

Alan Nadel
Litigation Counsel

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July 19, 2010

Via Federal Express

Russell Gould, Chair
The Regents of the University of California
Office of the Secretary and Chief of Staff to the Regents
1111 Franklin Street, 12th floor
Oakland, CA 94607

Mark G. Yudof, President
UC Office of the President
1111 Franklin Street, 12th Floor
Oakland, CA 94607

Robert J. Birgeneau
Office of the Chancellor
200 California Hall # 1500
University of California
Berkeley, CA 94720-1500

Dear Sirs:

We want to make you aware that Syngenta Crop Protection, Inc. has submitted a formal ethics complaint on the University of California web-based Ethics Point system. Previous attempts to resolve an ongoing ethics issue regarding a University of California, Berkeley faculty member have not resulted in a resolution.

Over the past several years, Dr. Tyrone Hayes, a faculty member at the University of California, Berkeley ("Berkeley"), has subjected employees of Syngenta Crop Protection, Inc. ("Syngenta") to numerous harassing emails. These emails have not only been aggressive, unprofessional and insulting, but also salacious and lewd. We believe Dr. Hayes' behavior is in direct violation of University of California Statement of Ethical Values and Standards of Ethical Conduct, especially the third point regarding "Respect for Others."

These offensive emails to Syngenta employees began several years ago. Many of them are copied to scientists from other universities as well as scientists at the United States Environmental Protection Agency. Over time, Dr. Hayes' emails have become increasingly taunting, harassing and sexually explicit in nature. His February 13, 2009, email entitled "Are y'all ready for it," (attached as Exhibit A), is one of the most extreme examples. On May 2, 2008, Syngenta Crop Protection, Inc. submitted a letter to the Executive Dean of the College of Letters and Sciences of Berkeley, Mark Richards, regarding the harassing emails sent by Dr. Hayes to Syngenta employees. Several other members of the Berkeley administration have also been made aware of this matter. These include: Geoffrey Owen, former Dean of Biological Sciences; Mark Schlissel, current Dean of Biological Sciences; Michael Smith, Chief Campus Counsel and Associate General Counsel; Nancy Chu, Assistant Vice Provost/Title IX Office Campus Climate and Compliance; and Sheldon Zedeck, Vice Provost – Academic Affairs and Faculty Welfare.



On March 31, 2009, Assistant Vice Provost Chu and Dean Schlissel apparently met with Dr. Hayes regarding his emails. According to Ms. Chu's April 1, 2009, letter to Syngenta (attached as Exhibit B), Dr. Hayes "agreed that he will cease using any language that could be considered offensive or unprofessional in future email communications." Despite his assurances, Dr. Hayes continues to send harassing emails to Syngenta employees (see Hayes email dated February 24, 2010, entitled "and another one" attached as Exhibit C, Hayes email dated February 25, 2010, entitled "Re: ILL" attached as Exhibit D, Hayes email dated March 17, 2010 entitled "Ill-Noise Again" attached as Exhibit E and Hayes email dated July 7, 2010, entitled "What's going on now?!" attached as Exhibit F). Accordingly, Syngenta can only assume that any steps taken by the Berkeley administration to remedy this ethical violation have been ineffectual, thereby perpetuating an environment where such behavior as exhibited by Dr. Hayes could continue.

Over the years, Syngenta has worked to maintain an open and constructive dialogue with its key stakeholders. Given its commitment to transparency, Syngenta has elected to waive confidentiality in submitting this complaint. Syngenta fully acknowledges an ongoing difference of opinion with Dr. Hayes regarding its compound atrazine. While Syngenta has attempted to interact with Dr. Hayes on a scientific level, he has responded with the barrage of emails described above.

In good conscience, Syngenta can no longer continue to stand by and wait for relief while Dr. Hayes subjects its employees to personal, explicit and obscene communication. It is with full confidence in the ethical standards of the University of California that we submit this complaint for a swift and fair assessment.

Sincerely,

A handwritten signature in black ink that reads "Alan Nadel". The signature is written in a cursive, flowing style.

Alan Nadel
Litigation Counsel

H:\071910AN1:lca

Enclosures

Exhibit A

From: tyrone hayes [mailto:atrazinelovers@yahoo.com]

Sent: Friday, February 13, 2009 5:08 PM

To: XXXXXX USGR; XXXXXX USGR

Subject: are yall ready for it?

aww shucks...i'm bouta' handle my biz right now
see you bucked...wondering ... "what it is right now?"
ya outa' luck...bouta show you how it is right now
see you're ****ed...(i didn't pull out) and ya fulla my j*z right now!

Exhibit B

UNIVERSITY OF CALIFORNIA, BERKELEY

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

OFFICE OF THE CHANCELLOR
200 CALIFORNIA HALL #1500

April 1, 2009

Alan Nadel, Esq.
Litigation Counsel
Syngenta
P.O. Box 18300
Greensboro, NC 27419-8300

Re: Dr. Tyrone Hayes

Dear Mr. Nadel:

On March 17, 2009, University Counsel Michael Smith forwarded a request that my office look into a complaint of unprofessional or offensive emails sent to employees at Syngenta from Professor Tyrone Hayes. Dean Mark Schlissel and I met with Professor Hayes on March 31, 2009 to discuss the concerns regarding email communications from Professor Hayes about which Syngenta employees have complained.

Professor Hayes has acknowledged that some of the language in the email communications was unprofessional. He has agreed that he will cease using any language that could be considered offensive or unprofessional in future email communications. Should there be any further complaints of this nature, please do not hesitate to contact me.

Sincerely,

Nancy Chu
Assistant Vice Provost/Title IX Officer
Campus Climate and Compliance

cc: Mark Schlissel, Dean of Biological Sciences
Mike Smith, Assistant Chancellor – Legal Affairs
Sheldon Zedeck, Vice Provost – Academic Affairs & Faculty Welfare

Exhibit C

From: tyrone hayes [mailto:atrazinelovers@yahoo.com]
Sent: Wednesday, February 24, 2010 6:36 AM
To: XXXXX USGR; XXXXX USGR; XXXXX USGR; XXXXX USGR
Subject: Re: and another one

XXXXX,

how yo republican buddies ended up drinking gin with me last night? where were you? they were tellin me how you tried to tell them something about one of my figures in a paper from ten years ago. what's wrong with you boy? as long as you followin me round, i know i'm da sh*t. by the way, yo boy left his pre-written questions at the table!

"i try to tellin that i'm hotter than a burn in the third degree
than i try to tellin that ain't nobody in the world as hot as me!"

luda

--- On Tue, 2/23/10, tyrone hayes <atrazinelovers@yahoo.com> wrote:

From: tyrone hayes <atrazinelovers@yahoo.com>
Subject: Re: and another one
To: XXXXX@syngenta.com, XXXXX@syngenta.com, "XXXXX" <@syngenta.com; XXXXX@syngenta.com
Date: Tuesday, February 23, 2010, 3:26 PM

XXXXX...is your phone off-da-rook? reporters blowing up my cell!

can you believe that someone wants to publish my emails and rhymes? like some kind of book of poetry?

by the way...about to sh*t on next week too...here's a preview...

word to your mother.

tyrone

--- On Tue, 2/23/10, tyrone hayes <atrazinelovers@yahoo.com> wrote:

From: tyrone hayes <atrazinelovers@yahoo.com>

Subject: Re: and another one

To: XXXXX@syngenta.com, XXXXX@syngenta.com, "XXXXX@syngenta.com", XXXXX@syngenta.com

Date: Tuesday, February 23, 2010, 2:53 PM

XXXXX...you make me laugh. here's another email for you to send to one of your little friends...

let's practice what we've learned

i'm sittin here rappin 'bout

how you should be tappin' out

cuz i dropped that **ILL-I-NOIS(E)**

yeah, the man in black

just keeps comin back,

you don't want to step to me, boys!

you talkin' 'bout my wealth

say you worried 'bout yo health

cuz your bp goes up with your loathing

maybe you should settle down

...stop following me around

and bow down to the wolf in black clothing

Exhibit D

From: tyrone hayes [mailto:atrazinelovers@yahoo.com]
Sent: Thursday, February 25, 2010 9:05 PM
To: XXXXX USGR; XXXXX USGR; XXXXX USGR
Subject: RE: ILL

XXXXX

anothakindbrotha might interpret your comments to me as a threat. but you can bring anybody you want...

"i just love when a ***** bring his whole crew

it's just a bigger piece of cake for me to chew a hole through."

Earl (DMX) Simmons

hey, by the way...

i was thinking about the next time, you see
wondering just how does timmie like his Tea?
cream? brown sugar? maybe a shot of jack
but then i thought why dilute it?
don't pollute it.
why don't you just serve it BLACK?

TB hayes

<http://www.urbandictionary.com/define.php?term=Tea-Bag>

Exhibit E

From: tyrone hayes [mailto:atrazinelovers@yahoo.com]

Sent: Wednesday, March 17, 2010 11:43 AM

To: XXXXX USGR; XXXXX USGR

Subject: ILL-NOISE AGAIN

you thought you hit a nerve,

but i threw a curve

and sho' cold busted a vein

see the man in black

just keeps coming back

while you flushin yo money down the drain

so go'head, bring "your boys"

cuz i'm bringing the noise

i told ya, you can't stop the rage

you been braggin

but we'll see who's tea baggin

when TDawg hits the stage

Exhibit F

From: tyrone hayes [mailto:atrazinelovers@yahoo.com]

Sent: Wednesday, July 07, 2010 4:47 PM

To: XXXXX USGR; XXXXX.com; XXXXX.com; XXXXX.com; XXXXX USGR; XXXXX USGR; XXXXX USGR; XXXXX USGR

Cc: XXXXX USGR; XXXXX USGR; XXXXX USRE

Subject: RE: What's going on now?!

hey guys...

this was a simple request. there are 11 of you on this case! you're telling me that you are all too busy to send me the letter? i would think this is the least you can do. afterall, i am providing work for all of you! think about how many times per day you say my name..."tyrone"...how many meetings and conference calls...to discuss what to do about..."tyrone"...(this week's call will be about which senators i am with and which members of obama's cabinet are attending!)

you read what i write. you listen to what i say. you watch what i do. you go where i go.

i could stop tomorrow. research something else...or do no research at all. i could teach what i want...or not teach at all. i go where i want...do what i do...but you?...you go where i go...and as long as i am doing this...you're doing this...

i own you...all of you...and if you don't shape up by dec 1, 2010...you're all fired!

tyrone

"you don't understand...i ain't scared o' you m*** f***s"

(bernie mack)