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Attorney at Law

December 2015

Without detracting from any rights or claims

To: Professor Shahar Lifshitz
Dean, Faculty of Law
Bar-Ilan University

Dear Professor Lifshitz,

Re: Warning against the “Midway Review Process” in the Appointments and Programs Committee (APC)
for Professor Hanoch Sheinman

In the name of our client, Professor Hanoch Sheinman we hereby address to you the following:

1. The “Midway Review Process” that you initiated for Professor Sheinman is an illegal action and you are required to cancel it immediately. This review process is a violation of our client’s rights. It is clear that Professor Sheinman continues to be punished for the humane message he sent to students during Operation Protective Shield, in which he expressed hope that all students and their dear ones were well, regardless of differences in religion, view, or nationality. The “midway review process” of Professor Sheinman, initiated with the full support university Rector, Professor Miriam Faust, joins the acts of continuous rebuke, harassment, threats and silencing that have been occurring for many months.
2. The process of hiring new tenure-track faculty member is governed in the provisions of the university’s “Rulebook for Appointment, Tenure and Promotion of Senior Faculty.” Neither the University Rector, nor the Dean of the Faculty of Law, nor the Faculty of Law’s APC are authorized to change provisions in the rulebook that regulate the conditions for the hiring of tenure-track faculty members. This right is reserved for the University’s Senate only. Rector directives that bypass the rulebook or change the promotion or appointment process of faculty is equivalent to changing the rulebook without authority. Therefore this action is invalid (ab initio.)
3. A retroactive rule change in the faculty hire process compromises the principles of natural justice, as the university’s rulebook serves as part of the employment contract for every faculty member. The rulebook and its provisions have become Professor Sheinman’s vested rights. While the university is authorized to change the appointments rulebook in the limits it sets, it cannot be used retroactively. This retroactive change prejudices our client’s vested rights as a party to an employment contract.
4. A lack of prejudice informs our claim that your requirement of Professor Sheinman to take part in an a “midway review process” has no foundation and is illegal. We will add and note that to this very day, there is no evidence of an existing APC decision to establish the “midway review process.” It is important to note that it is your obligation to present in advance the nature of any process in which our client is required to participate. This transparency includes: any information regarding procedures, when they will be applied, the status of all decisions that will be made or released to the press, and what criteria APC will use in regards to promotion. Most importantly, we ask for transparency in regards to the implications of the process for the continuation of the employment of our client at Bar-Ilan University.
5. We argue the establishment of the “midway review process” was done by the university without authority and without informing the APC. This new proposed “midway review process” does not comply with existing directives from the university Rector. Nota bene: according to the Rector’s directive given during the Deans Forum (October 2015), the process was designed for faculty members in the course of the third year of their hire, and not for any faculty member after his third year of hire, including a faculty member in his last year of his hire. There is no discernable reason why a faculty

Director and a university Rector—who chair the appointments committee of these two bodies and act in good faith in the matter of faculty appointments—would require any faculty member to undergo this new “midway review process.” This new process is contrary not only to the university guidelines and fundamental principles of labor law and academia, but also to the explicit language of the Rector’s directive in October of 2015. A secondary, concerning matter, is the fact that the Dean insists that Professor Sheinman’s file would be brought before APC for review without the relevant materials from him.

6. We should indicate that the invalid moves of Bar-Ilan University constitute a violation of **Israel’s Basic Law: Human Dignity and Liberty** and are contrary to the **Employment (Equal Opportunities) Law**, that prohibits discrimination of employees, including issues of “viewpoint,” **in processes of promotion and dismissal. Not once was it held that institutions of higher education must avoid the basis of foreign considerations and political views in the appointment and promotion of faculty.**
7. All rebukes and public threats you have aired towards Professor Sheinman during the summer of 2014 have inured the good name of our client and incited against him both the students and the faculty members. The hostile work environment that Bar-Ilan has created towards our client exacts from Professor Sheinman heavy prices. The severe threats voiced in the summer of 2014 continue to compromise Professor Sheinman’s ability to progress in his academic research, work, and teaching. In practice, effectively you have deprived our client the institutional backing that is necessary for the continual professional work required of faculty, and thereby prevent him from integrating in and contributing to faculty life in the ways he desires to do so.
8. On the background of these actions, it is clear that the initiative to conduct a “midway review process” of Professor Sheinman in such an accelerated timetable and before this process has been established or approved by the university, its purpose is one and one only: to use your previous actions and denouncements of him in the summer of 2014 (the fruit of the poisonous tree), and bring to an end his work at Bar-Ilan University.
9. Therefore you are required to notify the law offices of Nava Pinchuk-Alexander by 12.17.15 that the “midway review process” has been cancelled, and including in this regard that the APC’s meeting that you have set for the day of 12.27.15 for the purpose to conducting a discussion the “midway review process” has been cancelled. The “midway review process” will not be set for any other date or time, and the faculty must redraw previous notifications and demands regarding the process. If notification on the immediate and total cancellation of this illegal new process is not given, our client will consider turning to legal redress.
10. In addition, our client has directed us to warn the dean, Rector, and Bar-Ilan University to cease at once from any additional act of inuring employment towards him, including harming his good name. If this harm does not cease, our client will consider turning to further legal options.
11. Nothing in what was said or not said in this letter of ours to exhaust our clients claims or to admit a claim or waive any right.

Sincerely,

Nava Pinchuk-Alexander, Attorney at Law

cc: University Rector, Miriam Faust
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