

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

**AGUDAS CHASIDEI CHABAD OF
UNITED STATES,**

Plaintiff,

v.

CASE NO. 1:05-CV-01548-RCL

**RUSSIAN FEDERATION; RUSSIAN
MINISTRY OF CULTURE AND MASS
COMMUNICATION; RUSSIAN STATE
LIBRARY; and RUSSIAN STATE
MILITARY ARCHIVE,**

Defendants.

**STATEMENT OF DEFENDANTS
THE RUSSIAN FEDERATION,
RUSSIAN MINISTRY OF CULTURE AND MASS COMMUNICATION,
RUSSIAN STATE LIBRARY AND
RUSSIAN STATE MILITARY ARCHIVE
WITH RESPECT TO FURTHER PARTICIPATION**

Throughout the history of this case, Defendants The Russian Federation, Russian Ministry of Culture and Mass Communication, Russian State Library (“RSL”) and Russian State Military Archive (“RSMA”) (collectively, the “Russian Federation”) with all due respect to this Honorable Court, have consistently believed that a Court in the United States does not have the authority to adjudicate rights in property that in most cases always has been located in the Russian Federation and in the case of the documents in the RSMA’s care for more than 60 years and, moreover, has continually been owned by and in the possession of the Russian Federation and its predecessors since coming into its possession. The Russian Federation fully respects this Court, and this Statement should not be interpreted in any way to the contrary. But each of the Defendants is an integral part of the Russian Federation, a sovereign nation, entitled to have its

rights as a sovereign, respected and to be immune from suit outside the Russian Federation. The Russian Federation views any continued defense before this Court and, indeed, any participation in this litigation as fundamentally incompatible with its rights as a sovereign nation. Consequently, the Russian Federation hereby formally advises this Honorable Court that it declines to participate further in this litigation. Consistent with the above, the Russian Federation believes this Court has no authority to enter Orders with respect to the property owned by the Russian Federation and in its possession, and the Russian Federation will not consider any such Orders to be binding on it. The Russian Federation reiterates that its decision not to further participate in this case is in no way out of lack of respect for this Honorable Court, but is for the affirmative reason that the Russian Federation needs to safeguard its own sovereignty.

The Russian Federation has submitted a formal diplomatic note to the United States Embassy located in Moscow with respect to this matter. It believes that diplomatic channels are the proper format for any further interaction between the United States and the Russian Federation with regard to this matter. A true translation of the formal diplomatic note is attached as Exhibit 1. The Russian Federation also wishes to state to the Court that it believes it has been appropriately advised by its legal counsel in this litigation.

The Russian Federation submits that the Plaintiff is free to pursue any claims it has before the appropriate courts of the Russia Federation, which is the proper forum for its claims. The Russian Federation further notes that the property of the Russian Federation maintained by the RSL and RSMA is accessible to the public. The members of the Chabad community, whether residing in the Russian Federation or elsewhere around the world, are free to review the

collections of the RSL and the RSMA consistent with their policies designed to maintain and preserve the documents for future generations.

Dated: June 26, 2009

Respectfully submitted,

SQUIRE, SANDERS & DEMPSEY L.L.P.

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CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to the following:

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The Ministry of Foreign Affairs of the Russian Federation presents its compliments to the Embassy of the United States of America in the Russian Federation and has the honor to request to inform the Government of the United States of America of the following.

Since 2005 proceedings have continued in various courts of the United States of America in the lawsuits brought by Agudas Chasidei Chabad, a non-for-profit religious organization registered in the state of New York, against the Ministry of Culture of the Russian Federation, the Russian State Archive, the Russian State Library and the Russian State Military Archive, which government agencies of the Russian Federation.

One of the plaintiff's principal claims has been that certain Judaic manuscripts and books, being held in the Russian State Library, be transferred into its ownership, possession and disposal. The above works of literature, sometimes referred as the "Schneerson Library", had been for several hundred years in the possession of various members of the Schneerson family, who were the nationals of the Russian Empire residing in the Smolensk province. In 1915 the last legal private owner, Rabby Shalom Dov-Bera Schneerson, sent the collection of books and manuscripts owned by him to be kept in the book storage of Polyakov and never reclaimed it back. S. D.-B. Schneerson died in the territory of the Russian Soviet Federative Socialist Republic in 1919 without leaving any heirs.

In accordance with the Decree of the Council of People's Commissars (the Government) of the Russian Soviet Federative Socialist Republic dated April 4, 1919 "On Scientific Libraries" these collections were nationalized together with other books in Polyakov's storage and transferred to the Rumyantsev Public Library, which is now called the Russian State Library. The collections held at the Russian State Library constitute unalienable state property of the Russian Federation.

Responding to the requests from the Russian general public, the works forming part of the "Schneerson Library" have been made available publicly, including for the purpose of religious rites, within the Eastern Literature Center of the Russian State Library.

During its entire existence the "Schneerson Library" has never left the territory of the Russian Empire, the Russian Soviet Federative Socialist Republic, the Union of the Soviet Socialist

Republics and the Russian Federation, was collected in the territory of Russia and is regarded by the Government of the Russian Federation as a part of the cultural heritage of the multi-ethnic Russian people, including the Russian nationals of Jewish religion, for whom the access to the above works may be of particular significance.

Under the law of the Russian Federation and international law the "Schneerson Library" constitutes the property of the Russian Federation as a successor to the Union of Soviet Socialist Republics.

As stated above, the collections being part of the "Library" were transferred into state ownership as a result of nationalization, i.e. by virtue of an "act of state".

Based on the common principles and rules of international law an act of one state may not be a subject matter of the proceedings in a court of another state without such first state's official consent to this. The Government of the Russian Federation has granted no such consent.

Based on the principal of sovereign equality of states and the jurisdictional immunity of states and state property arising from it, a state is granted immunity in respect of itself and its property in the jurisdiction of courts of the other states and against any enforcement in connection with proceedings in courts.

Following the filing of the claim by Agudas Chasidei Chabad in US court the Government of the Russian Federation elected to instruct the Ministry of Culture of the Russian Federation to participate in the proceeding at the jurisdictional stage. The only purpose of participation in the proceedings was to invoke the immunity of the Russian Federation. The trial court ruled that the US judicial system has no jurisdiction over the "Schneerson Library". However, this ruling was subsequently reversed by the DC Appellate Court.

At this point the case is in the trial court of the District of Columbia and the proceedings enter the absolutely new stage, the review of the case on its merits. Orders have already been issued in respect of the Russian Military State Archive compelling it to take certain actions. The arguments of the Russian Party based on international law have been disregarded.

In addition to the claims in respect of the above-mentioned Library Agudas Chasidei Chabad organization has demanded that personal belongings and documents of Joseph Yitzchok

Schneerson, who resided in the USSR, which were recovered by the Soviet Army in the liberated territories during the Second World War and are presently held in the Russian Military State Archive.

The acceptance of these lawsuits by US courts is against the generally recognized principles and rules of international law as they concern the respect of the state sovereignty of the Russian Federation and the observance of the jurisdictional immunities of the Russian Federation.

In this regard the Government of the Russian Federation states that the US courts have no jurisdiction over the Russian Federation and the government agencies of the Russian Federation. In the meanwhile, the Russian law currently in effect does not preclude the plaintiffs from applying to the courts of the Russian Federation seeking equitable resolution of the claims, whether proprietary or non-proprietary in nature.

The Government of the Russian Federation requests that the Government of the United States of America immediately notify the respective courts of the United States of America of its position and take the necessary steps to ensure that the jurisdictional immunities of the Russian Federation, the Government of the Russian Federation and government agencies of the Russian Federation and in respect of its government-owned property be observed

The Ministry avails itself of the opportunity to renew assurance of its highest consideration to the Embassy.

Moscow, June 11, 2009

I, Dmitry Vakin, do solemnly declare under penalty of perjury under the laws of the United States of America that to the best of my knowledge and belief the English language translation of the foregoing Russian language document is true, accurate and complete. I am fluent in English and Russian languages and competent to translate from one language to the other.

June 22, 2009

 /Dmitry Vakin/