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Dear Rene, Darrell & Emma:

Trinity Western University, proposed law school.

Thank you for circulating your December 20 memo. I am grateful for the opportunity to advise you and the Nova Scotia Barristers Society ('NSBS') Bar Council that I do not support accreditation of the proposed law school at Trinity Western University ('TWU').

I have reviewed the material relied upon by the Federation of Law Societies as well as a number of letters that our colleagues have prepared to send to the NSBS as you consider this matter. I have no doubt that the legal arguments on the issue will be well presented for Bar Council's consideration.

I offer my perspective on two narrow dimensions of this discussion, only. I hope that these provide some helpful context for your consideration.

The Public Interest

In a lot of the discussion of TWU's proposed law school, much is made of its status as a private institution. This is, at best, an incomplete characterisation. Regardless, the act of accreditation of TWU's proposed law school is squarely a public act to be undertaken by public actors (Canada's law societies) in the public interest.

It is widely understood that Canada's law societies are mandated by provincial and territorial statute to regulate the legal profession in the public interest. The Nova Scotia *Legal Profession Act* articulates the purpose of the NSBS to 'uphold and protect the public interest in the practice of law' at paragraph 4. This mandate is recognized in the Special Advisory Committee's report on TWU's proposed law school at paragraph 5.

In *Doré v. Barreau du Québec*, the Supreme Court of Canada explicitly recognized the public character of law societies and the correlating obligation of law societies to "act consistently with the values underlying the grant of discretion, including *Charter* values"

Setting aside the question of whether the non-operating funding and research grants that TWU receives from the federal government support its characterisation as a 'private' University, both

the issue of accreditation and the fundamentally public dimension of the work that lawyers do renders the 'private' character of TWU moot.

Regardless of whether lawyers work at private firms or for private companies, the moment that we become lawyers we become public servants. Our work requires us to act as stewards of the laws of Canada. Our laws belong to all Canadians, not a private subsection of Canadians.

As the representative body of Nova Scotia's legal profession the NSBS has an obligation to ensure that the public servants who are accredited as stewards of the law in our jurisdiction are trained by institutions that do not discriminate on the basis of any immutable characteristic, be it religion, race, sex, gender or sexual orientation. This obligation arises from the NSBS' statutory obligation to carry out its work in the public interest and its constitutional obligation only to act in a manner consistent with equality before and under the law.

In your deliberations on this issue, I urge you not to interpret TWU's rights as a private institution as relief for the NSBS, a public institution, from your obligations to reach accreditation decisions in the public interest and according to *Charter* values.

A Personal Perspective

I would also like to offer the NSBS my personal perspective as a queer member of the Nova Scotia bar on the accreditation of TWU's proposed law school.

Discrimination is scary. We have come a long way in Canada in a very short period of time to address the legal inequities faced by members of my community. I am proud of this record and grateful to be among the first generation of queer adults in Canada who enjoy legal rights that are substantially similar to the rights enjoyed by our parents, our brothers and our sisters.

Still, we are frightened by real and perceived threats to our legal and social standing. Our memories don't have to be long. Questions about our legitimacy as spouses, as parents, as daughters and sons linger, and are woven into our identities. Even as privileged westerners, we are constantly reminded: Scott Jones, Raymond Taavel, the Sochi Olympics. Most countries in the world still aren't safe travel destinations for our families.

Since arriving at Dalhousie Law School in 2000, though, I have always felt a strong sense of personal security in the legal profession. As a student, a job applicant, a summer student, an articled clerk and a practicing member of the Nova Scotia bar I have never felt my professional legitimacy questioned because of my sexual orientation.

I believe that as lawyers we experience a privilege that other professions do not share because our colleagues understand that Canada's legal system prohibits discrimination. Respecting the dignity of all Canadians is a cornerstone of our craft. Despite the fact that some of my professional colleagues may still hold discriminatory attitudes about my identity, I feel secure in the knowledge that, as stewards of the public's laws, treating each other as equals is ingrained in each of us.

A Canadian law school that openly discriminates against queer law students, professors and staff with the blessing of my Bar Society would greatly undermine that sense of security for me.

As my representative, I ask the NSBS to categorically refuse to accredit any law school at TWU with a formal policy of discrimination.

Thank you, again, for the opportunity to provide you with comments. I welcome direct contact if I can offer you further assistance as you continue to engage on this issue.

Jasmine Walsh
Practicing Member of the Nova Scotia Barristers Society (2004)