

May 13, 2005

Chris Lee  
Erik Johnson  
Washington State University  
Pullman, WA 99164

Messers Lee and Johnson:

This letter concerns the matters you discussed with me at a meeting on Friday, April 22, 2005, also attended by Vice Presidents Tate and Jaeger and Rich Kelley, Director of the Office for Campus Involvement (OCI), regarding the performance of Mr. Lee's play, *Passion of the Musical*, on Thursday, April 21, 2005. As a result of your statements, on behalf of the Center for Human Rights (CHR), I immediately opened an investigative inquiry to determine whether an in-depth investigation should proceed. While officially engaged only in an inquiry, CHR has exhaustively looked into your concerns.

I write you now to inform you that CHR has concluded that further investigation is not warranted. We have not uncovered evidence that would suggest that violations of University policies by protestors or the Office of Campus Involvement and its personnel have taken place with respect to the theatrical performance on April 21 and alleged threats of violence against Mr. Lee and members of the cast. In fact, we have been unable to document that any such threats took place.

You also alleged that OCI had contributed to the violation of your free-speech rights and relevant University policies because OCI had purchased tickets for some of the protestors on April 21. Evidence substantiates that OCI's purpose in purchasing these tickets for students was not to initiate or encourage a protest, or to interrupt your play in any way. Rather, OCI personnel had sought to organize a mediated discussion between Mr. Lee and students who were offended by the play. When plans for the mediated discussion were fell through, OCI decided to facilitate attendance for the students, because most had not seen the play and their opinions were based on second-hand information.

We have concluded that neither your rights nor related University policies have been violated; therefore, we cannot conclude that the ticket purchase by OCI contributed to the violation of your rights in any way. Furthermore, OCI has documented to this office that OCI purchases of tickets for students to attend University and student events is common, as is the purchase of other types of participation in campus activities. In the case of the play, the OCI purchase of tickets directly supported the production as did funds OCI provided to the play through WSU's Visual, Performing and Literary Arts Committee (VPLAC). You also received other University support for the play.

You also raised allegations of threats by University employees against members of the audience. This letter does not address such allegations because they do not concern you directly and they are, in fact, the subject of a current police investigation. CHR may take up such matters in the near future when the police complete their work.

As you may recall, I previously informed you that this office also received a Hate/Bias complaint with respect to the content of *Passion of the Musical*; therefore, as we carried out our inquiry, we looked at possible policy violations from many perspectives. We also have found no grounds to conclude that the performance or content of the play violated university policies.

In carrying out our inquiry, we studied the materials listed below. Thank you for providing most of them. We also interviewed several individuals, as summarized, below.

Documentary and other physical evidence examined by CHR

- Script for *Passion of the Musical*;
- Ticket stub;
- Play poster and newspaper ads;
- Audio/video tape of the performance;
- Application for VPLAC funding;
- Relevant documents from OCI relevant to tickets provided to protestors for attendance of play;
- Minutes from Faculty Meeting, Theater Department;
- Race/Bias complaints;
- Relevant newspaper editorials, op-ed pieces and letters to the editor.

Individuals interviewed

- Complainants;
- Office of Campus Involvement personnel;
- WSU Public Safety Officer;
- Vice President of Student Affairs;
- Cast members of play;
- Members of audience, including protestors and others.

Briefly, summarizing our analysis of the totality of the circumstances that prevailed on April 21, CHR has arrived at the conclusion that, Mr. Lee, by your own actions and words, invited, provoked, and even taunted the audience to engage in verbal interaction with the play performance, as well as other members of the audience. Some of those actions and words were written into the play script and others were ad hoc additions. Nevertheless, members of the audience could not distinguish between provocations that were pre-planned and those that were added by you on the night in question. The impacts were the same. It was your stated intention to offend those who attended the play. In this you succeeded, in addition to provoking verbal reactions from members of the audience.

For example, on April 21, Mr. Lee, you chose to open the performance with a recitation of the protestors' protest flyer, which had been distributed outside of the theater, through

the character “God” and related commentary by “Lucifer,” the character played by you. Some members of the audience, including but not limited to the protestors, understood such recitation and commentary as an affront and a challenge to the protestors, who up to that point had not protested inside the theater. Their actions had been limited to distributing the flyer outside of the theater.

During the first 15-20 minutes of the play, a dozen or so of the protestors then proceeded to stand individually, say “I am offended” in moderate to loud voices, and sit down. These actions were organized and pre-planned by a group of students; however, CHR has concluded that they also were encouraged by you, Mr. Lee. Ironically, the protestors words, “I am offended”, merely confirmed what you had promised, that playgoers would be offended. In some respects, now you cannot be heard to complain about the very reactions you knew, predicted and publicized that your play would cause.

After approximately 20 minutes, Mr. Lee, you interrupted the play from the stage and threatened to subject the protestors to ejection and arrest. This further taunted the protestors, who responded by increasing the frequency and loudness of their statements of offense, which, in turn, triggered some members of the audience, who were not protesting, to angrily tell the protestors to be quiet. This led to heated exchanges between and among members of the audience, who, for the most part, appear to have self-segregated themselves by race and/or ethnicity. You alleged that OCI had instructed audience members to sit according to their respective race or ethnicity. CHR has found no evidence to substantiate that allegation.

For the most part, white members of the audience sat in the middle section and the ethnic/racial minorities, who were predominantly, but not exclusively, African-American, sat in the stage-left section. The self-segregation of the audience further aggravated the events of the evening. For the most part, reactions to your play, which was provocative with respect to race, ethnicity, religion, gender and sexual orientation, also divided along racial/ethnic lines. More laughs and guffaws were heard to come from the “white section” of the audience, which only served to outrage the “minority section” of the audience. This also fueled heated exchanges among member of the two sections.

Mr. Lee, your words and actions blurred the line between cast and playgoers, and arguably created a public forum. You also had members of the cast descend from the stage and say some of their lines from the area in front of the stage on the same level as the audience. They tossed stage props at the audience. All of these factors contributed to reactions from the audience, which you should have predicted, especially in light of the content of the play. You spared few social groups from the play’s abundance of slurs, swear words, epithets and derogatory language.

Mr. Lee, you have a legal right to say provocative things, as long as you do not endanger the public, incite violence, utter “fighting words” (words that can provoke violence), or violate any University policy; however, in CHR’s estimation, you abdicated all responsibility for intended and unintended impacts on the audience and the WSU community. No one was compelled to attend the play; however, the mere fact that such

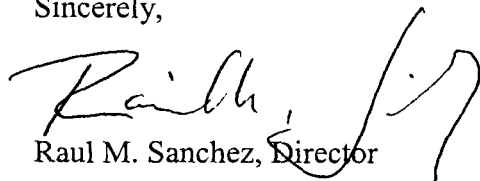
an outrageous play was produced, while lawful, was a provocation. Some playgoers chose to exercise their free speech rights by letting you know that you had offended them, just as you had predicted. The protestors were not free to prevent the performance; however, you further encouraged their protests by your taunts after the play had begun. In many respects, your play performance took on the qualities of a public forum.

The majority of protestors were African-American, but they were joined by students and staff of other minority ethnic origins. White students of the LDS faith also quietly protested outside of the playhouse. The African-Americans students especially seemed to have been offended because Mr. Lee, you too, are African-American; therefore, some see you as a “traitor” to your people. In turn, you have explained that such characterizations, in part, motivated you to write your play. The notion that anyone would tell you how you are supposed to behave, as a black man, is abhorrent to you. Without drawing a judgment on this issue, CHR has considered it as an important contextual factor in understanding the events of April 21. The same is true for the specific attention the one African-American actress in the cast received from the protestors.

CHR’s investigation and public writings by you, Mr. Lee, some of the protestors and others in the WSU community have underscored a prevailing generalized ignorance about the nature of free speech rights and concomitant obligations and responsibilities. It is CHR’s intention to initiate a series of public discussion events during the next academic year on the subject of free speech. We hope to improve the public’s awareness and responsibility over their public utterances and their reactions to the utterances of others. Thereby, we also would hope to decrease existing tensions that exist on the WSU campus over free speech and many social issues, including race, ethnicity, sexual orientation, gender and religion. We hope that you will participate and help the community to learn from recent events.

You and “Passion of the Musical” have served to draw attention to some of the tensions at WSU, but you also contributed to them. If you decide to stage a similar performance in the future, this office strongly encourages you to think long and hard about the possible reactions of your audience and of the entire community. You are not free to shield yourself behind the label of playwright or actor, and assume no responsibility for the consequences of your words and deeds. No one should seek to censor you, but it is not unreasonable to expect you to act more responsibly in anticipating public reactions to your theatrical productions. This office stands ready to help you do that. If you put on any more plays, please seek us out well ahead of time, so we may help you develop a constructive framework for anticipating and responding to public reactions to your work.

Sincerely,



Raul M. Sanchez, Director