2016

C.A. No. 438894

NOVA SCOTIA COURT OF APPEAL

Between:

NOVA SCOTIA BARRISTERS' SOCIETY

APPELLANT

and

TRINITY WESTERN UNIVERSITY and BRAYDEN VOLKENANT

RESPONDENTS

and

JUSTICE CENTRE FOR CONSTITUTIONAL FREEDOMS; ASSOCIATION FOR REFORMED POLITICAL ACTION (ARPA) CANADA; THE EVANGELICAL FELLOWSHIP OF CANDA and CHRISTIAN HIGHER EDUCATION CANADA; THE CATHOLIC CIVIL RIGHTS LEAGUE and FAITH AND FREEDOM ALLIANCE; THE CHRISTIAN LEGAL FELLOWSHIP; CANADIAN COUNCIL OF CHRISTIAN CHARITIES; SCHULICH SCHOOL OF LAW OUTLAW SOCIETY; THE ADVOCATES' SOCIETY; CANADIAN BAR ASSOCIATION; THE CANADIAN SECULAR ALLIANCE

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Part 1 – Overview of the Appeal

1. Christian Legal Fellowship (CLF) relies on the Respondents' submission as to this Part.

Part 2 – Facts

2. CLF was granted leave to intervene in this Appeal by Order of the Honourable Justice David P.S. Farrar on July 24, 2015. CLF accepts the facts as set out by the Respondent.

Part 3 – List of Issues

3. Should the Nova Scotia Barristers Society (NSBS) be permitted to demand modification of the sincerely held and constitutionally-protected religious beliefs of a religious institution and its members? Does the public interest mandate of the law society extend so far as to allow it to deprive law students of a benefit because of their lawful, shared beliefs and associations, out of speculative fear those students may cast aspersions on the profession? If so, can this infringement of *Charter*[1] freedoms be reasonably justified in a free and democratic society?

4. These questions have far-reaching implications and all are engaged in this appeal, where the NSBS seeks to reject qualified law graduates[2] from its membership solely because of their association with a religious law school's beliefs. CLF submits the answer to each of the foregoing questions is a resounding "no" and that this appeal should be dismissed for the following reasons:

   I. **The NSBS' decision unjustifiably violates the *Charter's* guarantees** – NSBS is a state actor to which the *Charter* applies; therefore, it must abide by Supreme Court of Canada jurisprudence that protects the religious freedom of TWU and its students, as well as their freedoms of expression, association, and their right to equality.

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[1] *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982* being Schedule B to the *Canada Act, 1982* [*Charter*] **NSBS BOA, Tab 53**

[2] The NSBS admits that TWU law graduates would be "competent to practice law in Nova Scotia" and "able to practice without discrimination on the basis of sexual orientation": **TWU Factum**, para. 1.

II. The NSBS' decision does not reflect a reasonable balancing because:

A. The NSBS' must give due weight to the Respondents' *Charter* rights - Proper balancing under *Charter* jurisprudence requires the NSBS to weigh religious freedom, expression, association and equality against relevant statutory objectives, not against the interests of one particular group.

B. The NSBS' decision is not in furtherance of the public interest – Recognizing that the content and meaning of the "public interest" is only at issue if NSBS is found to possess jurisdiction to approve a law school (or accredit a law degree) and is permitted to refuse a qualified graduate because of the religious policies of her law school, CLF submits that the NSBS decision is contrary to the public interest as it undermines institutional diversity, religious diversity, and religious equality in the profession, while doing nothing to further equality interests.

C. The NSBS' decision is in violation of its duty of state neutrality– Regardless of the scope of authority that may be accorded to NSBS, it has treated a religious law school and its students differently than a public law school and its students, solely on the basis of their religious beliefs and association, violating its duty of neutrality as a state actor.

Part 4 – Standard of Review

5. CLF supports and adopts the position of TWU regarding standard of review.

Part 5 – Argument

6. As an association of Christian legal professionals and law students, CLF is concerned with the impact this decision will have on the fundamental rights and freedoms for religious

Canadians in general, and lawyers in particular. CLF is also concerned about the interpretation of the law society's mandate and whether it extends to the regulation/judgment of lawyers' personal beliefs and private associations. The Court's conclusions on the scope of NSBS' jurisdiction to interfere with *Charter* rights will have a direct and immediate impact on CLF as an organization and on its members.

7. CLF submits that all Canadians, including Christian law students and legal professionals who form its membership,[3] have the right to religious freedom, to freely express their beliefs, and to associate with others who share those beliefs, free from state interference. This includes the right not to be deprived of the opportunity to obtain a professional licence, and the right not to suffer state-imposed educational or professional impediments because of one's religious beliefs.

I. The NSBS' decision unjustifiably violates[4] the *Charter's* guarantees

A. NSBS is a State Actor to Which the *Charter* Applies[5]

8. NSBS believes that, while TWU is not subject to the *Charter,* "if TWU wishes to have its law degree recognized by the Society, then certain standards, namely non-discrimination in the law school's admission and enrolment policies, must be met."[6]

9. It is difficult to understand how the impact of NSBS Regulation as reflected in the above statement does not result in effectively subjecting TWU to *Charter* obligations, instead of

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[3] The CLF has nearly 600 members, including law students, professors, lawyers, and retired judges who share the Christian faith: Affidavit of Robert Reynolds on CLF's Motion to Intervene, para. 3.

[4] CLF submits that Justice Campbell was correct in finding a *Charter* infringement in this case, at para 237, Reasons **Appeal Book Tab 3 [A.B.]**. See also *Loyola High School v Québec (Attorney General)*, 2015 SCC 12 at para 67 [Loyola]: "Ultimately, measures which undermine the character of lawful religious institutions and disrupt the vitality of religious communities represent a profound interference with religious freedom." **NSBS Authorities, Tab 21**

[5] *Doré v Barreau du Québec*, 2012 SCC 12 [*Doré*] at paras 24, 42 **NSBS Authorities Tab 13**; *Bonitto v Halifax Regional School Board,* 2015 NSCS 80 [*Bonitto*] at para 38 **NSBS Authorities Tab 5**; *Trinity Western University v LSBC*, 2015 BCSC 2326 at para 126 **TWU Authorities, Tab 27**

[6] NSBS Factum para 72

recognizing the *Charter* rights of TWU and its students. According to NSBS' view, private institutions must conform to the *Charter*, and the state via administrative agency can effectively enforce a particular view, belief, opinion, or ethic on an individual or private institution. Justice Campbell was right to say that this approach would transform the *Charter* "into a tool in the hands of the state to enforce moral conformity with approved values".[7]

10. The *Charter* does not demand conformity, nor does it prohibit NSBS from accrediting a law degree that the NSBS itself could not provide.[8] If the *Charter* obliges state actors to only accredit or give access to state benefits on condition that the state itself would be able to lawfully engage in the same practices of private individuals or institutions, the result would be devastating. CLF would not exist as a charitable organization, nor, likely, would many others. Religious institutions, para-church organizations, faith-based community groups, charities with particular mandates, non-profits with exclusive aims, all would be denied state recognition. Instead of a landscape rich with diverse views, opinions, ethics and beliefs, the result of using the *Charter*-as-sword (rather than a shield as it is intended) would be a society of supressed disagreement and fear, homogeneous and uniform only on the surface.

11. Thus, the obligation in the instant case requires the NSBS to act in a manner that best protects the *Charter* values at issue – namely religious freedom of TWU and its students, as well as their freedoms of expression, association, and their right to equality – taking into account the severity of the *Charter* interference.[9] This requires an accurate assessment and understanding of the *Charter* rights at issue.

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[7] Reasons at para 222 **A.B. Tab 3**
[8] NSBS Factum paras 76-77
[9] *Doré* at paras 41, 55-56 **NSBS Authorities Tab 13**

B. The Broad and Robust Nature of Religious Freedom

12. We begin by quoting the seminal definition of religious freedom by Chief Justice Dickson in *R v Big M Drug Mart*:

> The essence of the concept of freedom of religion is the right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance or reprisal, and the right to manifest religious belief by worship and practice or by teaching and dissemination. But the concept means more than that.
>
> Freedom can primarily be characterized by the absence of coercion or constraint.
>
> What may appear good and true to a majoritarian religious group, or to the state acting at their behest, may not, for religious reasons, be imposed upon citizens who take a contrary view. The Charter safeguards religious minorities from the threat of "the tyranny of the majority". [10]

13. Religious freedom prohibits state interference with "profoundly personal beliefs that govern one's perception of oneself, humankind, nature, and in some cases, a higher or different order of being," beliefs which necessarily "govern one's conduct and practices."[11]

14. Religious practices facilitate a meaningful "connection with the divine." Religious practice and underlying beliefs are integrally linked to self-definition and spiritual fulfillment.[12] Religious freedom is thus broadly defined and "jealously guarded" in *Charter* jurisprudence.[13]

15. In contrast, the NSBS approach to religious freedom in this matter is dismissive and minimalist. It defines the right in question as "the right for a student to attend a religiously-affiliated law school safe in the knowledge that the student sitting next to them in torts class has been required not to engage in same-sex sexual intimacy in the privacy of his or her home."[14] The NSBS suggests that the strength of the nexus between religious belief and

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[10] *R v Big M Drug Mart*, [1985] 1 SCR 295 at 336-337 [*Big M*] **NSBS Authorities Tab 28**
[11] *R v Edwards Books and Art Ltd.*, [1986] 2 SCR 713 at para 97 [*Edwards Books*] **NSBS Authorities Tab 31**
[12] *Syndicat Northcrest v. Amselem*, 2004 SCC 47 at para 39 [*Amselem*] **NSBS Authorities Tab 44**
[13] *Reference Re Same Sex Marriage*, 2004 SCC 79 at para 53 [*Marriage Reference*] **NSBS Authorities Tab 37**
[14] NSBS Factum para 121, footnote 139

TWU's law school is tenuous.[15] Other interveners suggest that the operation of a law school is "commercial in nature" and "at the periphery"[16] of activities protected pursuant to s.2(a) of the *Charter*, or that "attending law school is not a religious rite or practice, but a secular activity."[17]

16. This mischaracterization fails to recognize the robust nature of religious freedom, and the necessity for religious freedom to be accompanied by rights of expression and association[18] to give religious freedom meaningful effect. It also ignores the important and integral relationship between one's faith and one's understanding, study, and practice of law.

C. Religious Freedom Extends Beyond the Church, Mosque, Sanctuary[19]

17. Studying law in a Christian community is about a collective commitment to not only examine important ethical and legal issues from a religious perspective but integrate religious beliefs with practice in the context of a shared community life. The NSBS' inability to recognize the integral relationship between one's religious beliefs and the study/practice of law, or the fact that religious values and perspectives may provide a beneficial framework for an approach to professional life, underscores the need for a law faculty which does.

18. Assuming the study of law is purely secular betrays a serious misunderstanding of how Evangelical Christians view the so-called "secular". As Justice Campbell recognized, there is no divide between "religious" and "secular" pursuits.[20] There is no dividing of the person, mind and heart between a religious service or "rite" and work or class. One's religion is not a wardrobe to be donned and doffed for particular "mandatory" or "optional" occasions.

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[15] NSBS Factum para 96
[16] Outlaw Society Factum, para 38
[17] Canadian Secular Alliance Factum para 15, 42; Advocates' Society Factum, paras 40, 42; NSBS Factum paras 96, 98, 105
[18] This topic will be mentioned only incidentally as other intervenors will cover this issue at length.
[19] *R v NS*, 2012 SCC 72 at para 31 where the answer to an *actual* conflict of rights was "not to ban religion from the courtroom … where witnesses must park their religious convictions at the door." **NSBS Authorities Tab 33**
[20] Reasons, para 230 **Appeal Book Tab 3**

19. For the Christian law student, studying law in a Christian environment is one way to foster a connection with the divine: "Worship is not isolated from the rest of the Christian life; it is the integration of the whole of the Christian life in history. Worship is not peripheral, but decisive in the relationships of Christian faith and secular law."[21] TWU is serving God and fulfilling its Christian mission by training, equipping and sending lawyers into the workforce who have received both a Christian education and a character-shaping community culture that has integrated faith, law and life. If its graduates cannot work as lawyers, it impairs TWU's mission – not economically, but religiously.

20. CLF understands what it means to serve God through the fulfillment of a similar comprehensive mission. CLF is a Christian organization but not a church. It has members from a variety of Christian denominations who differ on certain issues, but who come together under an agreed set of principles. For CLF, those principles are expressed in its statement of faith. CLF does not function as a traditional Church, but does foster fellowship amongst like-minded lawyers and law students, regularly offers Christian ethical and philosophical perspectives on the law, holds conferences, and provides substantive and professional learning opportunities for its members and others.

21. CLF's objects include encouraging and helping Christian lawyers to integrate biblical faith with legal, moral, social and political issues; encouraging Christian lawyers to demonstrate Christian love in the home, office, community and church; assisting Christian lawyers to explore, study, and communicate to the legal community and others the relevance of the Christian faith to every issue of private life and public concern.[22] In sum, CLF exists to

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[21] William Stringfellow, *The Christian Lawyer as a Churchman*, 10 Vand L Rev 939 (1957) at 939 as cited in Pearce & Uelman, *Religious Lawyering's Second Wave*, 2006 J. Law & Religion 269-281 (2005-2006) at 270 **Interveners BOA Tab 43**

[22] Affidavit of Mr. Reynolds, CLF Motion to Intervene, paras 8-10

nurture and develop for its members the very nexus between law and faith the NSBS describes as tenuous.

22. CLF has expertise and experience as an organization regarding the depth and strength of this nexus between faith and law. CLF exists because the 600 lawyers and law students forming its membership recognize the important and close relationship between law and religion and seek to better integrate their faith with their vocation of law. Simply because law is a publicly regulated profession does not mandate that lawyers become "secular" in their approach to law or their legal education. CLF's its very existence attests that the assertion that law is a strictly secular pursuit is simply untrue.

23. At the heart of the religious perspective of law is the "conviction that the values one holds are grounded in the inherent structure of reality, that between the way one ought to live and the way things really are there is an unbreakable inner connection."[23]

24. A Christian lawyer's religion allows them to make that "unbreakable inner connection" between "the way things really are" and "the way they ought to live" their professional lives. It offers a constructive framework within which they can respond to a host of questions that secular law faculties leave unanswered[24]:

> [Examining the law from one's religious perspective] not only offers answers to the more practical question of how to be a good lawyer and a good person, but also responds to deeper and more existential questions such as why try to be a good person in the first place. For many religious people, this larger overarching framework provides a moral anchor that enables them to not only resist temptations of greed and abuse of power, but also to situate their legal work within a sense of responsibility and service to the larger community.[25]

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[23] Pearce & Uelman, "Religious Lawyering in a Liberal Democracy: A Challenge and An Invitation" 55 Case Western Reserve L Rev (2004) 127 at 150, citing Clifford Geetz **Interveners BOA Tab 42**

[24] Not only does this allow individual students to find answers, but facilitates "Christian legal scholarship [which] brings a distinctive values-based engagement with legal thought that is often sorely lacking." Dwight Newman, *Ont the Trinity Western Controversy: An Argument for a Christian Law School in Canada* (June 22, 2013) 22:3 Const. Forum 1-14 at p 3 **Interveners BOA Tab 39**

[25] *Ibid.* at 150

25. Furthermore, throughout the Bible, Christians are called to seek justice: "learn to do good; seek justice, correct oppression; bring justice to the fatherless, plead the widow's cause."[26] The integration of law with faith is essential for the Christian to "seek justice". Lawyers are active participants in the administration of justice. The study of law, then, is neither a "peripheral" matter, nor a "secular pursuit". It is one of the most direct ways in which a Christian can fulfill her biblical calling to seek justice.

26. There is therefore no basis for the NSBS conclusion that operating a law school is far removed from core rights protected under the scope of religious freedom.[27]

D. Religious Freedom Protects More than "Mandatory" Religious Practices

27. Even though there is a very strong nexus between faith and law, whether it is also considered a religious *obligation* to study law in a Christian environment[28] is irrelevant; the *Charter's* guarantee of religious freedom is not limited to the mandatory aspects of a religion.[29]

28. So long as a claimant demonstrates a sincerely held religious belief that a given practice "engenders a personal, subjective connection to the divine or to the subject or object of his or her spiritual faith, and as long as that practice has a nexus with religion", it is *Charter-*

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[26] Isaiah 1:17. This principle is reflected in the Covenant where members of the community commit to "cultivate Christian values, such as love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, self-control, compassion, humility, forgiveness, peacemaking, mercy and justice. **[A. B. Tab 38(c)**, pg 822]. See also Micah 6:8 ("And what does God required of you? To act justly and to love mercy and to walk humbly with your God"); Lamentations 3:34-36 ("To crush underfoot all the prisoners of the earth, to deny a man justice in the presence of the Most High, to subvert a man in his lawsuit, the Lord does not approve"); Proverbs 1:2-5 ("To know wisdom and instruction, to understand words of insight, to receive instruction in wise dealing, in righteousness, justice and equity; to give prudence to the simple, knowledge and discretion to the youth – let the wise hear and increase in learning, and the one who understands obtain guidance"); Psalm 33:5 ("God loves justice"); Psalm 82:3 ("Give justice to the weak and fatherless; maintain the right of the afflicted and the destitute"); Psalm 106:3 ("Blessed are they who observe justice, who do righteousness at all times!"); Deuteronomy 16:20 ("Justice, and only justice, you shall follow")

[27] NSBS Factum para 96

[28] CBA Factum para 50

[29] *Amselem* at para 47: "[B]oth obligatory as well as voluntary expressions of faith should be protected under the Quebec (and the Canadian) Charter. It is the religious or spiritual essence of an action, not any mandatory or perceived-as-mandatory nature of its observance, that attracts protection" **NSBS Authorities Tab 44**

protected. It is deserving of the same level of recognition as beliefs and practices that are seen to be "strict obligations" according to that particular religion. [30]

29. There is no requirement in *Charter* jurisprudence of a "command" to operate or attend a Christian law school. The claimants in *Amselem* were not compelled by religion to live in the particular building they did; the claimant in *Multani* wasn't compelled by religion to go to public school; arguably the Jesuits in *Loyola* are similarly not strictly obliged by their beliefs to operate a private, English-speaking Catholic high school for boys.[31] Neither is there a biblical command to establish a charitable organization, such as CLF, for the enrichment of Christian lawyers, but it is nevertheless an activity that has a strong nexus with religion and one that attracts *Charter* protection.

E. Religious Freedom Protects Communal Ethical Commitments

30. Written statements, whether in the form of a Community Covenant, such as at TWU, or a statement of faith, such as at CLF, are more than "an aid to the flourishing"[32] of Christianity. Rather, they are summary statements of the religious beliefs of the organization, the principles upon which it was founded, and - for those who want to attend or join - the principles according to which they agree to live. If the religious beliefs themselves result in some people self-excluding because they disagree with a tenet of the faith, that does not make the belief or the faith unlawful, contrary to the public interest, or beyond the scope of *Charter* protection.

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[30] *Ibid* at paras 68-69

[31] The discrete issue of whether the Jesuits were *obliged* to operate such a school wasn't directly addressed. Loyola is a private religious institution created to support the collective practice of Catholicism and the transmission of the Catholic faith. The religious community in that case chose to give effective to the collective dimension of their religious beliefs by participating in a denominational school. *Loyola* at paras 61-62, 143

[32] NSBS Factum, para 98

31. Communal expression of belief – whether by written means or other – is expressly protected by the *Charter*: religious freedom encompasses and recognizes "the socially imbedded nature of religious belief, and the deep linkages between this belief and its manifestation through communal institutions and traditions."[33]

32. CLF understands this concept and operates under its principles. It is part of Christian belief to live according to a Christian ethic in community, and to commit to it corporately[34] in a variety of contexts such as a church, a school, or a charitable organization.

F. The *Charter* Protects the Freedom to Publicly Express and Act on Beliefs

33. Evangelical Christians and others are not only entitled to believe in and associate based upon a shared set of beliefs, (including a religious definition of marriage) but also to participate in "public life" and have access to the Articled Clerk program in Nova Scotia.[35]

34. Anyone is free to *think* or *believe* anything one wishes. It is irrelevant whether belief alone in that sense is protected. Chief Justice Dickson used *verbs* to describe the freedom under s. 2(a): "declare", "manifest", "worship", "practice", "teach", "disseminate".[36]

35. The foundational importance of free expression as discussed by McLachlin J. (as she then was) is directly applicable to the case at bar:

> The right to fully and openly express one's views on social and political issues is fundamental to our democracy and hence to all the other rights and freedoms guaranteed by the *Charter*. Without free expression, the vigorous debate on policies and values that underlies participatory government is lacking. Without free expression, rights may be trammelled with no recourse in the court of public opinion. Some restrictions on free expression may be necessary and justified and entirely compatible with a free and democratic society. But restrictions which touch the critical core of social and political debate require particularly close consideration because of the dangers inherent in state censorship of such debate.[37]

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[33] *Ibid*
[34] *Loyola* at paras 59-60 **NSBS Authorities Tab 21**
[35] Contrary to NSBS' position at para 7: "This case is about recognizing that TWU, while *entitled* to preclude LGB students [which it does not] from attending its law school, is not entitled to have its degree accredited"
[36] *Big M* at 336-337
[37] *R. v. Keegstra*, [1990] 3 SCR 697 at 849, emphasis added, **Interveners' Authorities, Tab 19**

36. The "critical core" of social debate includes the nature and purpose of the institution of marriage. That the religious expression occurs at a law school on a private university campus doesn't render its protection null.

37. Freedom of expression ensures "that everyone can manifest their thoughts, opinions, beliefs, indeed all expressions of the heart and mind, however unpopular, distasteful or contrary to the mainstream."[38] It is a fundamental freedom "because in a free, pluralistic and democratic society we prize a diversity of ideas and opinions for their inherent value both to the community and to the individual".[39] This diversity of ideas promotes democracy by encouraging participation and debate by all individuals. Oppressive regimes are characterized by shutting down debate and excluding 'offensive ideas' from the public square, whereas a healthy democracy refuses to impose penalties for so-called 'wrong thinking'.

G. State is Not the Arbiter of Religious Dogma & Cannot Impose Sanctions for its Expression

38. Christian belief about the definition of marriage, in addition to being religious expression touching the critical core of social debate, is religious doctrine.[40] The state is not the arbiter of religious dogma:

> The state is in no position to be, nor should it become, the arbiter of religious dogma. Accordingly courts should avoid judicially interpreting and thus determining, either explicitly or implicitly, the content of a subjective understanding of religious requirement, "obligation", precept, "commandment", custom or ritual. Secular judicial determinations of theological or religious disputes, or of contentious matters of religious doctrine, unjustifiably entangle the court in the affairs of religion.[41]

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[38] *Irwin Toy Ltd. V Quebec (Attorney General),* [1989]1 SCR 927 at 968 **Interveners' Authorities Tab 9**
[39] *Irwin Toy,* at 968 **Interveners' BOA Tab 9**
[40] See Affidavit of Jeffrey P Greenman at pgs 699, 703: "This means that marriage was originated and designed by God [...] An implication is that the design of marriage is not a purely human or political choice, but is a matter of divine revelation.[...] Because Christians understand marriage as a divinely instituted form of shared life, marriage takes a central position in theological understandings of the good life for human beings to live." **A.B.Tab 36**
[41] *Amselem* at para 50 **NSBS Authorities Tab 44**

39. Administrative bodies exercising state authority are likewise prohibited from asserting power to regulate or alter the terms on which individuals exercising religious (or other) freedom choose to associate, at the risk of being denied entry to a profession by its gatekeeper.

40. Religious freedom also precludes the state from imposing sanctions for its practice and manifestation. For religious freedom to have meaning there must be no fear of hindrance or reprisal, the absence of coercion or constraint, and protection from the coercion of both "indirect forms of control which determine or limit alternative courses of conduct available to others" and "direct commands to act or refrain from acting on pain of sanction".[42]

41. Sanctions such as:

> TWU has the choice, if the Society's decisions are upheld, of maintaining its current policies with whatever economic costs are associated with it. Alternatively, it can choose to alter its enrollment policies to avoid discrimination, and thereby obtain accreditation for its law degrees from the Nova Scotia regulator of the profession.[43]

II. The NSBS' decision does not reflect a reasonable balancing of rights

A. Due weight must be given to the Respondents' *Charter* rights

42. In the present case there is no true conflict of rights; as explained by the Supreme Court in its *Trinity Western* decision of 2001:

> ...the admissions policy of TWU alone is not in itself sufficient to establish discrimination as it is understood in our s.15 jurisprudence. [...] To state that voluntary adoption of a code of conduct based on a person's own religious beliefs, in a private institution, is sufficient to engage s.15 would be inconsistent with freedom of conscience and religion, which co-exist with the right to equality.[44]

43. Justice Campbell was justified in his conclusion that "NSBS actions were taken in support of the rights of LGBT people but at the same time, this is not a situation in which there are even

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[42] *Big M* at 336-337 **NSBS Authorities Tab 28**
[43] NSBS Factum para 115
[44] *Trinity Western University v BC College of Teachers,* 2001 SCC 31, at para 25 [*BC Teachers*] **NSBS Authorities Tab 46**

conflicting rights".[45] It is not a contest between freedom of religion and individuals seeking equal access to the practice of law.[46]

44. However, if there is an apparent collision of rights, it must first be determined whether the rights alleged to be in conflict can be reconciled in a manner that fully respects the importance of both sets of rights.[47]

45. A conflict between equality rights on the one hand and freedom of religion and expression on the other was present in the *Whatcott* decision. Balancing freedom of expression and equality rights in the context of hate speech allegations, Rothstein J. held that "people are free to debate or speak out against the rights or characteristics of vulnerable groups" until such speech "is objectively seen" to cause harm.[48] That means that "absent evidence of actual harm [...] freedom of religion values must be given effect."[49]

46. *If*, however, equality rights are engaged and a conflict is found, there must be a balancing of the interests at stake; a balancing that does *not* create a hierarchy of rights; a balancing that bears in mind the expansive nature of section 2 *Charter* rights.[50]

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[45] Reasons at para 29, **A.B. Tab 3**

[46] NSBS suggests this at para 8 of its Factum. Justice Campbell held, *inter alia*, "Permitting TWU graduates to article in Nova Scotia will not open the door to discrimination in Nova Scotia"; "there is no evidence to support the claim that LGBT people or anyone else in Nova Scotia will suffer psychologically or otherwise if they are aware that TWU students, subject to the same ethical requirements as others, can be admitted to the practice of law in Nova Scotia"; "There is no evidence beyond speculation that LGBT people in Nova Scotia are harmed in any way, however slight, by living in the knowledge that an institution in Langley British Columbia, which like any number of religious institutions in Nova Scotia, does not recognize same sex marriage but which properly educates lawyers who can practice law in Nova Scotia, where discrimination within the profession is strictly prohibited." Reasons, paras 253-254 [emphasis added] **A.B. Tab 3**

[47] *BC Teachers* at para 31 **NSBS Authorities Tab 46**

[48] *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11 at para 145 [*Whatcott*] **NSBS Authorities, Tab 41**

[49] Opinion of Mr. John Laskin, "Appendix C" to the Special Advisory Committee on Trinity Western's Proposed School of Law, Final Report, December 2013, at 6 **A.B. Tab 59, NSBS 001341**

[50] *Marriage Reference,* at para 50, **NSBS Authorities Tab 37**

47. The balancing must be between (1) the statutory objective of upholding and protecting the "public interest in the practice of law" as implicating, but not limited to, LGBT equality interests and (2) the various *Charter* rights of TWU and its students.

48. When weighing the interests, obligations and rights at issue, the actual nature of the alleged discrimination/equality infringement stemming from the Covenant must be carefully examined before it can be properly weighed in the balance.[51]

49. By calling students or members to live by a Christian ethic, Christians and Christian organizations do not ask voluntary participants to deny their identity or dignity. Rather, in order to have an ethic at all, religious or otherwise, drawing distinctions is necessary.

50. Distinctions made between identity and conduct are permissible, even in the context of sexual conduct.[52] The caveat is that the expression targeting the conduct must not be "framed in such a way as to expose persons of an identifiable sexual orientation to what is objectively viewed as detestation and vilification."[53]

51. The NSBS tries to erase the distinction between identity and conduct for *all* purposes, the end result of which is to eradicate competing ethical views. But the state is not permitted to favour nor hinder one particular belief (or ethical system) and must refrain from expressing a preference.[54]

52. As an organization that exists and forms its membership on the basis of religion and expects members to honour God in their lives, CLF sees its members and organization at risk of such state interference and consequent marginalization should the state be permitted to erase competing ethical views.

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[51] TWU thoroughly addresses these issues in its factum at paras.76-97 which CLF endorses

[52] *Whatcott* at para 122: "I agree that sexual orientation and sexual behaviour can be differentiated for certain purposes." **NSBS Authorities Tab 41**

[53] *Whatcott* at para 124 **NSBS Authorities Tab 41**

[54] *Mouvement laïque Québécois v Saguenay (City),* 2015 SCC 16 at para 74 [*Saguenay*] **NSBS Authorities, Tab 23**

53. Allowing such action by the NSBS would create an impermissible *Charter* hierarchy:

> A hierarchical approach to rights, which places some over others, must be avoided [...] When the protected rights of two individuals come into conflict ... Charter principles require a balance to be achieved that fully respects the importance of both sets of rights.[55]

Freedom of religion is denied to TWU students "if the consequence of its exercise is the denial of the right of full participation in society."[56]

54. By holding to a belief (i.e. belief in civil marriage, excluding validity of belief in sacramental marriage[57]), the state not only creates a hierarchy of rights, with equality based on sexual orientation over and above religious freedom and religious equality, it is

> casting doubt on the value of those [beliefs] it does not share. It is also ranking the individuals who hold such beliefs:
>
> > If religion is an aspect of the individual's identity, then when the state treats his or her religious practices or beliefs as less important or less true than the practices of others, or when it marginalizes her or his religious community in some way, it is not simply rejecting the individual's views and values, it is denying her or his equal worth.[58]

In both Justice Campbell's decision and in the Supreme Court's 2001 decision, a sound balance was achieved by according the appropriate weight due to freedom of religion. While emphasizing the importance of equality and considering the historical disadvantage suffered by the LGBT community, Justice Campbell found no evidence to demonstrate that not accrediting TWU would prevent harm to LGBT persons.[59] There was therefore no weight to counterbalance religious freedom and religious equality.

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[55] *Dagenais v Canadian Broadcasting Corp.*, [1994] 3 SCR 835 at para 72, **NSBS Authorities Tab 12**; *BC Teachers* at para 29 **NSBS Authorities Tab 46**; *Marriage Reference* para 52 **NSBS Authorities Tab 37**
[56] *BC Teachers* at para 35 **NSBS Authorities Tab 46**
[57] *Civil Marriage Act,* SC 2005 c 33 affirms the validity of other views on marriage **TWU Authorities Tab 31**
[58] *Saguenay* at para 73, citing "Freedom of Religion Under the *Charter of Rights*: The Limits of State Neutrality" (2012), 45 UBCL Review 497 at p 507 **NSBS Authorities Tab 23**
[59] Reasons, para 254 **A.B. Tab 3**

B. The public interest is undermined by the NSBS' decision

55. CLF adopts the submissions of TWU that NSBS lacks jurisdiction for its decision, and that the analysis need not go further.[60] If, however, the jurisdictional questions are all answered in favour of NSBS, CLF submits that NSBS's decision is contrary to the public interest, properly understood, rendering it unreasonable and not a demonstrably justifiable limit on *Charter* rights and freedoms.

56. Is it contrary to the "public interest"[61] for a prospective lawyer to study at an academically-accredited[62] religious law school that adheres to lawful - but perhaps unfashionable - ethical beliefs? The NSBS would say "yes". On what grounds? It asserts that "if [the NSBS] believes the public interest will be harmed by its perceived endorsement of TWU and its primary goal is to maintain public confidence in the Nova Scotian legal profession, it is entitled to adopt a regulation."[63]

57. However, the NSBS's invocation of the "public interest" in this matter is flawed for the following reasons: the NSBS (i) failed to objectively define the public interest by exaggerating one component of the public interest to the exclusion of others; (ii) unreasonably allowed speculative fear[64] of a public (mis)perception to substantially inform

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[60] TWU's factum paras 18-55

[61] The *Legal Profession Act*, SNS 2004 c 28 s 4 mandates that "the purpose of the Society is to uphold and protect the public interest in the practice of law." **NSBS Authorities, Tab 61**

[62] TWU's proposed law school has been accredited by the Federation of Law Societies of Canada (FLSC) after an arduous process of consultation which included consideration of the Community Covenant at issue as well as of the public interest. There is no evidence that the TWU program is not academically sound. **A.B. Tab 59, NSBS Doc 001387**

[63] NSBS Factum para 34, citing a blog post by Professor Paul Daly.

[64] *Alberta v Hutterian Brethren of Wilson Colony*, 2009 SCC 37 at paras 81-83, [*Hutterian Brethren*] **NSBS Authorities Tab 2**. See also *Multani v. Commission scolaire Marguerite-Bourgeoys,* 2006 SCC 6, where the issue was whether a student should be permitted to wear a kirpan to school: "...the existence of concerns relating to safety must be unequivocally established for the infringement of a constitutional right to be justified." **NSBS Authorities Tab 24**

its understanding of the public interest;[65] and (iii) subjected constitutional freedoms to its own subjective perception of prevailing public opinion.

i. "Public Interest" Requires Objectivity, not Exaggerating One Component to the Exclusion and Detriment of Others

58. The NSBS claims that its Decision protects individual rights and liberties "against incursions from any source, including the state," promotes equality, and encourages the profession to embrace the value of diversity.[66]

59. Those are laudable goals, but they are in fact undermined by the very Regulation the Society seeks to implement. TWU and its students are *not* free to manifest their belief in a sacramental[67] definition of marriage. The decision stifles diversity of beliefs and opinion, and the expression of diverse opinions and beliefs, which is essential for a healthy democracy.[68] It also discourages religious persons from joining the profession, further undermining diversity.

60. The version of "diversity" the NSBS seeks to promote is one that excludes individuals who believe in a sacramental view of marriage, despite clear legislative direction that "it is not against the public interest to hold and publicly declare diverse views on marriage."[69] The Supreme Court of Canada, likewise, affirms the legitimacy of holding, expressing, teaching and sharing religious beliefs, even on a subject such as marriage.[70]

61. At minimum, then, if the "public interest" is to embrace diversity, it must necessarily account for all constitutional rights and freedoms. To do so, the public interest cannot be narrowly

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[65] As the Respondent explains, at para 72 of its factum, the fear that recognizing TWU degrees would be perceived as endorsing TWU's Covenant is erroneous. It is a speculative fear of a public *mis*perception.
[66] NSBS Factum paras 39, 44
[67] TWU Factum para 106 explains that the sacramental character of a marriage is decided by the church, and is therefore a religious matter (whether sexual intimacy apart from sacramental marriage is a sin, whether same sex marriages are sacramental).
[68] *Loyola* at para 48 **NSBS Authorities, Tab 21**
[69] *Civil Marriage Act*, preamble **Intervenor's Authorities, Tab 31**
[70] *Whatcott* at paras 97, 164 **NSBS Authorities, Tab 41**

defined so as to set LGBT interests against religious freedom and religious equality, thereby including LGBT interests as a component of the public interest while excluding religious freedom and equality.[71]

62. Such an interpretation would undermine the underlying purpose of Nova Scotia's human rights legislation, which is to recognize the inherent dignity and equal rights of all people, that every person is free and equal in dignity and rights, that every person be afforded equal opportunities in the Province. [72]

63. The "every" and "all" in the *Human Rights Act* preamble includes people, like TWU students and CLF members, who identify with a religion or creed, or those who choose to associate with another individual or group having those characteristics.[73]

64. And, as Campbell J. recognized, there is no discrimination or harm on the basis of sexual orientation, arising from either TWU or by the NSBS's acceptance of its graduates.[74] There is no merit to the NSBS's argument that, by rejecting TWU, it is upholding provincial human rights requirements and thereby protecting the public interest.

ii. Constitutional Freedoms Must Not be Subjected to Perceived Public Opinion

65. The NSBS asserts the Regulation was designed to address discrimination, the diversity of candidates for entrance to the legal profession and public confidence in the profession.[75] It points to the case of *Vriend v Alberta* to support the connection between the Regulation and the stated purpose, claiming *Vriend* renders its actions "in support of equality of access to the legal profession in Nova Scotia" reasonable, citing the following passage from the decision:

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[71] *McKenzie Forest Products Inc v Ontario Human Rights Commission*, (2000) 48 OR (3d) 150 (ONCA) **Intervener's Authorities, Tab 12**
[72] *Human Rights Act,* RSNS 1989, c 214 ss 2(a) (d), (e) **NSBS Authorities, Tab 60**
[73] *Ibid.*, ss 5(1)(k), (l), (v)
[74] Reasons at paras 253-254 **A.B. Tab 3**
[75] NSBS Factum para 54

> The exclusion sends a message to all Albertans that it is permissible, and perhaps even acceptable, to discriminate against individuals on the basis of their sexual orientation. The effect of that message on gays and lesbians cannot be underestimated. [...] Compounding that effect is the implicit message conveyed by the exclusion, that gays and lesbians, unlike other individuals, are not worthy of protection.[76]

66. But the exclusion in this case is that of TWU students. The result is similar to the *Vriend* excerpt above, modified:

> The exclusion [of TWU students] sends a message to all Nova Scotians that it is permissible, and perhaps even acceptable, to discriminate against individuals on the basis of their [religious beliefs]. The effect of that message on [Evangelical Christians] is one whose significance cannot be underestimated. [...] Compounding that effect is the implicit message conveyed by the exclusion, that [law students who believe in and publicly express religious beliefs in marriage], unlike other individuals, are not worthy [to participate in the Bar Admission process].

67. As the Alberta government refused to include gays and lesbians in its human rights legislation, so the NSBS refuses to include TWU students in its "admission-to-practice code".

68. But even if the public opinion predominantly favours Canada's civil definition of marriage, it does not follow that public perception of the justice system would be diminished if TWU graduates are licenced to practice law. Even *if* there were a link between majoritarian views on marriage and public perception, it *still* does not mean that the majoritarian view can void *Charter* protection for or delegitimize the minority view.[77] One purpose of religious freedom is to safeguard religious minorities from the threat of "the tyranny of the majority".[78] Public interest cannot simply be equated with speculative concerns[79] about public (mis)perceptions, nor can it be permitted to override constitutional rights and freedoms.

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[76] *Vriend v Alberta* [1998] 1 SCR 493 at paras 101-102 [*Vriend*] **NSBS Authorities Tab 48**

[77] See Affidavit of Jeffrey P Greenman at para 135 where he notes that approximately 11-12% of the Canadian population is associated with communities reflecting Evangelical Christian beliefs and practices, citing a 2003 study. **A.B. Tab 36**

[78] *Big M* at 336-337 **NSBS Authorities Tab 28**

[79] *Hutterian Brethren*, at paras 81-83, **NSBS Authorities Tab 2**. See also *Multani*, where the issue was whether a student should be permitted to wear a kirpan to school. In that case at para 67, the Supreme Court stated "...the

C. The NSBS' decision is in violation of its duty of state neutrality

69. State neutrality means that the state cannot "create a preferential public space"[80] that favours one group over another. The state can "neither favour nor hinder any particular belief, and the same holds true for non-belief. It requires that the state abstain from taking any position and thus adhering to a particular belief."[81]

70. The principle of state neutrality in case law has developed alongside a growing sensitivity toward religious diversity and the protection of religious minorities.[82] Positively, state neutrality requires the state to "encourage everyone to participate freely in public life regardless of their beliefs."[83]

71. As Justice Campbell found, neutrality does not mean the purging of "religiously informed moral consciences from the public sphere nor does it accord them more weight than others. The society is secular, but the state does not have a secularizing mission."[84]

72. NSBS claims that it remains neutral by not accrediting TWU because Canada is a secular society.[85] But state neutrality does not mean that state agencies or regulatory bodies can require neutrality of individuals or private institutions seeking state recognition, accreditation, or license. Requiring individuals or institutions to renounce their beliefs is not *state* neutrality but universal neutrality - or coerced conformity.

73. As the Supreme Court explained in *Loyola*:

> The context before us – state regulation of religious schools – poses the question of how to balance robust protection for the values underlying religious freedom with the values of a secular state. [...] A secular state does not – and cannot – interfere with the beliefs or

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existence of concerns relating to safety must be unequivocally established for the infringement of a constitutional right to be justified." **NSBS Authorities Tab 24**

[80] *Saguenay* at para 75 (Emphasis Added) **NSBS Authorities, Tab 23**

[81] *Ibid* at para 72

[82] *SL v Commission Scolaire des Chênes*, 2012 SCC 7, at para 21 [*SL*] **NSBS Authorities, Tab 40**

[83] *Saguenay* at para 75, **NSBS Authorities, Tab 23**

[84] Reasons, para 19, **A.B. Tab 3**

[85] NSBS Factum, paras 103-105

> practices of a religious group unless they conflict with or harm overriding public interests. Nor can a secular state support or prefer the practices of one group over those of another [citation omitted]. The pursuit of secular values means respecting the right to hold and manifest different religious beliefs. A secular state respects religious differences, it does not seek to extinguish them.[86]

74. However, the NSBS does not respect the religious differences exhibited by TWU students and TWU through the Community Covenant, but attempts to extinguish them by withholding accreditation.[87]

75. TWU is a private institution; its students possess *Charter* freedoms vis-à-vis state actors. NSBS is a state actor obliged to be neutral; its regulations cannot favour public-school law graduates over religious-school law graduates. TWU provides an *additional* choice for students wishing to obtain a law degree; the NSBS, however, is the only gate through which one may pass in order to article and thereby become licensed to practice law in Nova Scotia. The power of the state rests solely with NSBS, which is why it is subject to *Charter* obligations and the duty of state neutrality, and why TWU and its students are to be protected by both.

76. State neutrality is violated when, as has happened here, a regulatory body takes a strong position against a religious law school on the basis of its lawfully held, religiously-informed views on marriage, resulting in the exclusion of religious law school graduates from access to the practice of law.

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[86] *Loyola* at para 43 [Loyola] **NSBS Authorities, Tab 21**

[87] NSBS Factum at para 115: "The Society's decisions may have the consequence of creating a disadvantage for TWU in marketing itself [this itself is demonstrative of the dismissive approach to TWU students' religious freedom; there is much more than a "marketing advantage" at stake] to law students intending to practice in Nova Scotia. TWU has the choice, if the Society's decisions are upheld, of maintaining its current policies with whatever economic costs are associated with it. Alternatively, it can choose to alter its enrollment policies to avoid discrimination, and thereby obtain accreditation for its law degrees from the Nova Scotia regulator of the profession."

D. Threat to & Impact Upon Religious Freedom is Significant and Serious

77. TWU is being forced to adopt a civil definition of marriage as the price of entry for its otherwise qualified law students[88] into the practice of law in this province. It is a dictate from a governmental body on the legitimate content of one's religious beliefs and a severe restriction on the right to expression and association founded on those beliefs. This places a direct and immediate burden upon TWU and its students[89] as recognized by the Supreme Court in 2001:

> There is no denying that the decision of the BCCT places a burden on members of a particular religious group and in effect, is preventing them from expressing freely their religious beliefs and associating to put them into practice....[90]

78. The NSBS decision perpetuates stereotypes and offensive caricatures of the TWU community, linking its beliefs with "institutionalized homophobia"[91] – even though there is a clear prohibition against homophobia in TWU's policies[92] – comparing its members to those with "avowed segregationist racial views," and to those who believe women should not be educated.[93] Despite its posture of embracing diversity,[94] NSBS asserts that the lawful and constitutionally protected religious beliefs expressed in TWU's Community Covenant places TWU and its members beyond the scope of 'acceptable' diversity.[95] According to the NSBS,

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[88] Reasons, para 6 **A.B. Tab 3**
[89] NSBS recognizes there will be a burden to bear but suggests it is one TWU students will "reasonably bear knowing they have attended a law school which is not compliant with the Society's standards for automatic accreditation and having, through their personal commitments in the Covenant, pledged to enforce discriminatory enrollment criteria against others." NSBS Factum para 108, footnote 129
[90] *BC Teachers,* at para 32 **NSBS Authorities Tab 46**
[91] NSBS Factum para 119
[92] Affidavit of Dr. Robert Wood, paras 111-120, **A.B. Tab 38**
[93] NSBS Factum para 84
[94] NSBS Factum para 44
[95] Or, as stated by the Advocates' Society at para 36: "While there are corners of Canadian society where the morality of same-sex intimacy is still being debated, the justice system is not one of them."

these beliefs must be limited as one "moves into the public sphere"[96] and instead remain confined to the walls of the church or Sunday school.[97]

79. If it is contrary to the public interest for a private university and its students to agree to adhere to a religiously-informed view of marriage, the NSBS could penalize any lawyer who associates with a similar organization, or who personally rejects the state's view on various religious or ethical issues.[98]

80. For example, would the NSBS deny a license to someone who studied as an undergraduate at TWU, or as a law student at Brigham Young University?[99] What of the student who completes two years of law school at TWU then transfers to a different law school? Do those two years of TWU education disqualify that graduate from practice in Nova Scotia?[100] How does this align with the National Mobility Agreement,[101] the purpose of which is to facilitate temporary and permanent mobility of lawyers between Canadian jurisdictions? How might this impact the TWU graduate who is called to the bar in Alberta, practices for two years and then moves to Nova Scotia?

81. And what of public law schools that permit faith-based clubs? Will those clubs – such as CLF's – face scrutiny regarding membership requirements?[102] Will faculties that permit faith-based law clubs be at risk for losing accreditation?

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[96] NSBS Factum para 96
[97] NSBS Factum paras 105-106
[98] *BC Teachers* at para 33: "Indeed, if TWU's Community Standards could be sufficient in themselves to justify denying accreditation, it is difficult to see how the same logic would not result in the denial of accreditation to members of a particular church." **NSBS Authorities Tab 46**
[99] TWU Factum para 150 citing **A.B. Tab 59, NSBS 1342/16-1341/18, 213/1, 215/2, 1082/8, 1082/11**This institution has a code of conduct similar to TWU's
[100] NSBS argues students will have "through their personal commitments in the Covenant, pledged to enforce discriminatory enrollment criteria against others." NSBS Factum para 108, footnote 129
[101] Federation of Law Societies of Canada, *National Mobility Agreement*, 7 December 2002 **Interveners' BOA Tab 38**
[102] Canadian Secular Alliance cites with approval *Christian Legal Society v Martinez,* 2010 S Ct 2971 in which a majority held that a secular law school did not have to give official status to a private Christian club that required its members to sign a statement of beliefs. **NSBS Authorities Tab 11**

82. Another concrete example of the logical outworking of allowing this appeal is the restriction of faith-based legal organizations' – such as CLF's – ability to offer Continuing Professional Development to its members and others. As a faith-based organization offering legal training and instruction, CLF could presumably be subject to scrutiny to determine whether its beliefs and mandate align with NSBS' vision of the public interest, as could any lawyers' association with membership requirements. If such organizations – be they Outlaws, CLF, or an association of lawyers affiliated with a political party - were to hold to a philosophical, ethical or religious position that NSBS as a state actor could not, would they be denied the opportunity to offer CPD credits, on that basis alone?

83. This would turn the notion of state neutrality upside-down. To state the obvious, neutrality is required of the *state*, not private actors who may seek state recognition, access to state benefits or a regulated profession. It is NSBS, not TWU who must remain neutral.

Part 6 – Relief Sought

84. If the appeal is granted, it will create a climate in which many legal professionals with lawful, if unfashionable, views will be afraid to speak out for fear of being professionally penalized. The NSBS may say this is a good thing. But fear of holding and expressing religious views is never a good thing in a free and democratic society.[103]

85. CLF therefore submits that the NSBS' appeal should be denied.

86. As an intervenor, CLF seeks no costs and asks that no costs be awarded against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED,

Derek Ross

Deina Warren/Derek B.M. Ross/Jonathan R. Sikkema/Philip Fourie
Lawyers for the Intervener, Christian Legal Fellowship

[103] *Big M,* at para. 95: "If… compelled by the state or the will of another to a course of action or inaction which he would not otherwise have chosen, he is not acting of his own volition and he cannot be said to be truly free." **NSBS Authorities Tab 28**

APPENDIX "A" LIST OF CITATIONS

CASES	TAB
Alberta v Hutterian Brethren of Wilson Colony, 2009 SCC 37	App BOA 2
Bonitto v Halifax Regional School Board, 2015 NSCS 80	App BOA 5
Christian Legal Society v Martinez, 2010 S Ct 2971	App BOA 11
Dagenais v Canadian Broadcasting Corp., [1994] 3 SCR 835	App BOA 12
Doré v Barreau du Québec, 2012 SCC 12	App BOA 13
Irwin Toy Ltd. V Quebec (Attorney General), [1989]1 SCR 927	Interveners' BOA 9
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McKenzie Forest Products Inc v Ontario Human Rights Commission, (2000) 48 OR (3d) 150 (ONCA)	Interveners' BOA 12
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R v Big M Drug Mart, [1985] 1 SCR 295	App BOA 28
R v Edwards Books and Art Ltd., [1986] 2 SCR 713	App BOA 31
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Syndicat Northcrest v. Amselem, 2004 SCC 47	App BOA 44
Trinity Western University v BC College of Teachers, 2001 SCC 31	App BOA 46
Trinity Western University v LSBC, 2015 BCSC 2326	TWU BOA 27
Vriend v Alberta [1998] 1 SCR 493	App BOA 48

APPENDIX "B" STATUTES & REGULATIONS

STATUTES, REGULATIONS, and JOURNAL REFERENCES	TAB
Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act, 1982* being Schedule B to the *Canada Act, 1982*	App BOA 53
Civil Marriage Act, SC 2005 c 33	TWU BOA 31
Human Rights Act, RSNS 1989, c 214	App BOA 60
The *Legal Profession Act*, SNS 2004 c 28	App BOA 61
National Mobility Agreement, Federation of Law Societies of Canada, 7 December 2002	Interveners' BOA 38
Newman, Dwight G., *On the Trinity Western University Controversy: An Argument for a Christian Law School in Canada* (June 22, 2013) 22:3 Const. Forum 1-14, revised version of presentation to Canadian Association of Law Teachers (CALT) Annual Meeting in Victoria, British Columbia, June 4, 2013	Interveners' BOA 39
Pearce & Ulman, "Religious Lawyering in a Liberal Democracy: A Challenge and An Invitation" 55 Case Western Reserve L Rev (2004) 127	Interveners' BOA 42
Pearce & Uelman, *Religious Lawyering's Second Wave*, 2006 J. Law & Religion 269-281 (2005-2006)	Interveners' BOA 43