

November 22, 2023

## **Summary of Findings from Pink Larkin Report on Allegations of Improper Conduct at Crandall University, presented to the Crandall University Board of Governors on November 15th, 2023**

### **Introduction and Mandate**

The law firm Pink Larkin was contacted in March of 2023 to inquire about its availability to investigate various anonymous allegations against an employee or employees. After an interview process with the Crandall Board of Governors and another with elected student leaders from the Crandall Student Association and Crandall's Graduate Student Society, the firm and its principal investigator, Joël Michaud, K.C., were formally engaged by Crandall University in April 2023, to conduct an investigation. Michaud is a long-term member of the Ethics Committee of the Law Society of New Brunswick and a widely-recognized, experienced, independent investigator.

On or about April 20, 2023, Crandall University sent a communication to students and staff inviting anyone to contact Mr. Michaud directly if they wanted to report any incident of harassment, assuring individuals that interviews would be conducted confidentially.

The wider University community, including alumni and former employees, was made aware of the investigation by means of the University's website and by word of mouth.

Numerous individuals contacted Mr. Michaud to speak about incidents that reportedly had taken place at Crandall at various times, which includes some of the matters raised in a "Crandall Open Letter" that was posted online on or about April 8, 2023, and signed by some 70 alumni.

The report focuses on (*what the investigator believed to be recent or current*) issues that need to be addressed urgently for the benefit of all concerned.

The report states that the fact that this was an anonymous process, and that those who came forward were assured their identity would be protected, created challenges. In some cases, it was simply impossible to pursue a line of inquiry, including following up with others involved or accused of wrongdoing, without revealing the identity of the first source. The investigator was given consent to use information which would undoubtedly allow certain people to easily guess the source of the information. The investigation focused on concerns or allegations at Crandall that included sexual assault, inappropriate behavior by a specific professor, and other related issues.

### **Investigation Process**

After being contacted by various individuals, numerous interviews were conducted by the investigator in May, June, July, and August 2023.

An in-person interview was conducted with the subject faculty member in September, followed up by email exchanges. In addition, information was gathered to seek additional witnesses. Three more witnesses were interviewed in November 2023.

The investigator reported that all students and former students he spoke with were “thoughtful, eloquent, and honest; quick to acknowledge the difference between what they could speak to from personal experience, and what was based on speculation or third-hand accounts.”

## **Policies and Practices**

At the time of the investigation, Crandall has had a Faculty Handbook of some 114 pages which addresses, in the words of the investigator, “many of the matters one would typically find in a collective agreement.” It also includes an “Harassment Policy and Procedure” (the Harassment Policy) as well as a Workplace Violence policy. These two policies apply to staff members, volunteers, contract employees, Board of Governors members, and to students. The stated goal of these policies is the protection of the whole University community. The Harassment Policy is also included in an Appendix to the Student Handbook.

The “Recommendations” section of the report focuses on updating and strengthening Crandall University’s Policies and Procedures.

## **Analysis**

The investigator spoke with a number of persons who shared unpleasant experiences they had lived through or heard about when they were students, and stories they otherwise found to be of concern. The majority of these experiences had never been reported to Crandall. Where information had to do with an incident they had heard about and believed to be true, the investigator encouraged the interviewee to be in touch with persons who could speak to the issues from personal knowledge. The investigator acknowledged the difficulty of dealing with matters that were never reported to Crandall, and issues regarding which the investigator was not able to obtain first-hand information.

With respect to the social media posts and anonymous allegations that were a key to the initiation of this investigation, some are unrelated to the subject faculty member, and others, again not involving this faculty member, date back as far as 20 years. While the information provided in these posts, or rather the information obtained directly from interviewees, provides a useful background and cultural context, it is the faculty member referenced in many of the posts which appear to be the catalyst for the *#DoBetterCrandall* Instagram “movement.”

## **Inappropriate Behavior by a Faculty Member**

The investigator spoke personally to many of the students and former students who have shared their experiences on the *#DoBetterCrandall* Instagram account. The investigator reports being satisfied that: 1. The incidents reported occurred as the witnesses described them to the

investigator; 2. In many cases, the reported experiences were extremely painful to them, in some instances worsening the anxiety which already afflicted them; and 3. None were motivated by animosity toward Crandall. They all genuinely wish for this process to make Crandall a better place, particularly a more welcoming place for female students.

Many of the Instagram posts referenced the subject faculty member. An interviewee described him as "... having an incredible reputation for being brash and a bully." And according to the investigator, while being brash and somewhat bullyish in academia is not necessarily the exception, the line is crossed where the behavior rises to the level of harassment, or abuse of authority.

- **Classroom Behavior**

(The subject faculty member) has acknowledged that he was spoken to about his "stories" by Crandall President, Dr. Bruce Fawcett, some time before the Instagram account was set up, following complaints by "2 or 3 students." The investigator stated that he did not think the faculty member set out to harass or to sexually harass students—or even to bully them by abusing his authority. However, that irrespective of his intention, his demeanor in class, and particularly his interactions with certain (female) students, created an unwelcoming environment and, in some cases, anxiety. In the investigator's review, the faculty member ought to have known that his antics and his sense of humor were unwelcomed and unappreciated. In the investigator's view, jokes (or stories) that might have come across as charming 25 years ago are no longer acceptable. In the investigator's view, they constitute sexual harassment and that his behavior "bordered on Abuse of authority, as that term is defined in the Policy." The investigator states that he believes "his antics detrimentally affected the learning environment." In the investigator's view, the faculty member's conduct with some of his students in the classroom was unwelcome, it was of a sexual nature (which includes gender-based comments, sexist remarks, comments about a person's looks, dress and appearance). The conduct was found to be persistent.

- **Alleged Termination for Similar Behavior**

One of the anonymous tips on the Instagram account states the following: "There are many stories at (the faculty member's previous employer) as at Crandall. Shout out to Crandall – as (his previous educational institution) simply removed him from his position, allowing him to move to another school and affect more unsuspecting victims."

In the interview by the investigator, (the faculty member) was asked directly, "was there ever a sexual harassment complaint made against you at (previous institution)?" His reply was "I do not see how it's in my interest to answer that question." At another point, he responded, "there was no open complaint at the time of my leaving." He also stated (words to the effect) that, at (previous institution), once a sexual harassment complaint is resolved, it's all confidential, it is kept confidential.

When the Instagram account was created, (the faculty member) went to Dr. Fawcett's office several times to express his displeasure and concerns about it. At one of those meetings, likely in April of 2023, he told Dr. Fawcett that while he was at his previous institution, a student had filed a complaint against him, that nothing had come of it: that the student had later told him that their complaint was all false. Even though he had been vindicated, he told Dr. Fawcett, the atmosphere was very bad and that's why he had moved to Crandall.

On this specific issue, (the faculty member) wrote to the investigator in October stating:

I did not misrepresent myself to Crandall University when applying for employment. I was under a legal obligation demanded by (previous institution) to avoid any specific reference to the terms of my leaving and I honoured that obligation. The Settlement Agreement you have seen mentions no specific complaints against me and were none of the sort alleged by parties you are investigating. The allegation, there that (previous institution) or I misled Crandall University is simply untrue, as is the insinuation that Crandall University acted improperly in hiring me.

Based on the investigator's assessment of all the evidence, and on his assessment of the credibility of the interviewees, he found it more likely than not that there were complaints by students, or at least one complaint from a student, at the previous institution alleging misconduct on the part of (the faculty member) which contributed to the end of his employment there.

The investigator stated that he found it more likely than not that, directly or by omission, (the faculty member) deliberately misled the interviewing committee of Crandall.

- **Dating a Student**

It has been alleged that (the faculty member) dated a student. (The faculty member) claims to have recently married a person who was once his student at Crandall. According to both (the faculty member) and the interviewee (the former student), their romantic relationship began in the Summer or late Summer of 2022. (The interviewee) was also (the faculty member's) student in courses taken in the Fall of 2020, in the Winter of 2021, and in the Winter of 2022. (The interviewee's) last course with (the faculty member) ended in April 2022. By that time, a friendship had blossomed between them, and he had retained her to do some work for him (activities unrelated to Crandall).

The investigator reviewed numerous emails exchanged between (the faculty member) and (the interviewee), which were provided by (the faculty member) at the investigator's request. The investigator stated that he cannot be certain that (the faculty member) has not omitted some communications which might have provided some indication that their romance had begun before they both said it did. The emails reviewed do not support the contention that they were "dating" or had begun a romantic relationship when she was his student.

Based on the information outlined above, the investigator would not conclude that this situation, from a legal perspective, demonstrates misconduct on the part of (the faculty member).

- **Inappropriate Communications with a Student**

(A student) contacted the investigator by email in June of 2023. She had questions for him “with the intent of potentially sharing some information.” She verbally shared the contents of some emails sent to her by (the faculty member) over a period of approximately seven months, which sounded, to the investigator, quite inappropriate. After a review of the “100 pages or so” of emails, permission was obtained from (the student) to share the emails with (the faculty member) and with Crandall, and to use them as needed in this investigation.

The investigator noted that (the student) did not engage in, or otherwise encourage, what he referred to as “the inappropriate banter” during these seven months.

According to the report, (the faculty member) does not dispute having written these emails. His response, according to the report, was:

This episode of email banter over of a two-year relationship was inappropriate, unhealthy, unbecoming of a professor and he would not defend it. It cannot be defended; It was inappropriate; It was something of an aberration from a long career; These were extreme circumstances that will not reoccur;... (and additional comments of explanation)

The investigator concluded that while it is true that (the faculty member) stopped sending such email messages on his own and he did not behave in person with (the student) in a manner akin to his written messages, the investigator found that this is “a classic case” of *grooming* - to use an expression (the faculty member) alluded to himself in one email to (the student). The investigator said that it is entirely possible that (the faculty member) corrected his behavior because it proved to be ineffective; he moved on. He was in a position of responsibility as a professor and also as an employer of (the student) and, in the view of the investigator, engaged in behaviour that constitutes sexual harassment.

The report states that (the faculty member) has pleaded his mitigating circumstances, and that, ultimately, Crandall will have to decide what sanction is appropriate, in light of all factors.

## **Other Issues**

Many years ago, two other incidents came to Crandall’s attention.

One involved inappropriate behavior involving a student by a professor off campus and was not reported quickly. When it was finally reported, it was dealt with through the policy outlined in the University’s Harassment Policy - the student received counseling and ultimately the professor’s contract was not renewed.

The second incident was not reported immediately either but when it was, it was immediately dealt with following the Harassment policy's procedures as outlined. The incident, as reported, involved two students. The police were brought in to investigate and assist.

Both incidents were brought to a relatively quick conclusion in alignment with the policy procedures although both students appear to have sustained ongoing trauma related outcomes. It is felt that Crandall did everything it could at the time to assist and provide support to both victims.

Additionally, it has been alleged that two other professors who have long since left Crandall had openly had affairs with students while employed at Crandall. (Referred to here as Professor 2 and Professor 3). In the case of Professor 2, the individual made the decision to leave Crandall and to relocate elsewhere, over a decade ago. The investigator believes that such concerns had never been raised with the Administration. In subsequent years, when a possible opportunity arose to invite Professor 2 back to teach a course at Crandall, it was reported to the Administration that he shouldn't be brought back because he had "offended the sensibility of some students" through crude comments made in class when he was at Crandall. He was not invited back.

Regarding Professor 3, inquiries with Crandall have revealed no record of concerns about an affair or anything else of that nature. His employment ended when the Senate denied his application (and appeal) for tenure; decisions based on his record.

## **Conclusion**

Regarding (the faculty member) who became the key subject of this investigation, the report states: In the short term, Crandall needs to decide what to do about (the faculty member). The investigator states: "I believe he is deserving of severe disciplinary action. Crandall needs to move quickly on this, and its actions need to be as transparent as the law on fairness and confidentiality allow.

The report concludes with a set of specific recommendations pertaining to a review of its Harassment Policy and Procedure, and the recommendation to undertake concrete plans to install a culture of openness and of transparency respecting matters that might historically have been considered taboo. The investigator states that he understands that this process had begun in 2022 or early 2023 but was suspended when Crandall retained Pink Larkin to do an investigation and awaiting recommendations.

Those recommendations follow in a separate summary.