

ONTARIO JUDICIAL COUNCIL

IN THE MATTER OF a complaint respecting
The Honourable Justice Donald McLeod
A Judge of the Ontario Court of Justice in the Central West Region

NOTICE OF HEARING

The Ontario Judicial Council (the “**Council**”), pursuant to sections 51.4(18) and 51.6 of the *Courts of Justice Act*, R.S.O. 1990, c.43, as amended (the “*Act*”), has directed that the following complaint regarding the conduct or actions of the Honourable Justice Donald McLeod be referred to the Council for a hearing.

It is alleged that Justice McLeod has conducted himself in a manner that is incompatible with the due execution of the duties of his office. The particulars of the allegations against Justice McLeod are set out in Appendix “A” to this Notice.

A Hearing Panel of the Council will convene at Suite 2310, One Queen Street East, in the City of Toronto, and by teleconference, on Wednesday, March 11, 2020, at 10 o’clock in the morning or as soon thereafter as the Hearing Panel can be convened to set a date for the hearing of this complaint and to establish a timeline for the proceedings.

The Council, pursuant to section 51.6(18) of the *Act*, may make a report to the Attorney General about the complaint, investigation, hearing and disposition of this matter.

A judge whose conduct is being investigated in proceedings before the Council may be represented by counsel and shall be given the opportunity to be heard and to produce evidence before the Hearing Panel makes its decision on the appropriate disposition(s).

ONTARIO JUDICIAL COUNCIL COPY OF EXHIBIT _____ In the matter of a hearing into a complaint against Justice _____ DONALD MCLEOD _____ Date _____ MARCH 11, 2020 _____ _____ Asst./Registrar

The Hearing Panel of the Council may, pursuant to section 51.6(11) of the *Act*, dismiss the complaint, with or without a finding that it is unfounded or, if it finds that there has been misconduct by the judge, may,

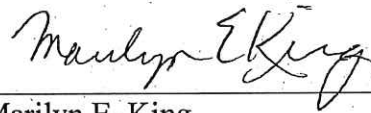
- a) warn the judge,
- b) reprimand the judge,
- c) order the judge to apologize to the complainant or to any other person,
- d) order that the judge take specified measures, such as receiving education or treatment as a condition of continuing to sit as a judge,
- e) suspend the judge with pay, for any period,
- f) suspend the judge without pay, but with benefits, for a period up to thirty days, or
- g) recommend to the Attorney General that the judge be removed from office in accordance with section 51.8 of the *Act*.

In accordance with section 51.6(12) of the *Act*, the Hearing Panel may adopt any combination of the dispositions set out in paragraphs (a) through (f). A recommendation for removal from office cannot be combined with another disposition. The Council shall inform the person(s) who made the complaint against the judge of its disposition of the complaint.

You or your representative(s) may contact Presenting Counsel in this matter, Mr. Guy J. Pratte, Borden Ladner Gervais LLP. Telephone: 416-350-2638.

If you fail to attend before the Council in person or by representative, the Council may proceed with the hearing in your absence.

February 20, 2020



Marilyn E. King
Registrar

TO: The Honourable Justice McLeod

AND TO: Mr. Frank Addario, Addario Law Group LLP

APPENDIX "A" - PARTICULARS OF THE COMPLAINT

The particulars of the complaint regarding the conduct of the Honourable Justice McLeod are set out below:

1. On December 20, 2018, a Hearing Panel of the Council dismissed a complaint about the conduct of Justice McLeod arising from his involvement in and leadership of an organization called the Federation of Black Canadians (the "FBC") (the "First Complaint").
2. The Hearing Panel, in dismissing the First Complaint, found that the FBC is a national non-profit organization that advances the social, economic, political and cultural interests of Canadians of African descent. It advocates to governments, parliaments, multilateral organizations, businesses and faith driven organizations on laws, programs and policies that affect Black Canadians and recommends changes.

His Honour's Role in the Abdi Case

3. During the hearing of the First Complaint, His Honour gave evidence by way of Agreed Statement of Facts, and during his examination-in-chief, that he had removed himself from any involvement in FBC's advocacy work relating to the deportation of a Somali refugee named Adboukader Abdi ("Abdi").
4. The Hearing Panel, in dismissing the First Complaint, relied on the Agreed Statement of Facts (which His Honour formally adopted as true at the hearing), and His Honour's oral evidence, to conclude that Justice McLeod had removed himself from any involvement in FBC's advocacy against the deportation of Abdi.
5. Contrary to his evidence at the hearing, Justice McLeod was involved in the FBC's efforts in this regard, including arranging and/or participating in a meeting with the Minister of Immigration, Refugees and Citizenship, the Honourable Ahmed Hussen, on behalf of the FBC.

6. In light of the above, His Honour committed perjury and/or misled the Hearing Panel regarding his involvement in the Abdi case.

His Honour's Ongoing Role in the FBC

7. During the hearing of the First Complaint, His Honour gave evidence by way of Agreed Statement of Facts that he was considering stepping down as leader of the FBC in or around March 2018, and that, by June 2018, he had resigned as Chair of the Steering Committee and "disengaged from any activities on behalf of the federation."
8. The Hearing Panel, in dismissing the First Complaint, relied on the Agreed Statement of Facts to conclude that Justice McLeod had ceased all activity with the FBC, that he did not intend to serve on its Board of Directors, and that he had terminated his role as Chair of its Interim Steering Committee.
9. Contrary to his evidence at the hearing, and following the Hearing Panel's decision in the First Complaint, Justice McLeod resumed a leadership role in the FBC, including chairing and/or voting at Steering Committee meetings. In addition, the FBC made at least two funding applications to the federal government in the time that Justice McLeod had resumed his leadership role in the FBC.
10. In light of the above, His Honour misled the Hearing Panel in relation to his disengagement from any activities on behalf of the FBC.

His Honour's Attendance at Political Events on behalf of the FBC

11. *The National Black Canadians Summit.* On or about February 4, 2019, His Honour attended the National Black Canadians Summit in Ottawa, an event attended by government Ministers. His Honour gave a speech at the Summit.
12. *The Supporting Black Communities Initiative.* On or about July 23, 2019, His Honour attended a meeting, on behalf of the FBC, between federal government officials (from three departments, and including the Secretariat of Employment and Social development

Canada), and Black community organizations. The meeting related to a proposed funding distribution model whereby three to six agencies, including the FBC, would receive federal funding and be responsible for distributing funding to other agencies. His Honour spoke at the meeting on behalf of the FBC.

13. In light of the above, His Honour engaged in behaviour that was or could be perceived as being “impermissible advocacy and lobbying”.

His Honour’s Advice to Youth Delegates from the National Black Summit

14. On or about February 4, 2019, during the course of the Summit, a security guard approached a group of Black attendees to request that they leave the Parliament Hill cafeteria in which they were gathered. His Honour subsequently counselled two youth delegates to the Summit, who were witness to the request to leave the cafeteria, not to speak publicly about the allegedly racist incident. His Honour’s counselling in this regard was or could be perceived as providing legal advice, and was part of and meant to further the advocacy of the FBC.

15. In light of the above, His Honour engaged in behaviour that was or could be perceived as being “impermissible advocacy and lobbying”. His Honour also gave advice to the two youth delegates cited above, which advice was or could be perceived as legal advice. In addition, or in the alternative, His Honour used his position of authority and/or legal background to influence these delegates.

16. His Honour’s actions, as set out above, were contrary to the standard of conduct expected of a judge as set out in the *Principles of Judicial Office* for judges of the Ontario Court of Justice, which were established and approved pursuant to section 51.9(1) of the *Act*, including but not limited to, the duties to,

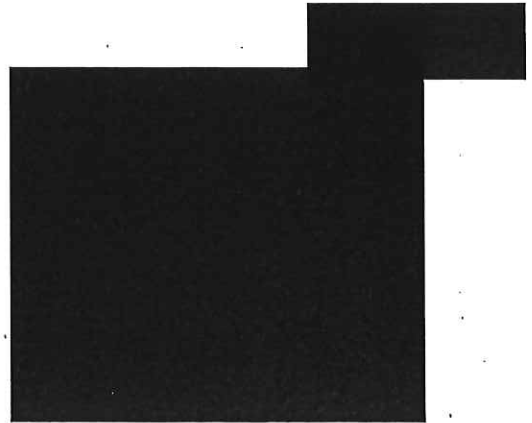
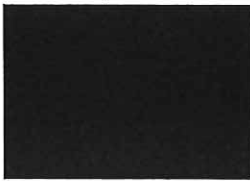
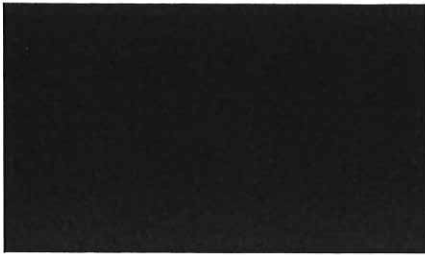
- a. uphold high standards of personal conduct and professionalism,
- b. follow the law,
- c. avoid any conflict of interest or the appearance of any conflict of interest, in the performance of their judicial duties,

- d. not participate in any partisan political activity,
- e. not use the powers of judicial office inappropriately,
- f. not be involved in community activities incompatible with judicial office, and
- g. not to lend the prestige of the office to fundraising activities.

17. His Honour's conduct could result in a loss of public confidence in the administration of justice, and in the integrity, impartiality and independence of the judge and the judiciary as a whole.

18. His Honour's conduct could result in a loss of public confidence in the independence of the judiciary from political activity and from policy advocacy or lobbying.

19. His Honour's conduct as set out above constitutes judicial misconduct that warrants a disposition under section 51.6 of the *Act*.



March 26, 2019

Ms. Marilyn King
Registrar
Ontario Judicial Council/Justices of the Peace Review Council
1 Queen Street East, Suite 2310
Toronto ON
M5C 2W5

Dear Ms. King:

The online article "Steeped Tea- An Update on the Federation of Black Canadians" refers to allegations involving Justice Donald McLeod in connection with matters that were recently before a hearing panel at the Ontario Judicial Council. I am bringing it to the attention of the Council as I am required by s.51.3 of the *Courts of Justice Act*.

The article is posted on the internet at:
<https://thatsatruestory.wordpress.com/2019/02/26/steeped-tea-an-update-on-the-federation-of-black-canadians/> .

