



February 21, 2014

Faculty of Law, University of Calgary

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Dear Professors:

RE: Accreditation of Trinity Western University School of Law

Thank you for your letter dated January 28, 2014, and for taking the time to express your thoughts about the Law Society of Alberta's delegation of accreditation for Canadian common law degree programs to the Federation of Law Societies of Canada.

I will share with you the background to and rationale for our decision.

In 2010, Canada's provincial and territorial law societies agreed on a uniform national requirement for the competencies and skills an applicant for admission to the bar must attain through their law degree. As part of creating that requirement, the Federation consulted the Deans of Canada's law schools, and concluded that the accreditation process should be used to drive consistency in admission criteria across

the country, while not interfering with academic freedom, innovation, and each institution's responsibility for its own academy, programs and teaching methods.

As your group appreciates, the national requirement will apply to graduates of all Canadian common law schools effective in January 2015. All common law degree programs – currently 83 -- will then be reviewed annually by the Federation's Canadian Common Law Program Approval Committee. Any new law degree program receiving preliminary approval from the Approval Committee will be subject to annual review to ensure compliance with the national requirement.

The national requirement is dependent on clear criteria, applied consistently throughout the country, administered by a single committee with the necessary expertise and experience drawn from multiple jurisdictions. A patchwork approach to the common law degree approval process – applying different factors, in different ways, and reaching different results from jurisdiction to jurisdiction – is inconsistent with establishing and maintaining national standards.

Since the Law Society of Alberta supports the national requirement, in December 2013, prior to the release of the Federation's decision about the Trinity Western University application, our Benchers delegated the accreditation of all common law degree programs to the Approval Committee. This step fully implemented the Benchers' policy decision from 2011 to adopt the national standard. As a consequence, the Approval Committee's decision to grant preliminary approval to the proposed Trinity Western University common law degree is recognized by our law society.

While provincial and territorial regulators undoubtedly have a mandate to assess admission standards, our law society has concluded that Canadian law societies need to maintain and endorse a national approach to defining and applying those standards. We took that decision because the mobility rules flowing from the National Mobility Agreements and the Agreement on Internal Trade compel a consistent approach to the approval of law degree programs. Mobility creates a high level of interdependence among Canada's law societies since a lawyer licensed by any one law society is essentially entitled to practise law in every other Canadian jurisdiction.

Mobility is a client focused approach to regulation. Clients and their work frequently cross provincial and territorial boundaries. The mobility regime was undertaken in the public interest, and facilitates clients' choice of counsel, promotes efficiencies for lawyers with multi-jurisdictional practices, and encourages competition. We cannot have contradictory approval criteria and outcomes across the country, risking the result that a Canadian common law degree is recognized in one jurisdiction but not another, and a lawyer's qualifications are accepted in one jurisdiction but not another. Inconsistent decisions would tear away at the fabric of national mobility.

Your letter questioned whether the delegation to the Federation was authorized under the *Legal Profession Act*. While I appreciate the perspectives outlined by your group, the authority to delegate is expressly provided by section 37 of the Act. Subsection 37(1) of the Act addresses the Law Society's evaluation of the academic qualifications of applicants for enrolment as members of the society or for admission as students-at-law. Section 37(2) provides that the Benchers may make rules dealing with any of the matters referenced in subsection (1). Subsection 37(3) specifically authorizes the Benchers to "retain one or more third parties to carry out any of the responsibilities referred to in subsection (1)" and that they may "make rules in that regard". The Benchers delegated to the Approval Committee in accordance with that authority.

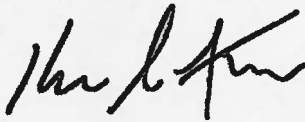
Your letter encouraged the Law Society of Alberta to work with other law societies to consider amending the law degree approval criteria to address the issues raised by a Trinity Western University law school and that institution's Community Covenant. Last month, our law society communicated to the other Canadian law societies and the Federation that a review of the existing criteria by the Federation is advisable. That is consistent with the recommendation of the Federation's Special Advisory Committee that the possibility of a non-discrimination provision should be discussed.

While a review of the approval criteria is prudent so that all stakeholders may voice their concerns and provide insight, I want to be clear that the Law Society of Alberta has taken no position at this time on whether there should be additional approval criteria, or what those criteria might entail.

As your group appreciates, part of the challenge for a non-discrimination provision is how to balance competing *Charter* and human rights values, such as freedom of religion and equality rights, and how to address the tension between competing values within the accreditation process.

In closing, I want to thank you for taking the time to share your views on these important issues. If the Federation undertakes a review of the approval criteria, as our law society hopes they will, I would encourage your group to assist in the discussion by providing submissions. The public consultation should be national in scope, and engage all perspectives.

Yours truly,

A handwritten signature in black ink, appearing to read 'Kevin Feth', written in a cursive style.

Kevin Feth, QC
President, Law Society of Alberta