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October 17, 2016

Richard C. Miadich  
Olson Hagel & Fishburn LLP  
555 Capitol Mall, Suite 1425  
Sacramento, CA 95814

Re: *Gary Ruskin v. The Regents of the University of California*  
Case No. PT16-1304

Dear Mr. Miadich:

In response to your October 6, 2106, we are providing the following information in a further good faith effort to resolve Mr. Ruskin's concerns about the production of documents responsive to his various CPRA requests.

1. Listserv communications that were forwarded to or from either one of the custodians or from an email address including one of the search terms have been included in the production. Any listserv communications captured in the searches for records responsive to Mr. Ruskin's requests have been treated like any other documents and included in the production unless a full or partial exemption applied.

2. In addition to the information provided in my last letter, Dr. Bradford, Dr. Van Alfen, Dr. Beachy and Dr. Carter have all advised that they do not use personal email accounts for University business, something which is not prohibited by University policy. Dr. Van Eenennaam is out of the country on a personal leave of absence at this time, accordingly, I will be unable to confirm details pertaining to her email usage until her return.

4. In response to your request that the University select someone to re-do the searches for Dr. Beachy, Dr. Carter, and Dr. Ronald for Request #2, we have no reason to believe that any of them failed to comply fully with their obligations with respect to your request for records. Moreover, I am not aware of any authority requiring a public entity to have someone other than the custodian perform searches for records. Pursuant to the University of California's Electronic Communications Policy, we do not have the ability to search employees' email accounts without their permission except under certain circumstances, none of which applies here. Again, I am not aware of any authority confirming that a requester is entitled to have someone other than the custodian perform the search, but would consider any authority to that effect that you have

located. To my first point, to the extent Mr. Ruskin is in possession of evidence indicating that the searches were deficient, please provide such evidence and we will further consider this request.

8. As I have previously mentioned, the University does not have the authority or the ability to perform searches of private email servers. We have conferred extensively with both Mr. Entine and Mr. Bisson, who advise that no responsive emails exist among any non-University email accounts they use. Additionally, we have searched their UC Davis email accounts and can confirm that no emails exist on those accounts.

The searches for documents responsive to Mr. Ruskin's requests included all attachments and responsive emails. Certain materials, including, at times, attachments, were redacted or withheld for the various reasons explained by Ms. McCuen and which we have discussed. I have reviewed the two attachments to the email at page 10 of Dr. Van Eenennaam's Biotechnology Industry Organization production, and without being able to discuss these pages with Dr. Van Eenennaam I am unable to provide a definitive reason why they were withheld. I will make a note to raise this subject with her upon her return and will advise of the decision.

We are continuing our efforts to review documents and prepare them to for disclosure to Mr. Ruskin. Unfortunately, as I indicated by email on October 13, 2016, we are not able to complete the production of documents responsive to Request #1 on October 14, 2016 as planned. We are diligently working on all of his requests, and plan to produce additional documents later this week.

Sincerely,



Kirsten C. Stevenson  
Associate Campus Counsel

cc: Jacob Appelsmith, Chief Campus Counsel