

FILED

OCT 24 2017

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

_____)
AGUDAS CHASIDEI CHABAD)
OF THE UNITED STATES,)
)
<i>Plaintiff,</i>)
)
v.)
)
RUSSIAN FEDERATION; RUSSIAN)
MINISTRY OF CULTURE AND MASS)
COMMUNICATION; RUSSIAN STATE)
LIBRARY; and RUSSIAN STATE)
MILITARY ARCHIVE,)
)
<i>Defendants.</i>)
)
_____)

Case No. 1:05-cv-01548-RCL

REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE

(LETTER ROGATORY)

TO THE APPROPRIATE JUDICIAL AUTHORITY OF ISRAEL

The United States District Court for the District of Columbia presents its compliments to the Appropriate Judicial Authority of Israel, and pursuant to the Hague Convention on Evidence on the Taking of Evidence Abroad in Civil or Commercial Matters, requests international judicial assistance to obtain information to be used in a civil proceeding before this Court in the above-captioned matter. We request that this matter be handled on an expedited basis to the extent feasible under Israeli law and practice.

The assistance requested is that the Appropriate Judicial Authority of the Israel compel the Witness listed below to produce documents and testimony within the categories identified in

Exhibit 1. This request for international judicial assistance is being made in the interests of justice.

**THE WITNESS: Kedem Auction House Limited
8 Ramban Street
Jerusalem, 9242209
Israel**

I. FACTS

This lawsuit was filed by plaintiff Agudas Chasidei Chabad of the United States (“Chabad”) against defendants Russian Federation and several of its agencies identified in the caption to this document (collectively, “Russia”). Chabad seeks the return of (i) a library of Jewish texts that was confiscated by the government of the Soviet Union (the “library”), and (ii) the Chabad organization’s archives, which were confiscated by the Nazis during World War II and re-confiscated by the Soviet Union following the war (the “archive”). The library and the archive are currently in the possession, custody, and control of the Russian Federation.

Following proceedings in which the Russia actively participated, the United States Court of Appeals for the District of Columbia Circuit ruled that Chabad’s complaint against Russia raised a valid claim over which this Court has jurisdiction. Following further proceedings in which Russia refused to participate, this Court entered judgment in favor of Chabad and against Russia. This Court ordered that Russia return the library and the archive to Chabad. Russia is in contempt of the Court’s judgment and order.

Chabad has brought to this Court’s attention the apparent intention of the Witness, Kedem Auction House Limited of Jerusalem, Israel, to auction a volume that has been identified as part of the Chabad library in Russia’s possession. Based on information presented to this Court and found to be credible, the volume is subject to this Court’s previous judgment and order. Kedem Auction House identifies this volume as Lot 79 in Auction 58, scheduled for

October 30, 2017. Kedem Auction House's description of the volume states that it is from a Talmud owned by Chabad Rebbe Shmuel Schneerson of Lubavitch, and has additional leaves bearing "handwritten notations . . . in a handwriting resembling the writing of Chabad Rebbes." These points and other information regarding the volume may be found on Kedem Auction House's website: <https://www.kedem-auctions.com/content/babylonian-talmud-tractate-yevamot-zhitomir-copy-rebbe-maharash-lubavitch-fourth-chabad>

This Court requests that the Appropriate Judicial Authority obtain the information specified in Exhibit 1 attached hereto so as to determine how, by whom, and under what circumstances the volume that previously had been part of the Chabad library and in Russia's possession came to be placed for auction in Jerusalem. This Court further requests that the Appropriate Judicial Authority permit Chabad, through its legal representatives, to take the deposition of a representative of Kedem Auction House limited to the topics listed in Exhibit 1. This information is material to this Court's resolution of this matter, including the enforcement of this Court's judgment and orders directed to the Russian Federation.

II. RECIPROCITY

By its signature below, the United States District Court for the District of Columbia hereby indicates its willingness to provide similar assistance to the Judicial Authorities of the Israel, should the need arise.

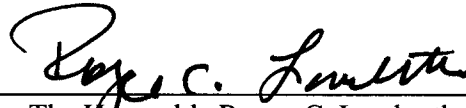
III. REIMBURSEMENT FOR COSTS

Through its signature below, the United States District Court for the District of Columbia hereby indicates its willingness to reimburse the Judicial Authorities of Israel for any costs incurred in executing this Letter Rogatory. Such costs will be borne by the Plaintiffs through their representatives:

Steven Lieberman, Esq.
Rothwell, Figg, Ernst & Manbeck
607 14th Street, NW, Suite 800
Washington, DC 20005

Dated: _____

October 24, 2017
10:30 a.m.



The Honorable Royce C. Lamberth
United States District Court

Exhibit 1

Pursuant to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, Rule 26 of the United States Federal Rules of Civil Procedure, Section 1782 of Title 28 of the United States Code, and the laws and procedures of the State of Israel, and for the use in the matter *Agudas Chasidei Chabad of the United States v. Russian Federation, et al.*, Civ. Case No. 1:05-cv-01548-RCL, now pending in the United States District Court for the District of Columbia, Agudas Chasidei Chabad of the United States (“Chabad”) requests that Kedem Auction House, Ltd. (“Kedem”) produce to Chabad designated documents, electronically stored information (“ESI”), and tangible things that constitute or contain matters relevant to the requests set forth herein and are in Kedem’s possession, custody or control.

DEFINITIONS

1. “Kedem” means Kedem Auction House, Ltd. and its directors, officers, managers, members, current and former employees, counsel, agents, consultants, representatives, and any other persons acting on behalf of any of the foregoing, and its affiliates, parents, subsidiaries, divisions, joint ventures, licensees, franchisees, assigns, predecessors and successors in interest, and any other legal entities, whether foreign or domestic, that are owned or controlled by Kedem and all predecessors and successors in interest to such entities.
2. “Plaintiff” or “Chabad” means Agudas Chasidei Chabad of the United States.
3. “Defendants” means the Russian Federation, the Russian Ministry of Culture and Mass Communication, the Russian State Library, and/or the Russian State Military Archive.
4. The terms “Document” and “Documents” are used in their broadest sense and mean, without limitation, all written, graphic, or otherwise recorded material, however produced, including,

without limitation, microfilms or other film records or impressions, electronically stored information regardless of the form of storage medium, tape recordings or computer cards, floppy disks or printouts, any and all papers, photographs, films, recordings, memoranda, books, records, accounts, communications, letters, telegrams, correspondence, drafts, notes of meetings, notes of conversations, notes of telephone calls, inter-office memoranda or written communications of any nature, recordings of conversations either in writings or upon any mechanical or electrical recording devices, including email, notes, papers, reports, analyses, invoices, canceled checks or check stubs, receipts, minutes of meetings, time sheets, diaries, desk calendars, ledgers, schedules, licenses, financial statements, telephone bills, logs, and any differing versions of any of the foregoing, whether so denominated, formal, informal or otherwise, as well as copies of the foregoing which differ in any way, including by the addition of handwritten notations or other written or printed matter of any nature, from the original. The term specifically includes information stored in a computer database and capable of being generated in documentary form, such as electronic mail.

5. "Third Party" and "Third Parties" means any individual(s) or entity(ies) other than Plaintiff or Defendants.
6. "Communication" refers to any transmission, conveyance, or exchange of a word, statement, fact, thing, idea, Document, instruction, information, demand, or question by any medium, whether by written, oral, or other means, including but not limited to electronic communications and electronic mail.
7. "Identify" or "Identification" shall have the following meanings:

- i. When used with reference to a Person, “Identify” or “Identification” means to state the person’s or entity’s name, present or last-known address, present or last-known telephone number, and present or last-known position and business affiliation.
 - ii. When used with reference to a Document, “Identify” or “Identification” means to state the Document’s title and subject matter, form (e.g., letter, memo, etc.), date of preparation, author(s), addressee(s), recipient(s), and name of its present custodian, as well as, where available, the Document’s Bates number.
 - iii. When used with reference to a Communication, “Identify” or “Identification” means to identify the sender(s), recipient(s), and/or participant(s) of the communication and to state the date, subject matter, and nature (e.g., telephone call, meeting, letter, etc.) of the communication. If the communication was in person, also state the location.
8. “Relating to,” “Relate to,” “Referring to” and “Refer to” mean relating to, reflecting, referring to, concerning, mentioning, pertaining to, evidencing, involving, describing, discussing, commenting on, embodying, responding to, supporting, contradicting, or constituting (in whole or in part), as the context makes appropriate.
9. “Include” and “Including” means including without limitation.

RULES OF CONSTRUCTION

The following rules of construction apply to all discovery requests:

1. **Generally.** Unless otherwise specified, all terms shall be interpreted as they are used in the Federal Rules of Civil Procedure. The requests and terms used herein shall be construed to require the fullest and most complete disclosure permitted by law.
2. **All or Each.** The terms “all” and “each” shall be construed as all and each.

3. **And or Or.** The connectives “and” and “or” shall each be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
4. **Number.** The use of the singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. **Requested Items.** Kedem is requested to produce for inspection, copying, testing or sampling all items specified in the “Documents and Tangible Things Requested” below in Kedem’s possession, custody or control or otherwise known or available to Kedem or to Kedem’s agents, employees, representatives, investigators, attorneys, accountants, and consultants at the time and place indicated.
2. **Completeness.** Each request calls for and requires production of the complete document, or tangible thing in its entirety, including attachments, without abbreviation, redaction or expurgation.
3. **Objections.** All grounds for an objection to a request shall be stated with specificity. Any ground not stated in a timely objection is waived. Kedem may not object to a request merely because it involves an opinion or contentions that relates to fact or the application of law to fact.
4. **Breadth.** The request for a specific item or for a communication with a specific person shall not be read to narrow the scope of any other request.
5. **Compliance.** If any request cannot be complied with in full, it shall be complied with to the extent possible, with an explanation as to why full compliance is not possible.
6. **Productions.** Kedem shall produce documents as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request. Producing documents as they are kept in the usual course of business includes producing

documents in text searchable and/or electronic format if they are kept in text searchable and/or electronic format. Draft language, editorial comments and other deleted matter (embedded data or embedded edits) shall not be removed unless it contains privileged information, in which case a claim of privilege shall be made in accordance with instruction 9, below.

7. **Privilege.** Where a claim of privilege is asserted as a basis for not producing a document, ESI, or portion thereof, and such document, ESI, or portion thereof is not provided on the basis of such assertion, (1) Kedem shall identify the nature of the privilege (including work product) which is being claimed and, if the privilege is governed by state law, indicate the state's privilege rule being invoked; and (2) the following information shall be provided in the objection, unless divulgence of such information would cause disclosure of the allegedly privileged information:

- (i) the type of document or ESI, e.g., letter, e-mail, interoffice memorandum, or notes;
- (ii) the general subject matter of the document or ESI;
- (iii) the date of the document or ESI; and
- (iv) such other information as is sufficient to identify the document or ESI for a subpoena *duces tecum*, including:
 - a. the author of the document or ESI,
 - b. the addresses of the document or ESI, and any other recipients shown therein, and
 - c. where not apparent, the relationship of the author, addresses, and recipients to each other.

This information shall be furnished in writing at the time of the response to such discovery or disclosure.

8. **Discarded or Destroyed Items.** In the event that any item requested has been discarded or destroyed, other than in the ordinary course of business, Kedem shall identify such item and specify (i) the date of its destruction; (ii) the reason for its destruction; (iii) the person authorizing its destruction; and (iv) the custodian of the document immediately preceding its destruction.
9. **Continuing Effect.** These requests are of continuing effect. If after such production Kedem become aware of or acquires additional documents, ESI, or tangible things that are responsive to this request, Kedem shall promptly produce them.

REQUESTS FOR DOCUMENTS AND TANGIBLE THINGS

1. All Documents concerning or relating to the volume described as “Babylonian Talmud, Tractate Yevamot - Zhitomir - Copy of the Rebbe Maharash of Lubavitch, Fourth Chabad Rebbe – Stamps,” which is Lot No. 79 in Auction No. 58, and is publicized on Kedem’s website at the following URL: <https://www.kedem-auctions.com/content/babylonian-talmud-tractate-yevamot-zhitomir-copy-rebbe-maharash-lubavitch-fourth-chabad> (**hereafter referred to as “Lot 79”**).
2. All Documents concerning or relating to the Person or Persons who made Lot 79 available to Kedem for auction.
3. All Documents concerning or relating to Kedem’s understanding of the provenance of Lot 79.
4. All Documents concerning, relating to, or incorporating one or more Communications between Kedem and the Person or Persons who made Lot 79 available for auction.

5. Insofar as Lot 79 is no Longer in Kedem's possession, custody, or control, all Documents relating to the disposition of Lot 79, including but not limited to documents sufficient to Identify the purchaser of Lot 79.
6. All Documents concerning, relating to, or reflecting Kedem's activities, including Communications, involving Judaica currently in the possession of Russia, including particularly, but not limited to, any such Judaica associated with Chabad.

REQUEST FOR TESTIMONY UNDER OATH

The Court requests that, in accordance with the laws and procedures specified by the laws of Israel, Chabad and its legal representatives be authorized to take testimony from Kedem Auction House Ltd., under oath, limited to the following topics.

1. All circumstances surrounding Kedem's possession of the volume described as "Babylonian Talmud, Tractate Yevamot - Zhitomir - Copy of the Rebbe Maharash of Lubavitch, Fourth Chabad Rebbe – Stamps," which is listed as Lot No. 79 in Auction No. 58, and is publicized on Kedem's website at the following URL: <https://www.kedem-auctions.com/content/babylonian-talmud-tractate-yevamot-zhitomir-copy-rebbe-maharash-lubavitch-fourth-chabad> (**hereafter referred to as "Lot 79"**).
2. The Person or Persons who made Lot 79 available to Kedem for auction.
3. The provenance of Lot 79.
4. Communications between Kedem and the Person or Persons who made Lot 79 available for auction.
5. Insofar as Lot 79 is no Longer in Kedem's possession, the disposition of Lot 79, including but not limited to the identity of the purchaser of Lot 79.

6. Kedem's activities, including Communications, involving Judaica currently in the possession of Russia, including particularly, but not limited to, any such Judaica associated with Chabad.