



Justice Centre for Constitutional Freedoms

February 19, 2016

VIA EMAIL TO: robin.everall@ualberta.ca
AND VIA EMAIL TO: studentgroupevents@ualberta.ca

Dr. Robin Everall

Interim Vice-Provost and Dean of Students

Chelsea Livingstone

Student Event Risk Management Coordinator

Office of the Dean of Students

5-02 Students' Union Building

8900 114 Street

University of Alberta

Edmonton, AB T6G 2R3

Dear Dr. Everall and Ms. Livingstone,

RE: Appeal of Decision on UAlberta Pro-Life Event, February 23-24, 2016 (the “Event”)

As you are aware, the Justice Centre is counsel for the campus club, UAlberta Pro-Life (the “Club”). I write in regards to Chelsea Livingstone’s email to Katie Campbell of February 12, 2016 (copy attached) with the decision of the Dean’s office (the “Decision”) in regards to the Event.

I write to request the University’s reconsideration of the Decision, pursuant to section 5, paragraph 8 of the Student Groups Procedure.

The conditional approval of the Event contingent on the receipt of a \$17,500 security assessment for the Event (the “Security Assessment”) is tantamount to a rejection of the application for approval of the Event. As a reasonable person would suspect and anticipate, my clients are unable to pay this \$17,500 Assessment, especially not when confronted with this demand approximately a week prior to the Event. The members of the Club are students with very limited means. “Limited means” does not mean that they are without legal rights, however.

In considering this request for a reconsideration of the Decision, I ask that you consider the below points.

First, the contemplated Event is a legitimate form of expression that makes a valuable contribution to University society. The advancement of various views, even if unpopular, enriches us all, and is essential to our democracy. It is fundamental. The repression of such expression (through whatever means) conversely damages our society. Freedom of expression is explicitly protected by the *Charter*, but also predates the *Charter* – see, for example, *Switzman v. Elbling*, [1957] S.C.R. 285; *Saumur v. City of Quebec*, [1953] 2 S.C.R. 299.

Second, the students who are members of UAlberta Pro-Life formed and joined the Club for the purposes of advancing their views and beliefs on campus in an exercise of their democratic and *Charter* rights, and other legal rights. These rights have been consistently and repeatedly protected by the Courts.

Third, the University bestowed official club status on UAlberta Pro-Life. The Club values its official club status, but that status is rendered meaningless if the Club is effectively prevented from expressing its opinions on campus. Certain rights adhere to an official club at the University, but these rights have been either stripped from the Club or severely curtailed through no fault of the Club. The Club does not deserve to be punished with a \$17,500 invoice for the unauthorized actions of misbehaving students (the “Misbehaving Students”) who violated the *Code of Student Behaviour* (s. 30.3.4(1)b; s. 30.3.4(1)c) by disrupting and obstructing the March 3 and 4, 2015 event last year (the “March Event”). The March Event was referenced repeatedly in the Decision as the reason for the imposition of the Assessment. I would note that there was no security assessment for the March Event.

As you are aware, prior to the March Event, students spoke publicly on Facebook and other social media of their plans to blockade and disrupt the March Event. These soon-to-be Misbehaving Students were warned in advance by then-President Samarasekera that their contemplated actions were improper. On February 27, 2015, President Samarasekera reiterated the University’s commitment to freedom of expression, stating that the Club had an equal right, on par with other recognized clubs on campus, to use the space of the University to express its views. She stated that any complaints would be investigated.

It cannot be disputed that the legitimate and University-authorized peaceful expression of UAlberta Pro-Life in 2015 was prevented and stifled by the Misbehaving Students to a significant degree at the March Event. The Misbehaving Students planned to blockade the Club’s display at the March Event, and publicly incited inappropriate behaviour, contrary to section 30.3.4(1)c of the *Code of Student Behaviour*, resulting in the obstruction and interruption of a university-related function. The Misbehaving Students were not engaged in freedom of expression at the March Event. Instead, the Misbehaving Students’ actions were entirely focused on preventing the Club’s freedom of expression, not on creating expression of their own. This is a key point that was apparently lost on Discipline Officer Chris Hackett, as is evident from his February 4, 2016 decision upholding UAPS’ decision not to investigate the Misbehaving Students (copy attached, see specifically page 2, paragraph 3).

Fourth, the Club has repeatedly demonstrated good faith and a willingness to comply with the University’s regulations in making applications, submitting requested materials, and following the appeal process when necessary. This is in sharp contrast to those students who wished to stifle and prevent the expression of the Club’s views, and who acted in direct contravention of then-President Samarasekera’s warnings and directions on the March Event.

Fifth, the University has chosen not to investigate and prosecute those Misbehaving Students who planned, coordinated and executed a raucous blockade of the March Event. The University’s indifference to the impropriety of the conduct of the Misbehaving Students, and its

refusal to investigate and prosecute the individuals responsible, should not be utilized to justify the imposition of an onerous \$17,500 Assessment on the Club. This would be highly improper, arbitrary, and a breach of reasonableness and natural justice. If the University was sincere about establishing and maintaining order on campus, to facilitate the peaceful expression of divergent views, the University would investigate those who coordinated and planned to disrupt such expression. Instead, through this demand for \$17,500, the University is preventing the legitimate, legal, and peaceful expression of opinion by a registered campus club.

In my respectful submission, the Decision imposes an insurmountable and unjustifiable hurdle that prevents the Club's freedom of expression. The Club has complied with the application requirements, and since then repeatedly submitted additional information when requested to do so.

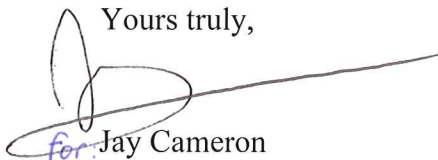
Without a doubt, inherently dangerous activities (such as entertainment events coupled with the consumption of alcohol) may justify the imposition of a security assessment. Peaceful expression of opinions, however, including by way of a stationary display that poses no physical danger of any kind to anyone, should not be subject to security assessments. The discussion of ideas is a right in our society, particularly on a university campus. If everyone was required to have security around them in order to say something others might disagree with there would be no free discourse.

The discussion of ideas should not incite violent behaviour from those who disagree, especially in a university setting, an institution of learning. Self-control and accountability are hallmarks of the rule of law in our society, which the University should encourage in the student body. I presume the University does not levy security assessments against professors who teach on controversial topics and espouse unpopular theories. Rather, the University expects students to master themselves, with emotions under the control of intellect and reason. There is no reason why the University should not expect and require accountability from the student body on this issue, either.

For all of the above reasons, I respectfully request that you reconsider the imposition of the security assessment on the Club for the Event.

We look forward to hearing from you soon given the nearness of the Event. Thank you for your consideration.

Yours truly,

A handwritten signature in black ink, appearing to be "Jay Cameron", with a long horizontal line extending to the right.

for: Jay Cameron

Solicitor for Amberlee Nicol, Cameron Wilson, and Katie Campbell