover, videos showed individuals convicted of cocaine trafficking present in Yvon Lamontagne's office, suggesting that Mr. Lamontagne might also have been obtaining supplies of that type of drug;

- i. In fact, on September 17, 2010, the day of the filmed meeting between Mr. Girouard and Mr. Lamontagne in Mr. Lamontagne's office, at about 10:16 a.m., Denis Lefebvre (the right-hand man of Serge Pomerleau, the head of the drug trafficking network in Abitibi and the Val-d'Or area) met with Mr. Lamontagne in his office for six minutes, and the two men then left the business together at about 10:22 a.m.;
- ii. Denis Lefebvre has been convicted of trafficking in drugs, including cocaine;
- iii. At about 11:08 a.m. on September 17, 2010, Mr. Lamontagne entered his business with two black cloth bags, which he put down on a counter in his office;
- iv. At about 11:34 a.m., Jean Alarie joined Mr. Lamontagne in his office and Mr. Lamontagne showed him the contents of one of the black bags. Mr. Lamontagne then showed him what seemed to be a transparent plastic bag, which was placed in one of the black bags. Jean Alarie then left with that black bag;
- v. Jean Alarie had previously been seen at Yvon Lamontagne's business on April 24, 2010 between 11:15 a.m. and 2:19 p.m., during what in all likelihood was a drug trafficking transaction involving several players from Project Crayfish, including Mr. Lamontagne;
- vi. Jean Alarie was seen again inside Yvon Lamontagne's business on September 30, 2010 between 10:33 and 10:42 a.m.;
- vii. Jean Alarie made a statement in which he admitted being paid for cocaine trafficking and participating in cocaine trafficking for Denis Lefebvre's organization;
- viii. However, according to Mr. X, while he cannot completely rule out the possibility that Jean Alarie supplied Mr. Lamontagne with cocaine, he considers it unlikely given Mr. Alarie's role in the organization, which was more confined to large quantities of cocaine;
- ix. On September 11, 2010 between 11:15 and 11:23 a.m., Daniel Casabon was seen with Yvon Lamontagne at his business and there was an

exchange during which Daniel Casabon took out what seemed to be a bundle of money and gave it to Yvon Lamontagne, who gave him a Vidéotron plastic bag. This was followed by an exchange of cell phone numbers;

- x. Daniel Casabon was seen again at Yvon Lamontagne's business on September 28, 2010 between 2:51 and 3:00 p.m.;
 - xi. Daniel Casabon signed a statement in which he admitted, among other things, participating in cocaine trafficking as a "runner" for Denis Lefebvre's organization;
 - xii. Mr. X identified Mr. Casabon as a potential supplier of cocaine to Mr. Lamontagne, like Denis Lefebvre;
- g. There were even times when Michel Girouard and Yvon Lamontagne spoke by telephone the same day that trafficking activities took place at Mr. Lamontagne's business, which may suggest that Mr. Girouard knew when Mr. Lamontagne received his supplies:
- i. On April 14, 2010 between 12:14 and 12:45 p.m., Michel Quirion (who was involved in cannabis trafficking) and Yvon Lamontagne were filmed behind Mr. Lamontagne's business handling the contents of a box, which were then placed in a garbage bag by Mr. Lamontagne;
 - ii. There is an audio recording of an intercepted telephone conversation between Mr. Girouard's cell phone (819-856-6061) and Yvon Lamontagne's cell phone (819-354-1540), a call initiated by Mr. Girouard that lasted three (3) minutes and 28 seconds, on April 14, 2010 at about 12:33 p.m., that is, almost the same time as the transaction with Michel Quirion, who returned to the business around 12:27 p.m. The recording was blocked by the technological surveillance unit, target 10-0016, session 386;
 - iii. On April 24, 2010 between 11:15 a.m. and 2:19 p.m., a transaction was filmed between Yvon Lamontagne and individuals under investigation in Project Crayfish, including Jean Alarie, who was present at about 11:15 a.m.;

- iv. There is an audio recording of an intercepted telephone conversation between Mr. Girouard's cell phone (819-856-6061) and Yvon Lamontagne's cell phone (819-354-1540), a call initiated by Mr. Girouard that lasted one (1) minute and 19 seconds, on April 24, 2010 around 1:23 p.m. The recording was blocked by the technological surveillance unit, target 10-0016, session 435;
- v. There is another audio recording of an intercepted telephone conversation between Mr. Girouard's cell phone (819-856-6061) and Yvon Lamontagne's cell phone (819-354-1540), a call initiated by Mr. Girouard that lasted 52 seconds, on April 24, 2010 around 4:12 p.m. The call was blocked by the technological surveillance unit, target 10-0016, session 437;
- h. Independent Counsel will be making a motion to the Inquiry Committee seeking the issuance of a subpoena to the technological surveillance unit of the Sûreté du Québec to obtain access to those recordings in order to determine whether the calls informed Mr. Girouard of drug deliveries to Mr. Lamontagne so he could buy some for himself;
- i. There are no time entries for the calls identified by the Sûreté du Québec in the invoice for Mr. Girouard's fees sent to Yvon Lamontagne by the firm of Girouard, Adam et Associés on November 17, 2010 in connection with the case against Revenu Québec and Revenue Canada;
- j. In fact, in that invoice, while the work description for September 6 and 10, 2010 expressly refers to an [TRANSLATION] "interview with Mr. Lamontagne", the one for September 17, 2010 consists solely of [TRANSLATION] "file review" and "telephone conversation with Claire Boucher", even though Mr. Girouard went to meet Yvon Lamontagne at his office;
- k. There are no time entries after September 17, 2010;
- l. Yvon Lamontagne did not know he was under surveillance and being wiretapped and filmed by the Sûreté du Québec and did not find this out until he was arrested on October 6, 2010;
- m. Yvon Lamontagne has refused to meet with Independent Counsel for the purposes of her investigation. Independent Counsel is leaving it to the discretion of the

Inquiry Committee to determine whether a subpoena should be issued to compel Mr. Lamontagne to testify;

- n. On November 18, 2011, a sergeant supervisor from the Sûreté du Québec's undercover unit (badge AI0222) with over 22 years of undercover experience, including with organized crime and drug transactions, viewed the video recording from September 17, 2010 without being given any explanation first;
 - i. He concluded with certainty that this was a usual drug transaction between the two men seen on the recording, Mr. Girouard and Yvon Lamontagne;

Exchanging his professional services for an illicit substance

Count 4: In the early 1990s, while he was a lawyer, Mr. Girouard allegedly exchanged professional services provided to Mr. X worth about \$10,000, in a case before the predecessor of the Régie des alcools, des courses et des jeux, for cocaine for his personal use.

- 8. In the early 1990s, while he was a lawyer, Mr. Girouard allegedly exchanged professional services provided to Mr. X worth about \$10,000, in a case before the predecessor of the Régie des alcools, des courses et des jeux, for cocaine for his personal use;
 - (a) Mr. X, an informer in the Sûreté du Québec's investigation code-named Crayfish, who testified during the trial that resulted in the conviction of Yves Denis, Denis Lefebvre and Serge Pomerleau, stated the following under oath:
 - i. May 18, 2012: Mr. X stated that he had hired Mr. Girouard in the early 1990s to obtain a permit from the Régie for his new project, Bar New-York, New-York, and that Mr. Girouard had provided him with legal services worth \$10,000, which had been paid for with cocaine;
 - ii. When interviewed by Independent Counsel, he specified that, over the course of the case, Mr. Girouard [TRANSLATION] "came to get an advance" on his fees, which was paid for in cocaine. He kept a kind of account, and it had been agreed that everything would be adjusted once the trial was over. He placed the fees at between \$5,000 and \$10,000 but said they were closer to the latter figure. He did not remember whether he received

invoices for Mr. Girouard's services, and he has no records from that time to check;

- iii. Mr. X himself took the initiative of contacting the Sûreté du Québec to offer his cooperation;
 - iv. He was initially met as a source, which led to seven meetings with a source on January 26, 2011, May 11, 2011, October 7, 2011, October 27, 2011, November 21, 2011, January 18, 2012 and April 11, 2012;
 - v. At the same time, in January 2012, he asked to become a cooperating witness. The process of declaring him cooperating witness no. 1 of the Office of the Director of Criminal and Penal Prosecutions ("DCPP") then began, and it was in that context that the statements of May 2012 were obtained;
 - vi. On June 8, 2012, he took and passed a polygraph test;
 - vii. On October 16, 2012, he signed an agreement with the DCPP and the Sûreté du Québec to define the terms of his cooperation;
 - viii. It was not until after Mr. X referred to Mr. Girouard when providing his chronological account that the detective sergeants with him asked him to elaborate on his ties to Mr. Girouard and asked whether other officers of the court were involved in drug trafficking or use;
 - ix. Counsel for Justice Girouard intend to challenge the reliability of his statements;
- (b) Marie-Christine Bergeron, Secretary of the Régie des alcools, des courses et des jeux, confirms that 2750-3077 Québec inc. (operating as "Bar New York New York") had a liquor permit in the early 1990s and states that the file concerning that company has been destroyed in accordance with the policy on the destruction of records;
- (c) Mr. X had no reason to hold a grudge against Mr. Girouard and to want to falsely incriminate him;

(d) The docket in Court file 615-02-000437-914, Todd Andrews v. Mr. X, indicates the following:

- i. Mr. Girouard appeared on October 24, 1991 and a certificate of default to plead was entered in the Court file on May 6, 1992. A certificate of default to appear on a summons under article 543 C.C.P. (for examination after judgment) was filed on June 19, 1992;
- ii. When interviewed by Independent Counsel, Mr. X had no specific recollection of that case and was not left with a bad impression of Mr. Girouard's work. When asked whether the relationship with Mr. Girouard had ended on good terms, he confirmed, without hesitating, that it had;

Setting up a mini greenhouse to produce cannabis in the basement of his house with the help of an organization involved in organized crime and being under the control of that organization

<p>Count 5: While he was a lawyer, Mr. Girouard was allegedly under the control of an organization involved in organized crime, since he allegedly set up a mini greenhouse for cannabis plants in the basement of his home with the help of two members of that organization.</p>

9. While he was a lawyer, Mr. Girouard was allegedly under the control of an organization involved in organized crime, since he allegedly set up a mini greenhouse for cannabis plants in the basement of his home with the help of two members of that organization;

(a) On August 30, 2011, Detective Sergeant Simon Riverin from the Montréal squad, in the course of the Sûreté du Québec's Operation Crayfish, took the statement of a coded source for the Sûreté du Québec whose information had proved to be accurate in the past. That source stated that Mr. Girouard was under the control of Denis Lefebvre's organization, since Mr. Lefebvre and Yvon Lamontagne had set up a mini cannabis greenhouse (three or four plants) in the past in the basement of Mr. Girouard's residence;

- i. That source cannot be identified because the Sûreté du Québec made an undertaking not to reveal the source's identity and because the source has

the protection granted to police informers under the case law (*R. v. Leipert*, [1997] 1 S.C.R. 281);

- ii. This allegation is contradicted by Robert André Adam, Mr. Girouard's nominal partner in the firm of Girouard, Adam et Associés, who has spent time with Mr. Girouard in a professional capacity and in a personal capacity as a close friend, including at Mr. Girouard's home, from 1996 until now. According to his explanations, the layout of the basement of Mr. Girouard's residence and the fact that anyone who goes there has unobstructed access to the various rooms would make it impossible to grow such plants without them being seen. He never noticed any such plants. He considers this allegation highly implausible;
- iii. This allegation is also contradicted by Dr. Joël Pouliot, a cardiologist in Val-d'Or who is a friend of Mr. Girouard. He states that he never saw any plants or anything to suggest that cannabis might be grown in the basement of Mr. Girouard's residence. He adds that he dropped in on Mr. Girouard without warning and never sensed any discomfort or reservations about such visits or about free movement in the basement. He corroborates what Mr. Adam says about the layout of the residence and the highly implausible nature of this allegation;
- iv. This allegation is contradicted by Guy Boissé, the founding president of National Brokerage Services, an insurance company, who is a friend of Mr. Girouard. He states that he never saw anything to suggest that cannabis plants were being grown in Mr. Girouard's residence and that this allegation strikes him as highly improbable or even implausible. His children even slept frequently in the basement of Mr. Girouard's residence, which would have been unthinkable if cannabis were being grown there;
- v. Since the Sûreté du Québec source does not indicate when the mini greenhouse was allegedly set up, the possibility that it may have been installed before Mr. Adam and Dr. Pouliot were in contact with Mr. Girouard cannot be completely ruled out;
- vi. However, in the absence of details, and given the lack of evidence available on this point and the fact that Mr. Adam, Dr. Pouliot and Mr. Boissé (who has always spent time with Mr. Girouard) are very affirmative in their statements, Independent Counsel will request a direction from the Inquiry Committee in order to remove this portion of the count;

- (b) As part of its investigation in the case code-named Crayfish, the Sûreté du Québec identified nine calls between Michel Girouard and Yvon Lamontagne and five calls between Michel Girouard and Denis Lefebvre during the period of January 13, 2010 to January 13, 2011, all of which were allegedly initiated by Mr. Girouard;
 - i. Denis Lefebvre was not an active client of Mr. Girouard at the time those calls were intercepted;
 - ii. During that period, Mr. Girouard was representing Yvon Lamontagne in a case with Revenu Québec and Revenue Canada, which seems to have started in October 2009;
 - iii. However, apart from the call with Yvon Lamontagne on February 3, 2010, no time entries corresponding to the dates when the calls were made were billed by the firm of Girouard, Adam et Associés in the invoice sent to Yvon Lamontagne for the case against Revenu Québec and Revenue Canada on November 17, 2010;
- (c) When Denis Lefebvre and Yvon Lamontagne were arrested on October 6, 2010, they stated that Michel Girouard would be able to advise them even though he had become a judge;
- (d) These exchanges and calls tend to show a fairly close relationship between Mr. Girouard and key players recognized as being part of a criminal gang, over and above any client relationship, particularly if drug buying transactions are added to them;
- (e) They may suggest that Justice Girouard would not have the necessary distance if he had to hear a case involving criminal organizations, in addition to projecting an image that undermines the dignity of the office of judge;
- (f) However, the investigation did not show that Justice Girouard is under the “control” or “influence” of Denis Lefebvre’s organization;
- (g) Independent Counsel intends to request a direction from the Inquiry Committee in order to have this count refer to close ties to an organization involved in organized crime, having the effects alleged in subparagraph (e), rather than to control by such an organization over Justice Girouard;
- (h) Count 5 (reproduced in paragraph 9) would therefore read as follows: “While he was a lawyer, Mr. Girouard allegedly had close ties to an organization involved in organized

crime, which may suggest that he would not have the necessary distance if he had to hear a case involving criminal organizations, in addition to projecting an image that undermines the dignity of the office of judge”;

Failing to disclose information during the judicial appointment process

Count 6: On January 25, 2008, Mr. Girouard signed the Personal History Form used by the Office of the Commissioner for Federal Judicial Affairs and failed to disclose the information included in this Notice of Allegations in answer to the following question: “Is there anything in your past or present which could reflect negatively on yourself or the judiciary, and which should be disclosed?”.

10. On January 25, 2008, Mr. Girouard signed the Personal History Form used by the Office of the Commissioner for Federal Judicial Affairs and failed to disclose the information included in this Notice of Allegations in answer to the following question: “Is there anything in your past or present which could reflect negatively on yourself or the judiciary, and which should be disclosed?”.

(a) Mr. Girouard stated that he had had no drug problem in the last ten (10) years and that there was nothing in his past or present which could reflect negatively on himself or the judiciary;

(b) However, Mr. Girouard must or ought to have known that:

- i. While he was a lawyer, he allegedly used drugs, including cocaine, on a recurring basis;
- ii. While he was a lawyer, he allegedly purchased drugs, including from two individuals who were clients during his legal practice;
- iii. While he was a lawyer, he allegedly exchanged professional services provided to Mr. X worth about \$10,000, in a case before the predecessor of the Régie des alcools, des courses et des jeux, for cocaine for his personal use;
- iv. While he was a lawyer, he allegedly set up a mini greenhouse to grow cannabis plants (three or four plants) in the basement of his home with the help of

members of an organization involved in organized crime (depending on the Inquiry Committee's decision about whether to remove this portion of the count) and he allegedly had close ties to that organization;

Trying to mislead the Canadian Judicial Council in response to requests for comments about his conduct and trying to discredit officers of the court

Count 7: On or about January 11, 2013 and on or about August 14, 2013, Justice Girouard tried to mislead the Canadian Judicial Council by providing explanations that concealed the truth about the video recording of the transaction on September 17, 2010.

11. On or about January 11, 2013 and on or about August 14, 2013, Justice Girouard tried to mislead the Canadian Judicial Council by providing explanations that concealed the truth about the video recording of the transaction on September 17, 2010;

- (a) In a letter he wrote to Normand Sabourin of the Judicial Council on January 11, 2013, Justice Girouard stated that no drug transaction had taken place between him and Yvon Lamontagne on September 17, 2010 (or on any other date). He confirmed that they had indeed met in his office for five (5) to ten (10) minutes so Yvon Lamontagne could show him and give him a photocopy of a document he had received concerning his case against Revenue Canada. He noted that the door had been open and that there had been customers walking around the business. He stated that information, memos, notes and documents had been exchanged on a confidential basis during that meeting. He stated that Mr. Lamontagne had sold him dozens of pre-viewed films, the nature of which he preferred be kept out of his customer file, and that he had paid him directly;
- (b) During his meeting with Raymond Doray on August 13, 2013 in connection with the Review Panel's investigation, Justice Girouard stated orally that he had put money under Mr. Lamontagne's desk blotter to pay for used videos of which he had previously taken possession without paying. He stated that Yvon Lamontagne had slipped him a post-it note containing the words [TRANSLATION] "I'm being wiretapped, I'm being tailed" as well as the maximum amount he was willing to pay Revenue Canada and the name of the person who was prepared to lend him money to pay the additional assessment from Revenue Canada. Justice Girouard added that Mr. Lamontagne trafficked only in marijuana, not cocaine, and that he did not conduct transactions in his office, since he knew he had installed a camera in it;

Count 8: On or about January 11, 2013 and on or about August 14, 2013, Justice Girouard made unbecoming comments that discredited certain officers of the court (agents of the Crown, lawyers and police officers) by insinuating that they had acted together to encourage false statements against him as retaliation.

12. On or about January 11, 2013 and on or about August 14, 2013, Justice Girouard made unbecoming comments that discredited certain officers of the court (agents of the Crown, lawyers and police officers) by insinuating that they had acted together to encourage false statements against him as retaliation;
- (a) During his meeting with Raymond Doray on August 13, 2013 in connection with the Review Panel's investigation, Justice Girouard stated orally that it was possible that the police had encouraged Mr. X to invent the story about selling cocaine, since the police had good reasons to be angry with him, including because he had gotten Yvon Lamontagne acquitted by showing that the police had conducted illegal searches in his residence. Justice Girouard reiterated that he had obtained civil awards against a DCPD lawyer for falsifying a judgment and against police officers who had left an Aboriginal person without supervision even though the person was seriously injured;
- (b) In a letter they wrote to Raymond Doray on August 14, 2013, counsel for Justice Girouard stated that Justice Girouard had argued in criminal court and secured acquittals to the great dismay of certain Val-d'Or police officers and the Crown. He also indicated that he had acted in a civil case against Crown prosecutor Marie-Chantale Brassard, alleging that she had falsified a judgment;
- (c) According to counsel for Justice Girouard, he made those remarks in good faith to try to answer the questions raised by Mr. Doray, who asked him to explain the rumours that were circulating about him, and not with the intention of discrediting certain officers of the court. Justice Girouard allegedly wanted to cooperate with the investigation rather than refusing to answer;
- (d) In the circumstances, Independent Counsel intends to request a direction from the Inquiry Committee in order to remove count 8 (reproduced in paragraph 12);

C. IMPACT ON THE EXECUTION OF THE OFFICE OF JUDGE

13. The allegations in this Notice, if accepted by the Inquiry Committee, are capable of showing that Justice Girouard's ethics, honesty and integrity must be questioned and that his impartiality and independence are at risk now that he has been appointed to the bench, including in cases involving the Crown or members of criminal gangs;
14. The allegations in this Notice, if accepted by the Inquiry Committee, are capable of showing that Justice Girouard has become incapacitated or disabled from the due execution of the office of judge within the meaning of section 65(2) of the *Judges Act* and of justifying his removal from office.

Québec, March 17, 2015

MARIE COSSETTE
LAVERY, DE BILLY
LIMITED LIABILITY PARTNERSHIP