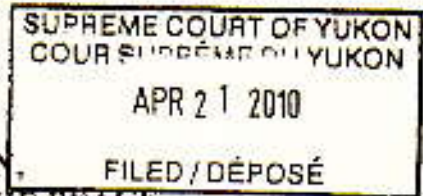


IN THE SUPREME COURT OF YUKON

BETWEEN:

**DEAN RICHARD CAMERON,
SENIOR PRESIDING JUSTICE OF THE PEACE**



PETITIONER

AND:

YUKON (COMMISSIONER IN EXECUTIVE COUNCIL)

RESPONDENT

1ST AFFIDAVIT OF DEAN RICHARD CAMERON

I, Dean Cameron, Senior Presiding Justice of the Peace, Territorial Court of Yukon, The Law Courts, 4th Floor, 2134 Second Avenue, Whitehorse, Yukon Territory, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Petitioner in this application for judicial review and, as such, have personal knowledge of the matters herein deposed to, except where the facts are stated to be based on information and belief, and as to those matters I believe them to be true.
2. I am the Senior Presiding Justice of the Peace for the Territorial Court of Yukon [the "Court"]. The Court is comprised of four full-time sitting members: three judges [the "Judges"] and me.
3. I was born in Yukon. I have lived here for all but six years of my life. I have been sitting in Yukon longer than any of the current Justices of the Supreme Court of Yukon and any of the Judges.

4. I was first appointed as a Justice of Peace on November 16, 1984 when I lived in Carmacks, Yukon. I moved to Whitehorse in 1988. At that time, there were two Senior Justices of the Peace who sat on-call in Whitehorse. I filled in for one who had to take a medical leave. When he returned, I continued working with them. I sat as an on-call Justices of the Peace until the mid-1990s.
5. On July 1, 1994, I began sitting as a full-time member of the Court as the Senior Presiding Justice of the Peace.
6. I sit in criminal court and youth court. I issue search warrants and arrest warrants, including *Feeney* warrants. I preside over contested judicial interim release and peace bond hearings. I can make orders for the assessment of an accused's mental condition with respect to his or her fitness to stand trial or criminal responsibility. I can order forfeiture of proceeds of crime and offence-related property. I sentence offenders convicted of or pleading guilty to municipal, territorial and federal offences and can impose custodial sentences of up to 90 days and conditional sentences of up to 180 days.
7. I sit in Community Wellness Court. This criminal court seeks to reduce recidivism by responding to the underlying causes of much of the criminality in the Yukon – addictions, mental health problems, historical trauma, Fetal Alcohol Spectrum Disorder, and poverty. It is not a diversion program. Offenders who have pleaded guilty to at least one criminal charge may choose to come to this court and participate by creating and following an holistic and culturally-sensitive wellness plan. They remain under the supervision of the court while working on their plan to ensure that they stay focused on and active in their program. Initially, offenders will appear every two weeks. As they develop a track-record of success, the court appearances may be as far as a month apart. Upon completing the programming aspects of their wellness plan, offenders are sentenced. The sentence takes into account the progress that the offender has made on his or her wellness journey.
8. I also sit in the Domestic Violence Treatment Option Court. This is a criminal court aimed at breaking the cycle of domestic violence. Like the Community Wellness Court, this is not a diversion program. Persons accused of domestic violence must take responsibility for their actions and plead guilty. They then remain under the supervision

of the court as they complete a course of rehabilitative treatment lasting at least 15 weeks through the Family Violence Prevention Unit. While in treatment, the offender returns to the court for monthly reviews. The court monitors the offenders' behaviour to maximize the victim's safety and ensure compliance with the treatment regime. Offenders are sentenced upon completion of treatment. The sentence, which can be custodial, may include further programming for issues identified during treatment.

9. I preside over trials of territorial and municipal offences. I also preside over child protection hearings. I can issue temporary care and custody orders for periods of up to three months. I can make longer temporary orders and orders for permanent care and custody with the parties' consent. I conduct pre-trial conferences in Small Claims matters where I seek to mediate settlement. I attach as Exhibit "A" to this my Affidavit a copy of a chart of judicial duties performed by Justices of the Peace across Canada and an excerpt of my submissions about my duties, both of which were put before the 2007 Judicial Compensation Commission.
10. The first judicial compensation commission in the Yukon was held in 1998. I was included as a participant in all of the discussions in preparation for it. On the day that the Order-in-Council appointing the 1998 Judicial Compensation Commission was issued, I was advised by Chief Judge Barry Stuart that the Yukon Territorial Government [the "Government"] had decided to exclude me from the Commission. At the time, my annual salary was \$62,000. I attach as Exhibit "B" to this my Affidavit a copy of the "The Yukon Judicial Compensation Commission, Report and Recommendations, December 1998".
11. I was included in the second judicial compensation commission in 2001. The 2001 Judicial Compensation Commission was comprised of three commissioners. I was represented by the same counsel who represented the Judges. I attach as Exhibit "C" to this my Affidavit a copy of the "The Yukon Judicial Compensation Commission, Report and Recommendations, April 12, 2002".
12. I represented myself at the 2004 Judicial Compensation Commission, which was comprised of three commissioners. The Report of the Commission seems to indicate that I participated in mediation. In 2004, there were many issues before the Commission.

There were issues that the Judges worked out in mediation with the Government that affected me as well and to which I subsequently agreed. I did not participate in an informal meeting nor do I recall participating in the process that produced the "Rules for Informal Meetings" set out at paragraph 2.4.4 of the 2004 JCC Report. I made my submissions to the full panel of the Commission at a hearing on the afternoon of September 16, 2004. As the Commission noted in its Report, it was my position that the Commission ought not to "engage in horse-trading or unseemly compromise". I attach as Exhibit "D" to this my Affidavit a copy of the "2004 Yukon Judicial Compensation Commission, Report, February 21, 2005".

13. After my experience with two commissions, I felt that the process was too long, expensive and complicated. It seemed to me that it should be quite simple – each party should come before the commission, present its concerns, and the commission should make a decision. The Letter of Understanding came out of a meeting after the 2004 Judicial Compensation Commission where Judges Faulkner and Lilles and I met with the Deputy Minister of Justice, Dennis Cooley. The focus was on improving the negative aspects of the judicial compensation commission process. We were trying to reduce costs and improve efficiency. The idea of a single commissioner was put forward as a cost-savings measure. At the time, I did not appreciate the ramifications of this. My priority was the step-by-step procedure that would require parties to have certain things done by certain times and would encourage information sharing.
14. Prior to the commencement of the 2007 Judicial Compensation Commission, Deputy Minister Cooley met with Judge Faulkner, as a representative of the Judges, and me to discuss procedural issues. The Deputy Minister offered the Judges salary increases of 3% in each of three years. I asked what the Government's position was on my salary. Deputy Minister Cooley said that they were also offering me 3%-3%-3% – same as the Judges – take it or leave it. I responded with words to the effect that we would let the commission decide.
15. I did not participate in any further discussions with the Government regarding my judicial compensation. I advised the Commissioner that I wanted to proceed with a formal hearing. On October 23, 2007, the Commissioner held a formal hearing into the judicial

compensation to be received by the Senior Presiding Justice of the Peace. The Government was represented by counsel. I was not. I attach as Exhibit "E" to this my Affidavit a copy of the "2007 Yukon Judicial Compensation Commission, Report and Recommendations, March 31, 2008".

16. On November 21, 2008, the Respondent issued Order-in-Council 2008/170 purporting to implement the recommendations of the 2007 Judicial Compensation Commission regarding the compensation for the Senior Presiding Justice of the Peace. Instead of implementing the salary recommendations of the 2007 Judicial Compensation Commission, the Respondent substituted the salary increases that the Government had proposed to the Commission. I attach as Exhibit "F" to this my Affidavit a copy of the Order-in-Council 2008/170 made by the Commissioner in Executive Council on November 21, 2008 [the "Order-in-Council 2008/170"].
17. On November 24, 2008, Deputy Minister Cooley sent me a copy of the Order-in-Council 2008/170. He advised me that the Government's reasons for departing from the salary recommendation of the 2007 Judicial Compensation Commission could be "found in the appendix" to the Order-in-Council 2008/170. I attach as Exhibit "G" to this my Affidavit a copy of the letter from Dennis Cooley, Deputy Minister of Justice, to Dean Cameron, Senior Presiding Justice of the Peace dated November 24, 2008.
18. On February 19, 2010, my counsel and I met with Deputy Minister Cooley to discuss procedural issues regarding the 2010 Judicial Compensation Commission. The Deputy Minister advised us that he had met with a representative of the Judges in December and January. He said that they had agreed on a joint submission that they would be putting before the Commission. The Deputy Minister said that it addressed mostly salary concerns, though he would not tell us what the salary increases were to which they had agreed.
19. The Deputy Minister further advised us that they had agreed on a single commissioner. The person most likely to be appointed was Patrick Michael. He advised that Mr. Michael had been a civil servant in the Yukon for 30 years and was now retired. The Deputy Minister said that it was the prerogative of the Deputy Minister and the Chief

Judge to choose to proceed with a single commissioner and decide who that individual would be.

20. The Deputy Minister said that he would like to reach a joint submission with me. He offered salary increases of 2% in each of three years. He said that my pension would remain the same. He said that I would need to agree to this before we could discuss any other issues. I did not respond.
21. The Respondent has subsequently formally appointed Patrick Michael as the single commissioner for the 2010 Judicial Compensation Commission. I attach as Exhibit "H" to this my Affidavit a copy of the Order-in-Council 2010/33 made by the Commissioner in Executive Council on February 25, 2010.
22. I make this affidavit in support of my application for judicial review and for no improper purpose.

SWORN BEFORE ME at the City of
Whitehorse, in the Yukon Territory,
this 20th day of April 2010.



A Commissioner for Taking Affidavits
in and for the Yukon Territory.



DEAN RICHARD CAMERON

THE ROLE OF THE SPJP

The SPJP is clearly a judicial officer of the Yukon Territorial Court bench. This is not disputed by government.

An independent study prepared by Jonathan Rudin, Gary Larkin and Cheryl Tschupruk in 2001, produced a chart of judicial duties performed by Justices of the Peace from each jurisdiction across Canada. (See appendix "A") It clearly shows that the Yukon's SPJP performs more judicial duties on a daily basis than JPs in any other jurisdiction in Canada. In addition to the list of duties on the chart in appendix "A", the Yukon's SPJP performs the following judicial duties:

This is Exhibit "A" referred to in the Affidavit of D. S. van R. Char. & Co. sworn before me at Whitehorse, Yukon this 20 day of April 2010.
A Commissioner for taking Affidavits for Yukon

- Order assessment of mental condition pursuant to section 672.11 of the *Criminal Code*
- Order forfeitures of seized items pursuant to sections 462 and 491 of the *Criminal Code*
- Order driving prohibitions pursuant to section 259 of the *Criminal Code*
- Order firearms prohibitions pursuant to sections 109 and 110 of the *Criminal Code*
- Order the collection of DNA pursuant to sections 487.051 and 487.052 of the *Criminal Code*
- Sentence upon conviction or acceptance of guilty pleas on Federal matters including *Criminal Code* matters
- Mediate Small Claims actions (maximum limit \$25,000)
- Preside in Family Court for Wardship/Child protection matters
- Preside in Domestic Violence Treatment Option Court
- Preside in Community Wellness Court
- Conduct trials
- Preside at community circuits throughout Yukon
- Designated as a **Youth Court Judge** pursuant to the *Youth Criminal Justice Act*

The Yukon's SPJP also conducts the following judicial reviews:

- Probation conditions
- Bail conditions
- Domestic Violence Treatment Option progress reports
- Community Wellness Court progress reports
- Motor Vehicle Impoundment reviews pursuant to section 237 of the *Motor Vehicles Act*
- Ninety day driver's licence suspension reviews pursuant to section 257 of the *Motor Vehicles Act*

The only other judicial officers in Canada that perform all these duties are Territorial, Provincial, or Supreme Court Judges.

Table 3: Justice of the Peace duties performed by province/territory

	NEWFOUND AND LABRADOR	NOVA SCOTIA	P.E.I.	QUEBEC	ONTARIO	MANITOBA	SASKATCHEWAN	ALBERTA	B.C.	YUKON	NUWT	NT
Receiving and/or Swearing informants		✓			✓			✓	✓	✓	✓	✓
Subpoenas		✓			✓			✓	✓	✓	✓	✓
Issue Search warrants		✓			✓			✓	✓	✓	✓	✓
Other warrants		✓			✓			✓	✓	✓	✓	✓
Issuing summons		✓			✓			✓	✓	✓	✓	✓
Some sentencing												
Bail hearings		✓			✓			✓	✓	✓	✓	✓
Conduct weddings												
Administer oaths					✓			✓	✓	✓	✓	✓
Signing affidavits					✓			✓	✓	✓	✓	✓
Hear and act on young offender matters												✓
Preliminary matters		✓			✓			✓	✓	✓	✓	✓
Adjourning proceedings					✓			✓	✓	✓	✓	✓
Recognizances								✓	✓	✓	✓	✓
Confirm or cancel appearance notice								✓	✓	✓	✓	✓
Peace bonds applications/hearings		✓			✓					✓	✓	✓
Arraignments					✓			✓	✓	✓	✓	✓
Preside at some trials					✓			✓	✓	✓	✓	✓
Judicial interim release					✓			✓	✓	✓	✓	✓
Remands		✓			✓			✓	✓	✓	✓	✓
Releases					✓			✓	✓	✓	✓	✓
Receiving solemn affirmations					✓			✓	✓	✓	✓	✓
Retention orders								✓	✓	✓	✓	✓
Compel a person to attend court								✓	✓	✓	✓	✓
Conduct weapons prohibition hearing					✓					✓	✓	✓
Hearing summary matters								✓	✓	✓	✓	✓
Accept guilty pleas					✓			✓	✓	✓	✓	✓

Senior division of the Peace
Province
Service

	NEWBRUNSWICK	NOVA SCOTIA	P.E.I.	QUEBEC	ONTARIO	MANITOBA	SASKATCHEWAN	ALBERTA	B.C.	YUKON	NT	NU
Take pleas/Sentence on a Territorial Act, by-law offence or Federal Act			✓					✓	✓	✓	✓	
Determining suitability of sureties									✓	✓	✓	
By-law hearings		✓							✓	✓	✓	
Municipal matters									✓	✓	✓	
Provincial matters					✓				✓	✓	✓	
Federal matters									✓	✓	✓	
Custody hearings or Supervision Orders (children)			✓						✓	✓	✓	
Protection orders					✓				✓	✓	✓	
Certify copies of a document					✓				✓	✓	✓	
Order for assessment of mental ability					✓				✓	✓	✓	
Conduct show cause hearing					✓				✓	✓	✓	
Issue warrant to apprehend a child					✓				✓	✓	✓	
Duties imposed by an Act of Legislature or of Parliament or Bylaw					✓				✓	✓	✓	
Order disposition of seized items									✓	✓	✓	
First appearances									✓	✓	✓	
Act as a judge in specific cases									✓	✓	✓	
Traffic matters									✓	✓	✓	
Conduct circles									✓	✓	✓	
Issue warrants of continental									✓	✓	✓	
Administrative duties	✓								✓	✓	✓	
Undertakings		✓							✓	✓	✓	

sanctioned
 for use for
 Justice
 Peace

This is Exhibit " B " referred to in the
 Affidavit of *Dean Richard Cameron*
 sworn before me at *Whitehorse, Yukon*
 this *20* day of *April*..... 20 *10*.
[Signature]
 A Commissioner for taking Affidavits
 for Yukon

THE YUKON JUDICIAL COMPENSATION COMMISSION

REPORT AND RECOMMENDATIONS

DECEMBER 1998

2001 Yukon Judicial Compensation Commission

Government of the Yukon

- and -

Territorial Court of Yukon

REPORT AND RECOMMENDATIONS
OF THE COMMISSION

APRIL 12, 2002

This is Exhibit " C " referred to in the Affidavit of *Dean R. Richard Cameron* sworn before me at *Whitehorse, Yukon* this *20* day of *April*..... 20 *10*.
[Signature]
A Commissioner for taking Affidavits for Yukon

David A. Ordish, C.A.
Chair

Ordish & Ordish
Chartered Accountants
302-204 Lambert Street
Whitehorse, YT Y1A 1Z4
Ph. 867. 668.7500

Judy Gingell
Commissioner

PO Box 10485
Whitehorse YT Y1A 7A1
Ph. 867. 660.5974

Bryan Williams, Q.C.
Commissioner

Miller Thomson LLP
Barristers & Solicitors
Suite 1000, 840 Howe Street
Vancouver BC V6Z 2M1
Ph. 604.643.1213

2004 YUKON JUDICIAL COMPENSATION COMMISSION

Government of Yukon
and
Territorial Court of Yukon

REPORT OF THE COMMISSION

FEBRUARY 21, 2005

This is Exhibit " D " referred to in the
Affidavit of *Dean Richard Cameron*
sworn before me at *Whitehorse, Yukon*
this *20* day of *April*, 20 *10*
.....
A Commissioner for taking Affidavits
for Yukon

Shirley Adamson
14 Dawson Road
Whitehorse, Yukon
Y1A 5T5

Roger Kerans
5068 Lakeridge Place
Victoria, British Columbia
V8Y 1W7

John Lawson
Box 131
Cowley, Alberta
T0K 0P0

2007 Yukon Judicial Compensation Commission

Government of the Yukon

- and -

Territorial Court Judges

- and -

Senior Presiding Justice of the Peace for Yukon

- and -

Justice of the Peace Association

REPORT AND RECOMMENDATIONS
OF THE COMMISSION

MARCH 31, 2008

David A. Ordish, C.A.
Commissioner

Ordish & Ordish
Chartered Accountants
302 - 204 Lambert Street
Whitehorse, YT Y1A 1Z4
Ph: 867.668.7500

This is Exhibit " E " referred to in the :
Affidavit of *Dean Richard Cameron*
sworn before me at *Whitehorse, Yukon*
this *20* day of *April* 20 *10*.
[Signature]
A Commissioner for taking Affidavits
for Yukon

This is Exhibit "F" referred to in the Affidavit of Dean Richard Cameron sworn before me at Whitehorse, Yukon this 20 day of April, 2010.

.....
 A Commissioner for taking Affidavits for Yukon

YUKON **YUKON**
CANADA **CANADA**

Whitehorse, Yukon

Whitehorse, Yukon

ORDER-IN-COUNCIL 2008/170

DÉCRET 2008/170

TERRITORIAL COURT ACT

LOI SUR LA COUR TERRITORIALE

Whereas a Judicial Compensation Commission has made certain recommendations under Part 3 of the *Territorial Court Act* regarding the remuneration of the salaried presiding justice of the peace;

Attendu que des recommandations concernant la rémunération du juge de paix exerçant les fonctions de président ont été faites par une commission établie à cette fin, conformément à la partie 3 de la *Loi sur la Cour territoriale*;

The recommendations of the Commission regarding the remuneration of the salaried presiding justice of the peace are accepted with the exception of the recommendation regarding salary increases. For the reasons set out in the Appendix, the salary increases as proposed by the Government of Yukon to the Commission are substituted for the recommendation of the Commission;

Les recommandations de la Commission concernant la rémunération du juge de paix salarié exerçant les fonctions de président sont acceptées, à l'exception des recommandations visant l'augmentation du traitement. Pour les motifs énumérés à l'Appendice, la proposition du gouvernement du Yukon concernant l'augmentation du traitement remplace la recommandation de la Commission;

Therefore, pursuant to sections 17, 28 and 58 of the *Territorial Court Act*, the Commissioner in Executive Council orders as follows

En conséquence, le commissaire en conseil exécutif, conformément aux articles 17, 28 et 58 de la *Loi sur la Cour territoriale*, décrète :

1 The annexed *Salaried Presiding Justice of the Peace Remuneration Implementation Order* is hereby made.

1 Est établi le Décret concernant la mise en œuvre des recommandations sur la rémunération du juge de paix salarié exerçant les fonctions de président paraissant en annexe.

2 Order in Council 2005/157 is hereby
revoked.

2 Le Décret 2005/157 est abrogé.

Dated at Whitehorse, Yukon,
this 21 November 2008.

Fait à Whitehorse, au Yukon,
le 21 novembre 2008.



Commissioner of Yukon/Commissaire du Yukon

2008/170

TERRITORIAL COURT ACT

LOI SUR LA COUR TERRITORIALE

SALARIED PRESIDING JUSTICE OF THE PEACE
REMUNERATION IMPLEMENTATION ORDERDÉCRET CONCERNANT LA
MISE EN ŒUVRE DES RECOMMANDATIONS
SUR LA RÉMUNÉRATION DU JUGE
DE PAIX SALARIÉ EXERÇANT
LES FONCTIONS DE PRÉSIDENT

Purpose

1 The purpose of this Order is to set out the remuneration of the salaried presiding justice of the peace.

Interpretation

2 In this Order,

"pensionable earnings" has the meaning assigned in the *Territorial Court Judiciary Pension Plan Act, 2003*; « gains ouvrant droit à pension »

"salaried presiding justice of the peace" means the justice of the peace appointed on a full-time basis and paid a salary to perform presiding duties as assigned by the chief judge; and « juge de paix exerçant les fonctions de président »

"Section M" means the Conditions of Employment, Management Plan, issued pursuant to the *Public Service Act* for a member of the public service appointed to a position in the management group. « section M »

Salary

3(1) The salary of the salaried presiding justice of the peace shall be as follows

- (a) as of April 1, 2007 - \$106,798 per year;
- (b) as of April 1, 2008 - \$110,001 per year; and
- (c) as of April 1, 2009 - \$113,302 per year.

(2) The salary referred to in subsection (1) shall be paid in 26 instalments which shall, as nearly as

Objet

1 Le présent décret vise à préciser la rémunération du juge de paix exerçant les fonctions de président.

Définitions

2 Les définitions suivantes s'appliquent au présent décret.

« gains ouvrant droit à pension » S'entend au sens de la *Loi de 2003 sur le régime de pension des juges de la Cour territoriale*. "pensionable earnings"

« juge de paix salarié exerçant les fonctions de président » Juge de paix nommé à temps plein et recevant un traitement pour exercer les fonctions de président que lui confie le juge en chef de la Cour territoriale. "salaried presiding justice of the peace"

« section M » Le document intitulé « *Section M - Conditions of Employment, Management Plan* », et publié sous le régime de la *Loi sur la fonction publique*, dans lequel sont énoncées les conditions d'emploi applicables aux fonctionnaires occupant des postes de direction. "Section M"

Traitement

3(1) Le traitement annuel du juge de paix exerçant les fonctions de président est de :

- a) 106 798 \$ à partir du 1^{er} avril 2007;
- b) 110 001 \$ à partir du 1^{er} avril 2008;
- c) 113 302 \$ à partir du 1^{er} avril 2009.

(2) Le traitement établi au paragraphe (1) est versé en 26 paiements qui, dans la mesure du

possible, be in equal amounts.

possible, sont égaux.

Reasonable incidental expenditures

Indemnisation des faux frais

4(1) As of April 1, 2007, the salaried presiding justice of the peace shall be entitled to be paid an annual amount of \$3000 for reasonable incidental expenditures that the fit and proper execution of the judicial office may require and that are pre-approved by the chief judge, to the extent the salaried presiding justice of the peace has actually incurred the expenditures.

4(1) À partir du 1^{er} avril 2007, le juge de paix salarié exerçant les fonctions de président a droit à une indemnité annuelle de 3 000 \$ pour les faux frais qu'il expose dans l'accomplissement de ses fonctions, dans la mesure où ces frais ont été approuvés au préalable par le juge en chef.

(2) If the expenditures of the salaried presiding justice of the peace under subsection (1) in a year exceed \$3000, the salaried presiding justice of the peace may claim the excess against the \$3000 annual amount for the year immediately following the year in which the expenditure was made.

(2) Si, dans une année, les faux frais exposés par le juge de paix salarié exerçant les fonctions de président dans l'accomplissement de ses fonctions dépassent 3 000 \$, l'excédent peut être prélevé sur l'indemnité annuelle de 3 000 \$ prévue pour l'année qui suit.

(3) If the expenditures of the salaried presiding justice of the peace under subsection (1) in a year are less than \$3000, the unexpended amount may be carried over from year to year and paid in accordance with subsection (1) to March 31, 2010, after which any unexpended amount shall lapse. For greater certainty, the salaried presiding justice of the peace shall not be entitled to be paid any such lapsed amount.

(3) Si, dans une année, les faux frais exposés par le juge de paix salarié exerçant les fonctions de président dans l'accomplissement de ses fonctions ne dépassent pas 3 000 \$, la balance peut être reportée d'une année à l'autre et versée conformément au paragraphe (1) jusqu'au 31 mars 2010. Après cette date, toute partie de l'indemnité non utilisée est annulée et il est entendu que le juge de paix salarié exerçant les fonctions de président n'y a pas droit.

(4) Expenditures under this section shall be supported by receipts.

(4) Les demandes de remboursement présentées en vertu du présent article sont appuyées de pièces justificatives.

(5) Amounts paid to the salaried presiding justice of the peace under this section for the period April 1, 2007 to March 31, 2010 shall not exceed \$9000.

(5) La somme totale des indemnités versées à un juge sous le régime du présent article pour la période allant du 1^{er} avril 2007 au 1^{er} avril 2010 ne peut dépasser 9 000 \$.

Pension

Pension

5(1) Pension arrangements for the salaried presiding justice of the peace shall be as set out in the *Territorial Court Judiciary Pension Plan Act, 2003*.

5(1) Les mécanismes de pension du juge de paix salarié exerçant les fonctions de président sont prévus dans la *Loi de 2003 sur le régime de pension des juges de la Cour territoriale*.

(2) For greater certainty, amounts payable under section 4 for reasonable incidental expenditures shall not be included in pensionable earnings.

(2) Il est entendu que les indemnités versées en vertu de l'article 4 à titre de remboursement de faux frais ne sont pas des gains ouvrant droit à pension.

(3) If the salaried presiding justice of the peace retires after the appointment of a Judicial Compensation Commission but before that Commission issues its recommendations, any salary increase implemented as a result of those recommendations that is retroactive to the date of the appointment of the Commission, shall be included in the calculation of the salaried presiding justice of the peace's pensionable earnings under the *Territorial Court Judiciary Pension Plan Act, 2003*.

(3) Lorsqu'un juge de paix exerçant les fonctions de président prend sa retraite après la constitution d'une commission de rémunération des juges mais avant que cette dernière ne formule ses recommandations, toute hausse du traitement annuel mise en oeuvre suite à ces recommandations qui est rétroactive à la date de sa nomination est comprise dans le calcul des gains ouvrant droit à pension du juge de paix conformément à la *Loi de 2003 sur le régime de pension des juges de la Cour territoriale*.

Annual vacation entitlement

Congés annuels

6 The vacation entitlement of the salaried presiding justice of the peace continues to be 35 days per year.

6 Le juge de paix salarié exerçant les fonctions de président a droit à 35 jours de congés annuels.

Other benefits

Autres avantages

7(1) As of April 1, 2007, the salaried presiding justice of the peace has the following benefits established under Section M, on the same terms and conditions as are applicable to a member of the public service appointed to a position in the management group

7(1) À compter du 1^{er} avril 2007, le juge de paix salarié exerçant les fonctions de président a droit aux avantages suivants prévus à la section M selon les mêmes conditions qui s'appliquent aux fonctionnaires occupant des postes de direction :

- (a) Part 4 – Yukon Bonus;
- (b) Part 5 – Community Allowance and Travel Bonus;
- (c) Part 7 – Designated Paid Holidays;
- (d) Part 8 – Leaves of Absence, except subparagraphs 8(a)(i)(b), 8(a)(i)(e), 8(a)(i)(f) and paragraph 8(h) of Part 8 which do not apply to the salaried presiding justice of the peace;
- (e) Part 9 – Benefits; and
- (f) Part 14 – Severance, except subparagraphs 14(a)(i), 14(a)(v) and 14(c)(i) of Part 14 which do not apply to the salaried presiding justice of the peace.

- a) partie 4 – Boni du Yukon;
- b) partie 5 – Allocation de communautés éloignées et boni de déplacement;
- c) partie 7 – Congés fériés;
- d) partie 8 – Absence autorisée, exception faite des avantages prévus aux dispositions suivantes de la partie 8 : les sous-alinéas 8a)(i)(b), 8a)(i)(e), 8a)(i)(f) et l'alinéa 8h);
- e) partie 9 – Avantages
- f) partie 14 – Indemnité de départ, exception faite des avantages prévus aux dispositions suivantes de la partie 14 : les sous-alinéas 14a)(i), 14a)(v) et 14c)(i).

(2) The following parts of Section M shall not apply to the salaried presiding justice of the peace

(2) Les parties suivantes de la section M ne s'appliquent pas au juge de paix salarié exerçant les fonctions de président :

- (a) Part 3 – Salary Administration;
- (b) Part 6 – Hours of Work, except that leave

- a) Partie 3 – Administration des salaires

entitlements shall be calculated at the rate of 37.5 hours per week or 7.5 hours per day as provided for in paragraph 6(b) of Part 6;

- (c) Part 10 – Pension;
- (d) Part 11 – Conflict of Interest;
- (e) Part 12 – Discipline;
- (f) Part 13 – Harassment; and
- (g) Part 15 – Deputy Ministers.

(3) During the period beginning April 1, 2007 and ending March 31, 2010, any change in the benefits referred to in subsection (1) applicable to a member of the public service appointed to a position in the management group, including increased costs of or a reduction in the level of benefits, shall apply to the salaried presiding justice of the peace.

Educational leave

8(1) As of April 1, 2007, the salaried presiding justice of the peace shall be entitled to educational leave of up to one month per year.

(2) The timing of the educational leave and the course of study to be pursued are subject to the approval of the chief judge.

(3) Arrangements satisfactory to the chief judge for coverage of the duties the salaried presiding justice of the peace would otherwise be responsible for must be in place before educational leave is approved.

(4) While on educational leave, the salaried presiding justice of the peace shall be paid regular salary.

(5) The salaried presiding justice of the peace shall be entitled to be paid reasonable travel and accommodation expenses incurred in connection with an educational leave. Expenditures under this subsection shall be supported by receipts.

b) Partie 6 – Heures de travail, sauf que le calcul des congés est fondé sur une semaine de travail de 37,5 heures ou une journée de 7,5 heures conformément à l'alinéa 6b) de la partie 6;

- c) partie 10 – Pension;
- d) partie 11 – Conflit d'intérêt;
- e) partie 12 – Mesures disciplinaires;
- f) partie 13 – Harcèlement;
- g) partie 15 – Sous-ministres.

(3) Durant la période allant du 1^{er} avril 2007 au 31 mars 2010, toute modification apportée aux avantages visés au paragraphe (1) applicable aux fonctionnaires occupant des postes de direction, notamment l'augmentation des coûts ou une réduction du niveau d'avantages, s'applique au juge de paix salarié exerçant les fonctions de président.

Congé d'études

8(1) À partir du 1^{er} avril 2007, le juge de paix salarié exerçant les fonctions de président a droit à, au plus, un mois de congé d'études par année.

(2) Les dates auxquelles les congés d'études peuvent être pris et les cours de perfectionnement pouvant être suivis doivent être approuvés au préalable par le juge en chef.

(3) Le juge de paix salarié exerçant les fonctions de président ne peut prendre de congé d'études à moins que des dispositions que le juge en chef estime satisfaisantes n'aient été prises pour le remplacer dans ses fonctions.

(4) Le juge de paix salarié exerçant les fonctions de président reçoit son traitement ordinaire pendant qu'il est en congé d'études.

(5) Le juge de paix salarié exerçant les fonctions de président a droit à une indemnité pour les frais de déplacement et d'hébergement qu'il expose relativement à son congé d'études. Les demandes de remboursement doivent être appuyées de pièces justificatives.

(6) Educational leave that is not used shall not be paid out or used as retiring leave or pre-retirement leave under Section M.

(6) Les crédits de congé d'études qui n'ont pas été utilisés ne sont pas payables et ne peuvent être utilisés comme congé de retraite ou de préretraite sous le régime de la section M.

Appendix

Subsections 17(1) and (2) of the *Territorial Court Act* provide that recommendations made by the Judicial Compensation Commission regarding judicial remuneration are binding on the Government of Yukon except to the extent that they exceed the highest total value of the judicial remuneration provided by British Columbia, Alberta, Saskatchewan or the Northwest Territories ("the comparator jurisdictions").

If the recommendation of the Commission exceeds the highest total value of judicial remuneration in the comparator jurisdictions, subsection 17(3) of the Act provides that the Commissioner in Executive Council may substitute the highest total value of judicial remuneration in the comparator jurisdictions for the Commission's recommendation.

During the proceedings before the Commission, the Government of Yukon proposed that the salary of the salaried presiding justice of the peace be increased from its current level of \$103,687 to \$106,798 per annum effective April 1, 2007 (a 3% increase), to \$110,001 per annum effective April 1, 2008 (a 3% increase) and to \$113,302 per annum effective April 1, 2009 (a 3% increase).

In its report of March 31, 2008, the Commission recommended that the salary of the salaried presiding justice of the peace be increased from its current level of \$103,687 to \$109,500 per annum effective April 1, 2007 (a 5.606% increase), to \$112,785 per annum effective April 1, 2008 (a 3% increase) and to \$116,169 per annum effective April 1, 2009 (a 3% increase).

The salaried presiding justice of the peace is a member of the Territorial Court Judiciary Pension Plan under the *Territorial Court Judiciary Pension Plan Act, 2003*. The annual amount of pension payable to a member of this plan is calculated using pensionable earnings.

Based on actuarial calculations, the value of the salary increases as proposed by the Government of Yukon together with the resulting pension benefits based on those increases for the salaried presiding

Appendice

Les paragraphes 17(1) et (2) de la *Loi sur la Cour territoriale* prévoient que les recommandations faites par la Commission de rémunération des juges concernant la rémunération de ces derniers lient le gouvernement du Yukon pourvu qu'elles n'augmentent pas cette rémunération au-delà de celle des juges des Territoires du Nord-Ouest, de la Colombie-Britannique, de l'Alberta ou de la Saskatchewan (lieux de comparaison).

Si la recommandation de la Commission a pour effet d'augmenter la rémunération des juges au-delà des montants qui s'appliquent dans les lieux de comparaison, le paragraphe 17(3) de la loi autorise le commissaire en conseil exécutif de substituer à la recommandation de la Commission le plus élevé de ces montants.

Lors des audiences devant la Commission, le gouvernement du Yukon a proposé que le traitement annuel du juge de paix salarié exerçant les fonctions de président soit augmenté de 103 687 \$ à 106 798 \$ à partir du 1^{er} avril 2007, à 110 001 \$ à partir du 1^{er} avril 2008 et à 113 302 \$ à partir du 1^{er} avril 2009, soit une augmentation de 3 % à chacune de ces dates.

Dans son rapport du 31 mars 2008, la Commission recommande que le traitement annuel du juge de paix salarié exerçant les fonctions de président soit augmenté de 103 687 \$ à 109 500 \$ à partir du 1^{er} avril 2007 (une augmentation de 5,606 %), à 112 785 \$ à partir du 1^{er} avril 2008 (une augmentation de 3%) et à 116 169 \$ à partir du 1^{er} avril 2009 (une augmentation de 3%).

Le juge de paix salarié exerçant les fonctions de président est un participant au régime de pension des juges et des magistrats en vertu de la *Loi de 2003 sur le régime de pension des juges de la Cour territoriale*. Le montant annuel de pension payable à un participant à ce régime est calculé en utilisant les gains ouvrant droit à pension.

En s'appuyant sur le calcul actuariel, la valeur de l'augmentation des traitements du juge de paix salarié exerçant les fonctions de président proposée par le gouvernement du Yukon ajoutée aux

2008/170

justice of the peace total \$141,720 for the 2007/08 fiscal year, \$176,011 for the 2008/09 fiscal year and \$150,352 for the 2009/10 fiscal year.

Based on actuarial calculations, the value of the salary increases as recommended by the Commission together with the resulting pension benefits based on those increases for the salaried presiding justice of the peace total \$145,307 for the 2007/08 fiscal year, \$193,017 for the 2008/09 fiscal year and \$154,156 for the 2009/10 fiscal year.

Of the comparator jurisdictions the value of remuneration for a justice of the peace is highest in Alberta. In Alberta, the salary for a justice of the peace together with the 10% annual allowance they receive in lieu of pension benefits is \$121,000.

The value of the remuneration for the salaried presiding justice of the peace as recommended by the Commission exceeds the value of remuneration for a justice of the peace in Alberta. Therefore that recommendation is not binding on the Government of Yukon.

The salary increases proposed by the Government of Yukon to the Commission are therefore substituted for the recommendation of the Commission.

prestations de pension calculées conformément à ces augmentations au traitement totalise 141 720 \$ pour l'exercice financier 2007/2008, 176 011 \$ pour l'exercice financier 2008/2009, et 150 352 \$ pour l'exercice financier 2009/2010.

En s'appuyant sur le calcul actuariel, la valeur de l'augmentation des traitements du juge de paix salarié exerçant les fonctions de président proposée par la Commission ajoutée aux prestations de pension calculées conformément à ces augmentations au traitement totalise 145 307 \$ pour l'exercice financier 2007/2008, 193 017 \$ pour l'exercice financier 2008/2009, et 154 156 \$ pour l'exercice financier 2009/2010.

Si l'on compare ces montants aux lieux de comparaison, la valeur de la rémunération pour un juge de paix est plus élevée en Alberta. Dans cette province, le traitement d'un juge de paix, ajouté à une allocation de 10% en guise et lieu de prestations de pension, s'élève à 121 000 \$.

La valeur de la rémunération d'un juge de paix salarié exerçant les fonctions de président recommandée par la Commission est supérieure à la valeur que l'on retrouve en Alberta pour un juge de paix. En conséquence, cette recommandation ne lie pas le gouvernement du Yukon.

Les augmentations du traitement proposées par le gouvernement du Yukon à la Commission remplacent donc les recommandations de cette dernière.

Yukon

Justice

Box 2703, Whitehorse, Yukon Y1A 2C6

90

This is Exhibit "G" referred to in the Affidavit of Dean Richard Cameron sworn before me at Whitehorse, Yukon this 20 day of April 20 10.
[Signature]
A Commissioner for taking Affidavits for Yukon

November 24, 2008

The Senior Presiding Justice of the Peace Dean Cameron
Territorial Court of Yukon
Box 2703
Whitehorse, Y.T.
Y1A 2C6

Dear Senior Presiding Justice of the Peace Dean Cameron:

Re: 2007 Yukon Judicial Compensation Commission (JCC)

Enclosed for your records is a copy of Order-in-Council (OIC) 2008/170.

The signing of the OIC by the Commissioner completes the 2007 JCC process. There has been a substitution of the first year recommendation of the Judicial Compensation Commission from 5.6% to 3%. Reasons for the substitution can be found in the appendix to the attached OIC. I am pleased to advise that cheques have been requisitioned reflecting the balance of salary increases payable to the Senior Presiding Justice of the Peace.

I look forward to a constructive and fulsome discussion for the 2010 Judicial Compensation Commission.

Yours truly,



Dennis Cooley
Deputy Minister

DJC/dw
Enclosures

This is Exhibit " H " referred to in the Affidavit of Dean Richard Cameron sworn before me at Whitehorse, Yukon this 20 day of April, 2010.
 A Commissioner for taking Affidavits for Yukon

YUKON

YUKON

CANADA

CANADA

Whitehorse, Yukon

Whitehorse, Yukon

ORDER-IN-COUNCIL 2010/33

DÉCRET 2010/ 33

TERRITORIAL COURT ACT

LOI SUR LA COUR TERRITORIALE

Pursuant to section 13 of the *Territorial Court Act*, the Commissioner in Executive Council orders as follows

Le commissaire en conseil exécutif, conformément à l'article 13 de la *Loi sur la Cour territoriale*, décrète :

1 Patrick Michael is appointed as the sole commissioner of the 2010 Judicial Compensation Commission for a three year term.

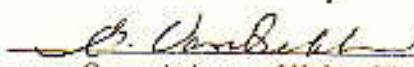
1 Patrick Michael est nommé à titre d'unique commissaire de la Commission de rémunération des juges de 2010, pour un mandat de trois ans.

2 The appointment of David Ordish as sole commissioner of the 2007 Judicial Compensation Commission is revoked.

2 La nomination de David Ordish, à titre d'unique commissaire de la Commission de rémunération des juges de 2007, est révoquée.

Dated at Whitehorse, Yukon, this 25 February 2010.

Fait à Whitehorse, au Yukon, le 25 février 2010.


 Commissioner of Yukon/Commissaire du Yukon