Dear Mr

I am responding to your correspondence dated 12 June 2016 in which you make a complaint against the Honourable Antonio Skarica of the Superior Court of Justice of Ontario.

In accordance with the Review Procedures of the Canadian Judicial Council (Council) I referred your letter to the Honourable J. Michael MacDonald, Chief Justice of Nova Scotia and Chairperson of the Judicial Conduct Committee. Chief Justice MacDonald requested comments from Justice Skarica and from the Honourable Heather J. Smith, Chief Justice of the Superior Court of Justice of Ontario. After carefully reviewing your complaint, Chief Justice MacDonald has directed me to provide you with this response.

The mandate of the Council in matters of judicial conduct is to determine whether a recommendation should be made to the Minister of Justice, after a formal investigation, that a judge be removed from office by Parliament. The reasons for removal are set out in the Judges Act and address situations where a judge has become incapacitated or disabled from performing the duties of a judge. This can be as a result of age or infirmity, misconduct, a failure to execute the duties of the position, or being in a position incompatible with the functions of a judge.

It is important to note that Council is not a court and cannot intervene in the court process.

In your correspondence, you indicate that you saw Justice Skarica wearing a t-shirt promoting Donald Trump’s candidacy and that you were both shocked and appalled. You
allege that Justice Skarica is clearly advocating for a man who is a serial liar, racist and
demagogue, which raises a number of concerns. You ask how can a man who embraces a
politician opposed to Muslims and Mexicans, a man who believes in dividing society into
'winners and losers,' be seen as an impartial arbiter of human lives as he renders judgment
on them from the bench.

In commenting the complaint, Justice Skarica indicates that he has not endorsed Mr Trump
either publicly or privately in any way and does not know him. Justice Skarica has not
contributed any monies to his campaign either directly or indirectly. He has not been
involved in the Trump campaign in any manner whatsoever. He writes that he is, however,
a student of history and on occasion, have collected memorabilia items over the years that
he considers to be turning points in history. It is in that context that Justice Skarica
received the t-shirt from his brother who had visited Washington. It was never Justice
Skarica's intention to make the shirt a standard part of his wardrobe but rather to keep it as
an item of memorabilia. At one point, Justice Skarica put the shirt on earlier in the day to
show a friend and later that day went shopping without thinking too much about it. He does
not intend to wear the t-shirt in public in any meaningful way. Moreover, Justice Skarica
vehemently denies any suggestion that he is racist.

Chief Justice MacDonald notes that Council's publication Ethical Principles for Judges
provides that judges should refrain from conduct such as membership in groups or
organizations or participation in public discussion which, in the mind of a reasonable, fair
minded and informed person, would undermine confidence in a judge's impartiality with
respect to issues that could come before the courts. The issue is therefore the extent of the
involvement of Justice Skarica in Donald Trump's campaign to the US presidency, if any,
and whether it could reasonably "put in question the judge's impartiality on an issue that
could come before the court."

First, Chief Justice MacDonald advises that impartiality is key to the judicial process and is
presumed. As pointed out by the Supreme Court of Canada in the Cojocaru v. British
Columbia Women’s Hospital and Health Centre case, this presumption of impartiality
carries considerable weight, and the law does not easily evoke the possibility of bias in a
judge, whose authority depends upon that presumption. Second, Chief Justice MacDonald
is satisfied with the response of Justice Skarica indicating that he has no involvement
whatsoever with Mr Trump or the Republican, that he has not contributed any monies to his
campaign either directly or indirectly, and that he is not involved in any way, shape or form
in Donald Trump's campaign for the US presidency. Chief Justice MacDonald also accepts

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that Justice Skarica has no intention of wearing this or similar shirts in public again. Chief Justice MacDonald is therefore satisfied that there is nothing that could put in question Justice’s Skarica impartiality on an issue that could come before his court. Chief Justice MacDonald concludes that your complaint is unfounded.

Chief Justice MacDonald is of the view that the issues you raise do not warrant further consideration by the Canadian Judicial Council pursuant to its mandate under the Judges Act. Accordingly, he has directed me to close your file with this reply.

Yours sincerely,

[Signature]

Norman Sabourin
Executive Director and Senior General Counsel