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Via Email

J. René Gallant
President
Nova Scotia Barristers' Society
Cogswell Tower
800–2000 Barrington Street
Halifax NS B3J 3K1

Dear Mr. Gallant:

Re: Trinity Western University's Proposed School of Law

Thank you for your email last month inviting members of the Nova Scotia Barristers' Society ("NSBS") to provide input regarding the proposed School of Law at Trinity Western University ("TWU").

I am writing this letter as a member of the NSBS, as a lesbian, and as a partner of Stewart McKelvey where we are fully committed to the principles of equality of opportunity and diversity, and pride ourselves in taking a leadership role in the legal profession. It is in all of those capacities that I am writing to express my deep concern regarding the recent recommendation of the Federation of Law Societies to preliminarily approve TWU's application to create a new law school, and to urge the NSBS to refuse to recognize degrees granted by TWU for the purposes of admission to the practice of law in Nova Scotia.

I understand the NSBS will be the first law society in Canada to formally consider this issue when it is discussed at tomorrow's Council meeting. As such, this is an opportunity for the NSBS, one of Canada's oldest provincial bar societies, to take a leadership role on this issue and set a precedent for other jurisdictions to hopefully follow. In considering the various issues addressed in the Federation's reports, I am hopeful Council will be mindful of the NSBS's stated vision and values which include fairness, respect and diversity.

As you are well aware, the proposed law school at TWU is problematic because TWU requires all of its faculty, staff and students to sign a Community Covenant Agreement promising not to engage in same-sex sexual intimacy under any circumstances. This Covenant also cites biblical passages condemning homosexuality. As the Supreme Court of Canada concluded when the BC College of Teachers challenged TWU's anti-gay policy, this type of "unfavourable differential treatment" means that gay and lesbian students could only attend TWU at "considerable personal cost". With this in mind, I urge all members of Council to disapprove of the legitimacy of TWU as a training program for Nova Scotia lawyers. The prospect of a regulator of the legal profession offering "approval/accreditation" to a law school with an explicitly discriminatory policy is disturbing and inconsistent with the NSBS's vision of enabling the legal profession to enhance access to justice and uphold the rule of law.

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Moreover, if any public university in Canada adopted the type of Covenant that TWU requires, it would be in violation of provincial human rights legislation. On that basis alone, I submit that a reasonable balance between freedom of religion and equality for gays and lesbians requires the NSBS to reject a law degree program that explicitly discriminates on the basis of sexual orientation.

As the Federation has indicated, the decision to accept TWU's law school in Nova Scotia rests with the NSBS. In making that decision, I trust Council, under your leadership, will be mindful that it is not in the public interest for the legal profession to express approval of an educational institution that explicitly employs policies that discriminate against gays and lesbians. I am confident the NSBS would not approve a law school that prohibited students from having intimate relationships with a member of another racialised group, one which refused on the basis of some religious principle to provide accessible classrooms, or one which proposed to offer legal education to men only because of religious rules. In that same vein, it would be wrong, and certainly contradictory to Canadian values (and Charter values) to indirectly endorse discrimination that vilifies the gay and lesbian community, a group that in many ways is still marginalized. To do so would not be in the public interest we as a legal profession have a commitment to serve.

In conclusion, I urge the NSBS to demonstrate leadership on this issue and not approve TWU's proposed law program for purposes of admission to the articling program in Nova Scotia. Kindly provide a copy of this letter to each of member of Council in advance of your meeting on Friday. Thank you for carefully considering this issue.

Yours very truly,



Andrea F. Baldwin

AFB/ceb
Encl.

Cc: Emma Halpern
Christa Brothers