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February 4, 2009

By Facsimile and United States Mail

Michael R. Orme
Assistant to the President
General Counsel
Brigham Young University
A-357 ASB
Provo, Utah 84602-1333
Fax: (801) 422-0265

Re: Chad Hardy v. Brigham Young University


Dear Mr. Orme:

Thank you for your letter of January 21. We fundamentally and strongly disagree with your assertion that the bases for the university's actions in this matter are either clear or established. Indeed, your letter offers yet another, entirely new basis: that Mr. Hardy's excommunication "acts as an ecclesiastical decertification of good Honor Code standing." Assuming Mr. Hardy was required to maintain a continuing ecclesiastical endorsement even though he had long since ceased attending the university, the Honor Code Office never notified him in writing of the "decertification," nor did it instruct him in the procedures for requesting an exemption to the ecclesiastical endorsement requirement, as it is required to do. As such, the university failed to give him notice and an opportunity to request an exception, which he would like to do since the basis for the "decertification" was his excommunication, and the basis for his excommunication was conduct that he does not believe violates the Honor Code. Unfortunately, just as the university has once again denied him notice and an opportunity to be heard in this regard, the church is denying him access to his ecclesiastical records so he can clear his name and make his case for university review and/or an exception to the ecclesiastical endorsement requirement. A letter to the church's attorney on that subject is attached for your reference.

Without waiving any objection or legal challenge to anything the university has done or failed to do, Mr. Hardy hereby requests an exception to the ecclesiastical endorsement requirement; a waiver, on the grounds of futility, of any requirement that he appeal that decision to the stake president who trumped up a non-existent basis for excommunication in the first place; and an explanation of the procedures to be followed, if the university believes that remedy is available to him.

In the meantime, I understand Mr. Hardy has scheduled his university review as well as his review of his complete academic file, which you are refusing to produce to me in its entirety, for February 13, 2009. I understand there will be no counsel present on behalf of the university. Please confirm. I also understand you are refusing Mr. Hardy the opportunity to make arrangements for a certified transcript of the proceeding. He will therefore instead make a tape recording. Please advise me of the university's position as to whether the proceeding is covered by Rule 408 as inadmissible settlement discussions so that I can be assured the university will not be able to use anything said in the proceeding in any subsequent litigation, which now appears exceedingly likely given the burden of proof you cite and the lack of any clear precedents or guidelines by which Mr. Hardy can present his case.

Sincerely,



Stephen C. Clark

cc: Chad Hardy