

CANADIAN JUDICIAL COUNCIL

IN THE MATTER OF AN INVESTIGATION PURSUANT TO SECTION 63(2) OF THE *JUDGES ACT* REGARDING THE HONOURABLE LORI DOUGLAS, ASSOCIATE CHIEF JUSTICE (FAMILY DIVISION) OF THE MANITOBA COURT OF QUEEN'S BENCH

NOTICE TO ASSOCIATE CHIEF JUSTICE LORI DOUGLAS (Pursuant to section 64 of the *Judges Act*, section 5(2) of the *Canadian Judicial Council Inquiries and Investigation By-laws* and the *Canadian Judicial Council Policy on Inquiry Committees*)

A. BACKGROUND

1. The purpose of this notice is to provide Associate Chief Justice Lori Douglas (“ACJ Douglas”) with notice of the allegations that will be presented against her. None of the facts alleged below have been proven before the Inquiry Committee. This notice does not set out ACJ Douglas’ response to the allegations.

2. At the hearings before the Inquiry Committee, and pursuant to her obligations as set out in the *Canadian Judicial Council Inquiries and Investigations By-laws* and the *Canadian Judicial Council Policy on Independent Counsel*, Independent Counsel will present all of the evidence adverse to ACJ Douglas, as well as that which is favourable, for the Committee’s consideration as to whether the alleged conduct (as described below) of ACJ Douglas has rendered her “*incapacitated or disabled from the due execution of the office of judge*” within the meaning of subsection 65(2) of the *Judges Act*. If this is answered in the affirmative, the second stage is to determine whether or not a recommendation should be made for the removal of ACJ Douglas from office.¹

3. Today, Independent Counsel is also providing notice to ACJ Douglas of her intention to seek directions from the Inquiry Committee with respect to the inclusion within the scope of the Inquiry of additional allegations pertaining to: (i) ACJ Douglas’ alleged involvement in the sexual harassment of Alexander Chapman; and, (ii) ACJ

¹ *Reasons of the Canadian Judicial Council In the Matter of an Inquiry into the Conduct of the Honourable Paul Cosgrove*, 30 March 2009 at para 15; Removal is warranted where the conduct is “so manifestly and totally contrary to the impartiality, integrity and independence of the judiciary that the confidence of individuals appearing before the judge, or of the public in its justice system, would be undermined, rendering the judge incapable of performing the duties of his office” (*Re Therrien*, [2001] 2 SCR 3 at para 147).

Douglas' use of the representational allowance provided for under subsection 27(6) of the *Judges Act*. If the Inquiry Committee directs Independent Counsel to include any of these allegations in the scope of the Inquiry, Independent Counsel will provide notice of this to ACJ Douglas as provided for in subsection 5(2) of the *By-laws*.

B. ALLEGATIONS

(1) Alleged Failure to Disclose in the Application Process

4. On December 17, 2004, Ms. Douglas, as she then was, completed a Personal History Form ("Form") in connection with an application for judicial appointment. One of the questions on the Form was: "*Is there anything in your past or present which could reflect negatively on yourself or the judiciary, and which should be disclosed?*". Ms. Douglas answered "No".

5. At the time of completing the Form, Ms. Douglas knew or ought to have known that:

- a) In 2002 and 2003, graphic photos of a sexual nature of her (some of which could be seen as demeaning to women) (the "Photos") were available on the _____ website (the "Website"), having been uploaded onto the Website by Ms. Douglas' husband, Mr. King;
- b) In April and May of 2003, Mr. King had tried to entice one of his clients, Mr. Chapman, into a sexual relationship with Ms. Douglas, in part by referring him to the Photos on the Website and by sending him certain of the Photos by email;
- c) Ms. Douglas had met with Mr. Chapman on May 16, 2003 and May 30, 2003;
- d) On June 9, 2003, Mr. Chapman had complained to Thompson Dorfman Sweatman LLP (the "Firm"), where Ms. Douglas and Mr. King were practicing family law as partners, of Mr. King's conduct, had threatened legal action against Mr. King and the Firm and had provided the Firm with

copies of the Photos;

- e) As a result of being made aware of Mr. King's conduct, the Firm had required Mr. King to leave the Firm;
- f) In June and July, 2003, the Photos had been removed from the Website at Mr. King's request, Mr. Chapman had represented having returned all of the Photos in his possession and having not engaged in their distribution, and Mr. King and Ms. Douglas had destroyed all the Photos in their possession, both in electronic and paper form;
- g) Mr. Chapman had returned the photos pursuant to the terms of a settlement agreement concluded between him and Mr. King, Mr. King having paid \$25,000.00 to Mr. Chapman, which sum had been loaned by Ms. Douglas to Mr. King; and,
- h) The facts referred to above were or could be relevant to the assessment of her application for judicial appointment and should have been disclosed.

6. This allegation, if accepted by the Committee, is: 1) capable of supporting a finding that ACJ Douglas is "*incapacitated or disabled from the due execution of the office of judge*" within the meaning of subsection 65(2) of the *Judges Act*, and, 2) capable of supporting a recommendation for removal.

(2) Alleged Incapacity as a Result of the Public Availability of the Photos

7. Since 2002, the Photos (including alterations thereof) have been (and continue to be) available on the internet from time to time. The Photos could be seen as inherently contrary to the image and concept of integrity of the judiciary, such that the confidence of individuals appearing before the judge, or of the public in its justice system, could be undermined.

8. This allegation, if accepted by the Committee, is: 1) capable of supporting a finding that ACJ Douglas is "*incapacitated or disabled from the due execution of the*

office of judge” within the meaning of subsection 65(2) of the *Judges Act*, and,
2) capable of supporting a recommendation for removal.

(3) Alleged Failure to Fully Disclose Facts to former Independent Counsel

9. Upon being advised of the complaint by Mr. Chapman and the initiation of an investigation by the Canadian Judicial Council, ACJ Douglas modified a personal diary that described an encounter with Mr. Chapman which she knew or ought to have known was relevant to the CJC’s investigation. ACJ Douglas subsequently made incorrect representations to former Independent Counsel about that modification.

10. This allegation, if accepted by the Committee, is: 1) capable of supporting a finding that ACJ Douglas is “*incapacitated or disabled from the due execution of the office of judge*” within the meaning of subsection 65(2) of the *Judges Act*, and,
2) capable of supporting a recommendation for removal.

Dated at Montreal, this 20th day of August, 2014

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