**Justices of the Peace Review Council**

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**IN THE MATTER OF A HEARING UNDER SECTION 11.1 OF THE *JUSTICES OF THE PEACE ACT*, R.S.O. 1990, c. J.4, AS AMENDED**

**Concerning Two Complaints about the Conduct of**

**Justice of the Peace Paul Welsh**

**Before:** The Honourable Neil L. Kozloff, Chair

 Her Worship Justice of the Peace Kristine Diaz

**Hearing Panel of the Justices of the Peace Review Council**

**Decision of the Hearing Panel Following Notice of the Pending Retirement of Justice of the Peace Paul Welsh**

**Counsel:**

Mr. Scott Fenton Mr. Eugene Bhattacharya

Mr. Ian R. Smith Ms. Mary C. Waters Rodriguez

Fenton, Smith Barristers Barristers and Solicitors

Presenting Counsel Counsel on behalf of His Worship Justice of the Peace Paul Welsh

1. On February 10, 2021, the parties convened before this Panel by teleconference to address information provided by His Worship’s counsel that His Worship intends to retire from judicial office.

**BACKGROUND**

1. Pursuant to Section 11(15)(c) of the *Justices of the Peace Act*, R.S.O. 1990, c. J.4, as amended (hereinafter “the *Act*”), a complaints committee of the Justices of the Peace Review Council ordered that a formal hearing into two complaints regarding the conduct of Justice of the Peace Paul Welsh be held by a Hearing Panel of the Review Council. A Notice of Hearing setting out the allegations ordered to a hearing was issued on February 28, 2019.
2. The particulars of the alleged misconduct, which are set out in Appendix A to the Notice of Hearing, can be briefly summarized as follows:

His Worship interacted inappropriately with police including: providing legal advice to a police officer; receiving and granting applications and making Orders outside of normal court processes, including in chambers, in a parking lot, and at a police station. His Worship granted applications for search warrants and related Orders without thoroughly reviewing them, and in a manner contrary to the statutory and Constitutional requirements. After His Worship was informed by a Regional Senior Justice that he was non-assigned from work until the final disposition of a complaint to the JPRC, he went to the police station, received and granted a Sealing Order and a final Report to Justice, and delivered them for police to the courthouse. His Worship’s conduct showed preferential treatment or favouritism towards police officers, and gave rise a perception of a conflict of interest.

1. Following various motions by His Worship and Presenting Counsel, the details of which are set out in earlier decisions of this Panel, the hearing was scheduled to proceed on March 8-12, 2021.

**NOTICE OF INTENT TO RETIRE**

1. On February 3, 2021, Mr. Bhattacharya sent a letter to the Registrar indicating that His Worship Welsh intended to fully retire on March 5, 2021 and would not be seeking any supernumerary or *per diem* work.
2. During the appearance on February 10, 2021, counsel for His Worship Welsh indicated that His Worship had submitted a letter to the Chief Justice of the Ontario Court of Justice confirming his intention to unequivocally and irrevocably retire on March 5, 2021. Counsel is confident that his client is genuine in his expressed intention to retire. His Worship has not retained him to prepare for the upcoming hearing.
3. The Hearing Panel notes that jurisdiction over the conduct of a justice of the peace continues unless and until a justice of the peace retires from office. If a justice of the peace retires during the hearing process, jurisdiction to proceed with the hearing is lost on the date when the full retirement takes effect.
4. This Panel will lose jurisdiction once His Worship’s retirement takes effect on March 5, 2021.
5. Presenting Counsel submitted that the Panel could vacate the scheduled hearing dates but raised a concern about doing so without setting a future date for the matter to be spoken to, given a prior instance before the Review Council where a justice of the peace revoked his intention to retire after hearing dates were vacated.
6. In order to ensure that the objective of preserving public confidence in the complaints process and in the judiciary is balanced with the responsible use of public funds, the Hearing Panel orders that the March 8, 2021 hearing date is preserved pending the Registrar contacting the Office of the Chief Justice to confirm that His Worship’s retirement has taken effect. The hearing dates of March 9-12 are vacated.
7. When His Worship’s retirement takes effect, the Review Council and the Hearing Panel will cease to have jurisdiction over His Worship Welsh, who will no longer be a justice of the peace, and this proceeding will come to an end.
8. The Hearing Panel directs the Registrar to cancel the March 8, 2021 hearing date upon receipt of confirmation that His Worship’s retirement has taken effect on March 5, 2021.
9. If, for any reason, His Worship’s retirement does not take effect on March 5, 2021, the matter will be spoken to at 10:00 a.m. on March 8, 2021 by teleconference, and the hearing will be scheduled to proceed on the earliest possible dates. This will ensure that the hearing can proceed in a timely manner should His Worship revoke his retirement letter.

Dated at the City of Toronto in the Province of Ontario, this 10th day of February, 2021.

**HEARING PANEL:**

The Honourable Justice Neil Kozloff, Chair

Her Worship Kristine Diaz