

7 October 2013

Dr. James Turk
Executive Director, CAUT
2705 promenade Queensview Drive
Ottawa, Ontario K2B 8K2

Dear Dr. James Turk:

The administration of King's is in receipt of the September 24th CAUT report authored by professors Jonathan Haxell and Albert Katz, which was recently released publicly by CAUT.

As we have consistently stated, the administration of King's University College's two-fold focus has been, and continues to be, the maintenance of a campus environment that is collegial, safe and free from discrimination and harassment, and the transparent application of King's well-established policies, including the defense of academic freedom. All King's policies are the product of either a) the development and approval of our institution's College Council, of which the majority membership is comprised of faculty, or b) collective bargaining with our various associations (including the KUCFA). Additionally, these policies are informed by provincial and federal legislation, and CAUT best practices.

We begin by stating it is deeply disappointing to us that CAUT does not acknowledge the independently-determined harassing and unprofessional actions of Mr. Luckhardt in this matter. His disturbing emails, sent to the administration of King's and, most curiously, to the Provost of Western University, who had no standing in this matter, contained explicit personal and professional criticism of two junior female faculty members. Moreover, Mr. Luckhardt's emails to administrators specifically stated his expectation that his former colleagues should not be promoted. We do not share the CAUT report's conclusion that Mr. Luckhardt's comments to his colleagues (characterized by the independent investigator to be "vexatious, vitriolic, inappropriate, inflammatory, accusatory, objectionable, and harassing") constituted, in Katz and Haxell's words, "an expression in good faith of concern for the quality of academic decision."

You should not be surprised, then, that we re-iterate (yet again) that the King's administration makes no apology for supporting two junior King's female faculty members who were attacked in writing by a former part-time instructor who was acting outside the appropriate forum for substantive criticism in a manner that clearly transgressed the King's *Harassment and*

Discrimination Policy, the King's *Conditions of Employment for Faculty* (3.2), and this community's fundamental understanding of natural justice and professional conduct.

In this very brief response to the report, we repeat our position that the CAUT conclusions are erroneous, as they are based upon a plethora of factual errors, assumptions and important, even curious, omissions. Most importantly, however, all the CAUT conclusions are founded on two significant premises, one misplaced, the other factually incorrect. They are, as follows:

- 1) CAUT's assertion that the Academic Dean of King's (with the knowledge of the Principal) should not have shared Mr. Luckhardt's emails with the Chair and faculty in the department at the heart of the Luckhardt criticisms **violates every principle of natural justice that underlies the integrity of our academic community and the policies of King's.**

The CAUT Committee apparently believes that the harassment suffered by departmental colleagues accused of professional and personal misconduct was perpetrated not by the actual harasser (Luckhardt), but by the administration that informed the departmental leadership about the harassment. This is, to say the least, an unusual approach to the issue of personal and professional responsibility.

We remind you that Mr. Luckhardt's extensive and repeated personal written attacks were directed against two junior female members of the KUCFA and he veiled his inappropriate comments within a narrative of hearsay about the departmental review derived from a secondary source. It is especially significant that Mr. Luckhardt addressed his expectations to administrators **with his specific direction not to promote the so-called female conspirators.**

It is our view that **transparency, natural justice and the policies of King's demand that those accused of professional misconduct should be informed of their apparent misdeeds.** But more importantly, and contrary to the inverted logic of the report, the sharing of such material is part of our community and legal obligation to provide all members of our community a harassment-free workplace. If Mr Luckhardt did not wish his vitriolic, inflammatory, vexatious, and objectionable comments made known to the Chair of the department and to the former colleagues whom he maligned, he ought not to have circulated them to the administration here at King's and to senior administrators at Western University...twice! Nor do we share the conclusion in the report that Mr. Luckhardt was primarily motivated by a criticism of the administration's role in the SJPS program review. It is our opinion, and that of the external reviewer, that **Mr. Luckhardt was appealing directly to the King's administration to damage the professional reputation and employment progression of his former colleagues.** As the external investigator concluded,

"Luckhardt's communications were directed to those who exercised potential authority over...their respective career prospects within the College; ...The said communications

were clearly intended to block or negatively affect their prospects of advancement to positions of decision-making authority.”

CAUT’s conclusion states that Mr. Luckhardt was free to exercise his academic freedom in a wholly inappropriate attack of his former colleagues (**we do not disagree that he indeed had, and maintains, this right**). CAUT’s astounding position that Mr. Luckhardt’s personal and professional criticisms of colleagues and the program should have been protected within the confines of secrecy and anonymity and not shared with the faculty leadership in the department **is not supported by the administration**. Moreover, the CAUT report takes great pains to characterize the Luckhardt emails as “private letters”, a curious conclusion given that **Mr. Luckhardt never indicated or requested confidentiality** of his correspondences, which he shared more than once across two campuses.

- 2) CAUT’s assertion that the administration released privileged information about a KUCFA grievance of the discipline imposed on Mr. Luckhardt to a KUCFA member with no standing but with an interest in the case **is simply not factual. We can only conclude that the investigators were misinformed in their investigation, or made unjustified assumptions about how it came to pass that the KUCFA withdrew its grievance.**

As the CAUT report confirms, the existence of the confidential report of the external investigator finding Mr. Luckhardt in violation of King’s policies, and the details of the KUCFA grievance were made known to CAUT at a very early stage. It was a matter of discussion within the King’s faculty community that **CAUT discussed these details at its members’ meeting long before KUCFA addressed the grievance here at King’s**. We refrain from speculating on how this privileged and confidential information found its way to Ottawa and back to the broader King’s community (we are not party to this information), but **we can state categorically that CAUT’s assertion about the administration’s actions within the King’s community is false**; the administration was not the source, nor did it release confidential material to any third party.

For these reasons, we dispute CAUT’s conclusion that Mr. Luckhardt’s academic freedom was violated. Mr. Luckhardt’s ability to express his opinion on any matter was never constrained. He was an active participant in the program review while he was employed at King’s as a part-time instructor; in fact he was reimbursed by the Dean for his travel expenses to extra-ordinary meetings at King’s held for this purpose. His post-retirement communiqués were not shelved; in fact, they were passed directly to the department Chair who was responsible for the program in question as the department constituted the ‘appropriate forum’ for any such commentary. The administration did not initiate (directly or by proxy) the harassment proceeding that found Mr. Luckhardt to be in violation of King’s policy. It was Mr. Luckhardt’s public actions that prompted a KUCFA member to undertake a formal harassment complaint.

Finally, with regard to the CAUT report’s four recommendations, our response follows:

CAUT recommendation #1: The ban preventing Professor Luckhardt from entering the campus of King's University College without permission from the Principal is rescinded.

We have stated directly to CAUT representatives on several occasions, both in writing and verbally, the rationale and conditions of discipline imposed on Mr. Luckhardt, who maintained that, as a former employee of King's, he was not subject to the application of the College's policies. Here, in order to avoid repetition, we quote directly from the Principal's February 15, 2013 letter to CAUT representatives Katz and Haxell:

Mr. Luckhardt "has indeed been banned from the King's campus (as our policy provides for in such cases), but this is certainly not a life-time or permanent ban. The crux of this is that the respondent (Luckhardt) maintains, erroneously, that King's policies do not apply to him. They do. It is my legislated and collegial responsibility as Principal of King's to maintain a campus that is safe and free from persistent discrimination and harassment. As a result, it is my express duty to ensure that all faculty, staff, and visitors at King's understand and comply with the University College's policies."

RESPONSE: As has always been the case, the King's administration would be more than happy to rescind this ban on Mr. Luckhardt should he choose to acknowledge to the Principal in writing that:

- a) King's University policies on Harassment and Discrimination did, and still do, apply to him, even if only as a visitor to campus (as our policy provides);
- b) He has indeed violated these well-promulgated policies, as the external investigator's report confirmed;
- c) He commits to abide by King's policies when next on campus.

CAUT recommendation #2: Professor Luckhardt be invited, if he so wishes, to resubmit an expression of his concerns regarding plans for the future of the Social Justice and Peace Studies program, absent the comments regarding his former colleagues that accompanied his earlier letters.

RESPONSE: Mr. Luckhardt is free to submit any commentary he chooses to any member of the King's community. He has never been prevented from doing so, nor will he be now.

CAUT recommendation #3: The Administration and Faculty Association work together to revisit the King's University College Harassment and Discrimination Policy in order to balance academic freedom considerations with protections from harassment and discrimination.

RESPONSE: Of course, we have no objection to the King's community addressing ongoing improvements to our policies, including the King's *Harassment and Discrimination Policy*. We have a robust process for doing so through our College Council Committee for Policy Review. In fact, the very *H&D* policy in question was updated, revised and approved as recently as 2011 (just prior to the receipt of Luckhardt's emails), with a broad-based

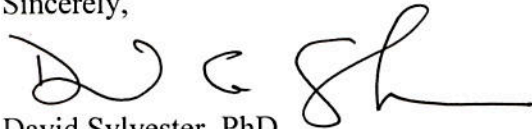
representation of faculty, which included the former SJPS Program Coordinator referenced in the CAUT report.

CAUT recommendation #4: The academic community at King's work to develop a set of policies and guidelines that reflect appropriate professional conduct and best practice with respect to the release of private and privileged information by the Administration.

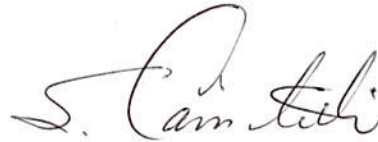
RESPONSE: As stated above, King's is committed to continual renewal and improvement of its policies, so recommendation #4 is acceptable, save for the fact that it fails to acknowledge existing policies regarding confidentiality, which are not limited to administration and include all stakeholders in the implementation of policy, including members of the King's faculty.

In conclusion, we do take this opportunity to restate that the administration of King's takes very seriously its obligations to uphold the policies and principles of natural justice upon which our academic community relies. We are confident that we have acted with integrity and transparency throughout this affair, in concert with the well-established College policies and provincial legislation.

Sincerely,



David Sylvester, PhD
Principal



Sauro Camiletti, PhD
Academic Dean

CC Mr. K. Luckhardt
Dr. J. Haxell
Dr. A. Katz
Dr. P. Ibbott and Faculty Association Executive
Dr. Alan Pomfret, Chair, Dept. of Interdisciplinary Studies