



**IN THE MATTER OF AN INQUIRY PURSUANT TO S. 63(1)
OF THE *JUDGES ACT*
REGARDING THE HONOURABLE JUSTICE ROBIN CAMP**

Directions to Counsel

[1] This Inquiry Committee has been convened under s. 63(3) of the *Judges Act*, R.S.C. 1985 c. J-1, as a result of a request made by the Minister of Justice and Solicitor General for the Province of Alberta.

[2] The Inquiry Committee is required to conduct an inquiry into whether Mr. Justice Camp has become incapacitated or disabled from the due execution of the office of judge for any of the reasons set out in paragraphs 65(2)(a) to (d) of the *Judges Act* and should be removed from office.

[3] Section 65(2) reads as follows:

65 ...

(2) Where, in the opinion of the Council, the judge in respect of whom an inquiry or investigation has been made has become incapacitated or disabled from the due execution of the office of judge by reason of

(a) age or infirmity,

(b) having been guilty of misconduct,

(c) having failed in the due execution of that office, or

(d) having been placed, by his or her conduct or otherwise, in a position incompatible with the due execution of that office

the Council, in its report to the Minister under subsection (1), may recommend that the judge be removed from office.

[4] In 2015, the Canadian Judicial Council enacted the *Canadian Judicial Council Inquiries and Investigations By-laws, 2015*, SOR/2015-203 (the “By-laws”), elaborating on the role of the Inquiry Committee as follows:

5. (1) The Inquiry Committee may consider any complaint or allegation pertaining to the judge that is brought to its attention. In so doing, it must take into account the Judicial Conduct Review Panel’s written reasons and statement of issues.

(2) The Inquiry Committee must inform the judge of all complaints or allegations pertaining to the judge and must give them sufficient time to respond fully to them.

(3) The Inquiry Committee may set a time limit to receive comments from the judge that is reasonable in the circumstances, it must notify the judge of that time limit, and, if any comments are received within that time limit, it must consider them.

...

8. (1) The Inquiry Committee must submit a report to the Council setting out its findings and its conclusions about whether to recommend the removal of the judge from office.

[5] Following the receipt and consideration of an Inquiry Committee's report, the Council reports to the Minister of Justice of Canada as to whether the judge should be removed from office for any of the reasons in paragraphs 65(2)(a) to (d) of the *Judges Act*.

[6] To assist the Inquiry Committee in fulfilling its responsibilities as an investigative and inquiry body, the By-laws provide in s. 4 that:

The Inquiry Committee may engage legal counsel and other persons to provide advice and to assist in the conduct of the inquiry.

[7] Council has promulgated a *Handbook of Practice and Procedure of CJC Inquiry Committees* (September 17, 2015) (the “Handbook”). Although not binding on the Inquiry Committee, the Handbook offers guidance and clarity in respect to procedures under s. 63 and 65 of the *Judges Act*.

[8] In connection with the engagement of legal counsel, paragraphs 3.2 and 3.3 of the Handbook read as follows:

3.2 The Committee may engage one or more legal counsel to assist in marshalling the evidence; interview persons believed to have information or evidence bearing on the subject-matter of the Inquiry; assist in the Committee's deliberations; conduct legal research; provide advice to Committee members on matters of procedure and on any measures necessary to ensure the impartiality and fairness of the hearing.

3.3 Legal counsel and other persons engaged by the Committee have no authority independent of the Committee and are bound at all times by the authority and rulings of the Committee.

[9] The Inquiry Committee thus has discretion to fashion the role of legal counsel under its authority subject to the duty to ensure procedural fairness. Section 7 of the By-laws reads as follows:

7. The Inquiry Committee must conduct its inquiry or investigation in accordance with the principle of fairness.

[10] In light of those considerations, the Inquiry Committee has concluded that it is necessary and desirable to issue directions with respect to the legal counsel engaged pursuant to s. 4 of the By-laws in the following terms:

1. Ms. Marjorie Hickey, Q.C. is appointed by the Inquiry Committee under s. 4 of the By-laws to act as Presenting Counsel.
2. Presenting Counsel will present all relevant evidence to the Inquiry Committee and make submissions on questions of procedure and applicable law that are raised during the inquiry.
3. Presenting Counsel should discharge her duties with a full appreciation of the objective concerns underlying the complaint or allegations, with fairness to the judge who is the subject of the inquiry, and conscious of the importance of conducting the inquiry in a manner that will enhance public confidence in the judiciary.
4. With respect to cross-examination, Presenting Counsel will exercise her best judgment, keeping in mind the responsibility to ensure that all relevant evidence is presented fairly before the Inquiry Committee and that the inquiry is a search for the truth. This may require that evidence, including that of the judge, be tested by cross-examination, contradictory evidence or both.
5. As the inquiry unfolds, it may be necessary for the Inquiry Committee to direct that Presenting Counsel adduce further evidence or engage in a line of inquiry in order to assist the Inquiry Committee with its mandate. Such a direction will be made in the

course of the hearing, and the participants will have an opportunity to make submissions.

6. With respect to submissions on questions of procedure and applicable law that are raised during the inquiry, and the findings and recommendations to be made by the Inquiry Committee, Presenting Counsel will make her submissions free of direction from the Inquiry Committee or any outside influence, in accordance with the law and her best judgment of what is required in the public interest.
7. There will be no communications between the Inquiry Committee and either Presenting Counsel or counsel for Justice Camp outside of the hearing, unless all participants in the inquiry agree to the communication in advance.
8. Mr. Owen Rees is appointed by the Inquiry Committee under s. 4 of the By-laws to act as Advisory Counsel. Advisory Counsel will provide legal advice and assistance to the Inquiry Committee, as requested.
9. Advisory Counsel may communicate collectively with Presenting Counsel and counsel for Justice Camp, as may be necessary.
10. If the need arises, participants in the inquiry may seek further directions.

April 22, 2016

The Honourable Austin F. Cullen, Chairperson of the Inquiry Committee,
Associate Chief Justice of the Supreme Court of British Columbia

The Honourable Deborah K. Smith, Associate Chief Justice of the Supreme
Court of Nova Scotia

The Honourable Raymond P. Whalen, Chief Justice of the Supreme Court of
Newfoundland and Labrador, Trial Division

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