

John V. Carpay
Barrister and Solicitor
#253, 7620 Elbow Drive SW
Calgary, Alberta, T2V 1K2
Phone: (403) 619-8014
Email: jcarpay@shaw.ca

February 23, 2011

Mark Crobie, Associate Legal Counsel
Chad Hyson, Vice-President, Students
University of British Columbia
6328 Memorial Road
Vancouver, BC, V6T 1Z2

Mr. Crosbie and Mr. Hyson,

Re: meeting with Lifeline to discuss Lifeline's March 10th event

I write in regards to Lifeline's March 10th event, and your invitation to meet with Lifeline to discuss same.

As a UBC campus club, Lifeline expects adherence to the following basic principles:

1. All UBC students have a right to express their views and opinions peacefully on campus, regardless of the content of those views and opinions; this is a legal right, and is not a privilege conferred on students by UBC or by the AMS.
2. All UBC students have a right to be free from discrimination in respect of the content of their opinions; majority and minority views have an equal right to be expressed on campus.
3. Neither UBC nor the AMS has a right to censor (whether entirely or partially) the expression of opinion on campus by UBC students, whether students are acting individually or through a campus club. The only exception to this would be in regards to Criminal Code provisions prohibiting hate speech.
4. Censorship can take the form of UBC and/or the AMS imposing various restrictions on one club that are not imposed on other clubs, or censorship can take the form of UBC allowing the rule of law on campus to be replaced by mob rule, whereby adherents to the majority opinion effectively shut down, shout down, cover over, or otherwise interfere with or suppress the expression of minority opinion on campus. Both forms of censorship are illegal.
5. UBC has a legal obligation to uphold the peaceful expression by students of minority views without harassment, intimidation, or threats of intimidation by adherents of the majority view. The right to free expression does not include or entail any right to silence, interfere with, impede, obstruct, or shut down the expression of another person.
6. UBC has a legal obligation to refrain from discrimination in the application and enforcement of rules, particularly as it regards the rights of students to express minority opinion. UBC cannot impose restrictions on the number, size, or location of signs, posters or banners used by students expressing a minority opinion that are not equally applied and enforced on all UBC students and campus clubs, without discrimination based on the content of the view or opinion.

7. Adherents to minority opinion have a right to feel safe on campus and receive appropriate protection from harassment, intimidation, violence, and threats of violence on the part of adherents to majority opinion.

These seven basic principles are consistent with Policy 107 (Short-Term Use of University Space).

These seven principles are also consistent with UBC's own statement on academic freedom:

"The members of the University enjoy certain rights and privileges essential to the fulfillment of its primary functions: instruction and the pursuit of knowledge. Central among these rights is the freedom, within the law, to pursue what seems to them as fruitful avenues of inquiry, to teach and to learn unhindered by external or non-academic constraints, and to engage in full and unrestricted consideration of any opinion. This freedom extends not only to the regular members of the University, but to all who are invited to participate in its forum. Suppression of this freedom, whether by institutions of the state, the officers of the University, or the actions of private individuals, would prevent the University from carrying out its primary functions. All members of the University must recognize this fundamental principle and must share responsibility for supporting, safeguarding and preserving this central freedom. Behaviour that obstructs free and full discussion, not only of ideas that are safe and accepted, but of those which may be unpopular or even abhorrent, vitally threatens the integrity of the University's forum. Such behaviour cannot be tolerated." [underlining added for emphasis]

Further, these seven principles are consistent with remarks made by UBC President Dr. Stephen Toope, as quoted in the Globe and Mail in 2008:

"I do think there are some boundaries to free speech even within universities. I would keep them to a minimum, however. My starting proposition is that speech advocating violence is unacceptable. So too is speech that constitutes merely a personal attack, without reasoned argument. However, for the latter type of speech, I would rely on the laws of libel to protect people, not prior censorship. For speech advocating violence, I am more open to prior restraint because the effects can be dangerous and pernicious. The hardest set of issues revolves around speech (or academic debate) that calls identifiable groups into disrepute. This ranges from "hate speech", where an identifiable group is vilified, to speech that is "disrespectful". As you probably know, the Canadian Criminal Code contains provisions sanctioning "hate speech". These provisions were added upon the recommendation of a sterling group chaired by former McGill Dean of Law, Maxwell Cohen. I support those provisions because I think that they properly balance the need for robust free speech and the need to protect groups from vilification that can lead to violence and abuse. The most difficult case is when someone says "hurtful" things. In such cases, I would not favour any prior restraint. I think that the best way to address hurtful speech is through debate and challenge."

"One of the reasons that I have entered into the discussion about robust debate on university campuses is that over the last few years in Canada we have seen many examples of students trying to shut down speakers with whom they disagree. I do not think that this approach represents the majority of students by any means, but it is worrisome nonetheless. I firmly believe that the role of the university is to encourage tough questioning, and clear expressions of disagreement, but not the "silencing" of alternative views. Universities are sites for the contestation of values, not places where everyone has to agree. That means that speakers we don't like, or even respect, should be allowed to put forward their views, subject only to the

limitations that I have suggested in my response to other online questions: the promotion of violence or group vilification. The views can then be challenged and argued over.”

Further, you are no doubt aware of what the Supreme Court of Canada has said about the importance of free expression to democracy, society, individual self-fulfillment, and the pursuit of truth.

Unfortunately, the seven principles set out above have not been adhered to by UBC in the past. In March of 2010, and on numerous occasions in the past decade, UBC has repeatedly condoned the suppression of Lifeline’s peaceful expression by loud mobs which effectively shouted down, covered over, and suppressed Lifeline’s peaceful expression of its own opinions. What transpired with Lifeline’s most recent GAP display in March of 2010, aspects of which can be readily viewed on YouTube, was particularly egregious. However, what transpired in March of 2010 was sadly representative of what UBC has condoned on numerous occasions, in blatant disregard of UBC’s own policies on academic freedom. Further, UBC has singled out Lifeline for various restrictions on its expression (eg. the number and size of Lifeline’s signs, the number of times per year that Lifeline can set up its display, the number of hours that Lifeline can set up its display, the location where Lifeline can set up its display) which are not applied to any other campus club. This is both censorship and discrimination, and an unacceptable violation of the seven principles set out above. Past protests on UBC’s campus in regards to George W. Bush, the 2010 Olympics, Michael Ignatieff, animal rights, and homelessness, did not face any of the restrictions which UBC has previously imposed on Lifeline. It would not be difficult to provide you with many more examples of other views, and other campus clubs, whose expression is not restricted in any way by UBC.

Lifeline is ready, willing and able to meet with UBC to discuss its March 10th event, and Lifeline will insist that the seven principles be adhered to in our discussions and effectively implemented at the March 10th event.

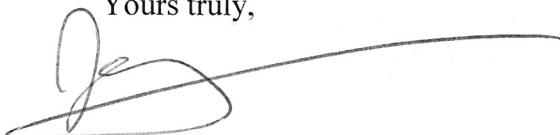
Please advise me as to whether UBC agrees with the seven principles set out on the first page of this letter. If UBC disagrees with any of these principles, please advise as to which one(s), and your grounds or basis for disagreement.

Lifeline has requested that I be present at this meeting by way of telephone. Co-counsel for Lifeline, B.C. lawyer Marion C. Randall, will also be present at this meeting, joining you in person.

I will not ask you to refrain from communicating with my clients. I do, however, request that you copy me on your correspondence to my clients.

I look forward to hearing from you as to proposed dates and times for our meeting.

Yours truly,

A handwritten signature in dark ink, appearing to read 'John Carpay', with a long horizontal flourish extending to the right.

John Carpay

cc. Ania Kasprzak, President, Lifeline
Marion C. Randall