

SUBMISSION

OF

AGUDAS CHASIDEI CHABAD

Overview

The task facing the Court, like the *Shoah* itself, is without precedent.

How shall the Court allocate a fund, so substantial in isolation and yet so inadequate in application? Unlike class action settlements routinely addressed by courts, there is and can be no proof of claim form adequate to identify the victims. Reminiscent of scenes from Titus' Arch, a nation -- a people -- were looted. Individual and community wealth was stripped away and secreted in Swiss banks and elsewhere. The ability to trace individual assets is, by the very nature of the plunder, virtually impossible. The amounts recovered are but a fraction of the plundered wealth of the communities. Most of the individuals who would be claimants were martyred together with their heirs as entire families and communities were massacred in the blood soaked fields, ghettos and camps of Europe and Russia. Who, then, shall be compensated from this fund? ¹

There is no single acceptable answer.

If the fund is allocated solely to those who survived the *Shoah* and their heirs, the fund will be dissipated in relatively small payments and be of little lasting impact. Moreover, such allocation would fail to recognize the substantial losses sustained by the communities themselves -- the loss of communal assets. Most importantly, however, such allocation may inadvertently become part of the posthumous victory that Jews are sworn to deny Hitler. One of Hitler's goals -- and the goal he came closest to achieving -- was the eradication of a Jewish presence in Eastern Europe. Judaism was not to exist in Europe outside of the notorious Museum of Peoples. If these assets, stripped from the Jewish communities of Eastern Europe are not used in part in the effort to rebuild and reclaim the destroyed communities, than Hitler's posthumous victory will continue.

Jews are a communal people. From the time G-d promised Abraham to make him a great nation, the Jew has lived as a member of a community. His

¹ Stating the question, one is reminded of the lament of our nation's theologians, rabbis and writers -- language itself fails us. The very word "compensation" stands stark in its inadequacy.

fate and that of his community were inextricably bound. Jewish law, learning and history confirm and reconfirm the position of the Jew as a member of a larger community. Any allocation of settlement funds must recognize this fact and compensation must be included for damages suffered by our Jewish communities by including communities among the distributees.

What we suggest in this regard is not radical, nor even unusual. Under the well accepted *cy pres* doctrine, courts are often called upon to distribute settlement funds to groups or entities whose interests are representative of unknown or unreachable class members. Here, Chabad has in place a unique irreplaceable infrastructure to reach and benefit the remnants of the communities looted by the Nazis. Chabad, as is demonstrated below, already reaches out to these communities and survivors. They are on the ground in each community and know, first hand, the communities' specific needs. They have already been recognized by governments, and foundations throughout Eastern Europe as the legitimate successor to many of the Jewish communities plundered and destroyed by the Nazis.

Agudas Chasidei Chabad² respectfully requests that monies from the settlement be allocated to:

- sustain the destroyed and rebuilt communities of Eastern Europe and Russia;
- continue services to the survivor communities around the world; and
- compensate communities for their direct losses sustained by the looting of communal assets.

Agudas Chasidei Chabad submits this request on its own behalf, on behalf of the Lubavitcher communities destroyed by the Nazis and on behalf of the reborn

² Agudas Chasidei Chabad is the international governing body of the Chabad movement. Throughout this submission, the words Chabad and Lubavitch are used interchangeably.

Jewish communities around the world which it represents.³

The Destruction Of Chabad Communities In Europe

In the post-*Shoah* world, there is a tendency among groups to claim primacy in suffering. Such competition is unseemly. Lubavitch suffered as did virtually every Jewish community in Europe. By the 1930's Lubavitch had spread throughout Eastern Europe. Our *yeshivas*, synagogues, study houses, community and charitable institutions numbered in the hundreds and were in many cities that have since become synonymous with ghettos and death --- Warsaw, Lvov, Vilna, Bransk, Borisov, Minsk, Kovno, Volozhin, Przemysl, Vitebsk, Zhitomer, Kharkov, Mogilev, Riga -- all were destroyed.⁴ Chabad chassidim died in the forests at the hands of the *Einsatzgruppen*, in the ghettos, cattle cars and camps. Thousands of our chassidim were martyred, our families and communities were decimated, our institutions looted, our world destroyed.

What distinguishes Chabad is not its suffering but its response. Chabad has rebuilt - not only its own communities but Jewish communities around the world.

The 614th Commandment - Denying Hitler a Posthumous Victory

Many of the great centers of Jewish life destroyed by the Nazis, the Ukrainians, Poles, Rumanians, Hungarians, Bulgarians and other Nazi collaborators have been reclaimed and rebuilt by Chabad. Synagogues throughout Eastern Europe, once empty, silent, converted to stables and other desecratory use have been reclaimed and reopened. In this way, victory has been denied to those who had sought to silence Jewish voices. Prayer rings out once again in the synagogues of Riga, Kharkov, Rostov on Don, Prague and Vilna.

³ It is not the purpose of this submission to provide an exhaustive review of Chabad's activities but rather a brief overview. It is our intention to submit a comprehensive claim at the appropriate time.

⁴ Chabad's direct financial losses were substantial. In addition to the real estate and books which are not covered by this settlement, our many charitable funds were seized, our silver ritual items and other recovered assets looted. Certain charitable institutions were established in each of the many communities in Eastern Europe in which Lubavitch was found.

Under the leadership of Rabbi Menachem Mendel Schneerson, OB”M, the Jewish communities of Minsk, Prague, Budapest, Riga, Vilna, Kishinev, Bratislava, Bryansk, Derbent, Kazan, Kostroma, Krasnoyarsk, Moscow, Nizhny Novgorod, Novosibirsk, Orenburg, Rostov on Don, Samara, Saratov, Smolensk, St. Petersburg, Tshelyabinsk, Yekaterinaburg, Bratislava, Dnepropetrovsk, Donetsk, Kharkov, Kherson, Kiev, Nokolayev, Odessa, Simferopol, Zaporozhe, Zhitomer, Chelyabinsk, Khabarovsk, Volgograd, Kaliningrad, Ivano-Frankovsk, Kremmentshug, Lugansk and so many others have been reborn.

The religious and social service network of Lubavitch in these communities is unparalleled:

- Lubavitch has established or reclaimed synagogues, community centers, schools, senior citizen centers, *yeshivas*, *mikvehs*, summer camps, day care centers, student centers and printing presses throughout the area that was looted.
- Lubavitch has assumed the mantle of leadership of the Jewish Communities in Eastern Europe.
- Lubavitcher emissaries have negotiated with governments throughout Eastern Europe on behalf the Jews remaining.
- The Chief Rabbis of Minsk, Belarus, the Crimea, Odessa, Southern Ukraine, St. Petersburg, Samara, Armenia, Almaty, Khazakhstan and Uzbekistan are all members of the world Lubavitcher movement.
- The head of the Rabbinical Alliance of the C.I.S. (former Soviet Union) is a Lubavitcher emissary.
- The Rabbis at the Central Synagogues in Bryansk, Chelyabinsk, Dnepropetrovsk, Donetsk, Ivano-Frankovsk, Kazan, Kharkov, Kherson, Kostroma, Krasnoyarsk, Kremmentshug, Lugansk, Nikolayev, Nizhny Novgorod, Novosibirsk, Orenburg, Rostov on Don , Samara, Saratov, Simferopol, Yekatrinburg, Zaparozhe, Zhitomer and elsewhere are all Lubavitcher emissaries as well.

The communities that have rebuilt on the ashes, who refused to grant to Hitler the posthumous victory of silenced Jewish voices throughout Eastern Europe, must participate in the distribution. They are among the rightful voices to speak on behalf of those silenced and without heirs. This distribution must strengthen further the very communities looted and devastated by the Nazis and their collaborators.

Chabad is at the forefront of this rebuilding. We have rebuilt the community institutions destroyed in the *Shoah*. *Mikvehs* have been rebuilt. Synagogues have been rebuilt. *Yeshivas* and day schools have been erected. All once again serving the needs of the remnants of Jewish communities and the seeds of the new Jewish communities throughout Eastern Europe.

Chabad's Post-*Shoah* Efforts To Rebuild World Jewry

The watchword of the post-*Shoah* Jewish community has been *Zachor* -- remember. Indeed, Emil Fackenheim, the survivor-philosopher of the *Shoah*, has characterized this obligation as the 614th Commandment. Tens of millions of dollars have been raised for monuments and museums where memory is cherished. Chabad, too, builds monuments. Chabad's monuments lie not in museums or sculptures, but in our acts and in our deeds. The brick and stone and mortar of Chabad's monuments are those used in building schools and synagogues and summer camps. These "monuments" are not merely to remember -- but to rebuild; not merely to commemorate -- but to continue.

No one entity or organization continually serves, on a daily basis, more Jewish communities around the world than Chabad. From Alaska to Azerbaijan, from Tucson to Tashkent, from Seattle to Samarkand, the familiar sight of Lubavitchers can be seen. Driven by the Rebbe's maxim that every Jew is dear, Lubavitch spends hundreds of millions of dollars each year to meet the physical and spiritual needs of the worldwide Jewish community. Indeed, since the *Shoah*, Chabad has raised and distributed billions of dollars to address these needs.

The Displaced Persons Camps

Lubavitch is not a newcomer to these relief efforts.⁵ Lubavitch was at the forefront of post-war relief efforts. Immediately following the war, Lubavitch established the European Bureau for Refugee Aid and Rehabilitation in France. Chassidim were dispatched to the DP camps to address both the spiritual, psychological and material needs of the survivors. At its height, Chabad's European Bureau operated five large absorption centers, resettling thousands of Jews. Chabad schools were established in DP camps. When the need for kosher meat arose, it was to Lubavitch that the relief organizations turned. In Chabad's Operation Kosher Meat, over three million pounds of kosher meat was processed in 1948-49 by Lubavitcher ritual slaughterers for refugees. Matza for Passover, *seforim*, *tefillin*, *taleisim*, and other religious objects were provided to the refugees. Over 1,200 damaged torahs scrolls were restored and repaired by Lubavitch and distributed to Jewish communities around the world. Many of the *shochtim*, *mohels*, teachers and Rabbis sent to serve the needs of these survivors have remained, to this day, to continue serving the reborn communities.

Chabad's Efforts Behind the Iron Curtain

Amongst those familiar with underground efforts to serve the Jews behind the Iron Curtain during the years of Communist oppression, Chabad's efforts are legendary. Hundreds and then thousand of Lubavitcher operatives were working as a vast underground network to provide material and spiritual succor to those Jews often referred to as double victims – oppressed by both the Nazis and the Communists. Lubavitcher chassidim operated underground schools and synagogues. They performed circumcisions. They provided matzah and kosher food. They smuggled prayer books and other ritual objects to Jews in Russia and its satellite countries. All of these activities were undertaken at tremendous risk and self sacrifice. Lubavitcher chassidim spent decades in prison camps in Siberia for their efforts. Other Lubavitchers were even less fortunate, disappearing at night, never to be heard from again.

⁵ It would be remiss to fail to note the efforts made by Chabad *during* the *Shoah* as well. The Previous Rebbe was a leader in international relief efforts to involve the United States in the rescue of European Jewry. Also, Chabad chassidim fought valiantly in the armies and partisan forces against the Nazis and their involvement continued in the Breicha movement and beyond.

The unprecedented leadership role Lubavitch now plays in the former USSR and other former Communist countries reflects the fact the Lubavitch had never abandoned the Jews remaining in these countries. For decades, during the darkest periods of Communist oppression, Lubavitch was the sole channel of contact between the outside world and between the Joint Distribution Committee and Russian Jewry. Lubavitch never left these communities or ceased serving the needs of these Jews, they merely moved underground for nearly fifty years.

Chabad's Current Services To Survivor Communities

In a very real sense, every Jewish community today is a survivor community. As the Jews sought refuge in the four corners of the earth, Lubavitch followed to meet their needs. The Jewish communities of South and Central America, Australia, Africa and Europe are primarily survivor communities. To meet the needs of these survivor communities, Lubavitch established schools, synagogues, *mikvehs*, camps and other community organizations. No Jew is unaffected by the catastrophe of the *Shoah*. Lubavitch, under the direction of the past two Rebbes, specifically sought to address the spiritual and material needs of those who fled Europe. Since the end of the Shoah, Lubavitch has been hard at work. In the immediate aftermath of the Shoah, Lubavitch gathered its resources and set out assist in the DP problem. As is illustrated below, Lubavitch next turned to rebuilding the Jewish people to help establish, and in the case of Europe reestablish, vibrant Jewish communities. Chabad's efforts have borne fruit.

North America

The largest survivor communities are in North America and Israel. It was to the U.S. that the last two Rebbes escaped to reestablish Lubavitch and it is from here that the more than 5,000 Lubavitcher emissaries are sent to communities around the world. In America, Chabad has not only rebuilt many of our institutions destroyed by the Nazis in Europe but has flourished. Lubavitch is a permanent fixture in nearly 400 cities from Alaska to Hawaii. In the short time that Lubavitch has been in North America it has established 390 Lubavitcher synagogues and nearly 100 educational institutions from day schools to *yeshivas*,

seminaries, and post-graduate institutes. Virtually every college campus having any substantial Jewish enrollment has a Chabad House to educate and support the students. Today, Chabad provides full-time services on campuses in the North America with a combined Jewish student population of over 120,000 students and part-time services to campuses having a combined Jewish population of over 60,000 students. Our educational institutions educate thousands upon thousands each year. The community's library has one of the finest collections found anywhere (though still missing many volumes looted in Europe). Our publishing house is one of the largest Jewish publishers in North America.

Israel

Lubavitch's roots in Israel date to the founding of the Chabad movement itself in the eighteenth century. By 1868, Chabad had established a network of social service organizations to serve the needs of the Jewish population in the Holy Land. The Rebbe sent one hundred Lubavitcher families to Israel after the *Shoah* to establish Kfar Habad and serve the spiritual and material needs of survivors and other refugees. A resettlement center and vocational schools as well as *yeshivas* were established. Chabad chassidim fought with great valor in Israel's wars. Since this small beginning, Chabad has spread throughout Israel to meet the needs of all Jews in the Jewish state. Lubavitch now has permanent institutions in 142 towns and cities throughout Israel and serves the educational and social service needs of tens of thousands of survivors and their descendants on a daily basis. Schools, graduate centers, seminaries, day care centers, publishing houses, senior homes, campus Chabad Houses and other institutions destroyed by the Nazis in Europe have been recreated and reestablished in Israel. One of Lubavitch Israel's most notable undertakings was the airlift to Kfar Habad in Israel of Jewish children of Chernobyl, many of whom were grandchildren of survivors. In Israel, Lubavitch has cared for these children and attended to their unique medical needs.⁶

⁶ Chabad's efforts on behalf of Jews at risk are legion. Another example of a rescue operation undertaken by Chabad was the transport of planeloads of Iranian Jewish children during the midst of the Islamic revolution.

South and Central America

Lubavitch is active in every well-known survivor community in Latin America. There are over 50 Lubavitcher institutions in Latin America. In Argentina alone there are 14 Lubavitcher synagogues, a Jewish school and even a university Chabad House where over 150 university students attend classes each week. In Brazil, there are Jewish schools, *yeshivas*, camps and 14 synagogues. Even Caracas has a *yeshiva*. The story is the same throughout the region – Chile, Columbia, Costa Rica, Panama, Paraguay, Peru, Uruguay and Venezuela – all are served by Lubavitcher synagogues, schools, camps and community social service organizations.

Europe

In a singular rebuke to the Nazi aim of eradicating Jewish communities in Europe, Lubavitch has reinvigorated over 100 Jewish communities in Europe. We have permanent institutions in Austria, Belarus, Belgium, the Czech Republic, Denmark, England, France, Germany, Holland, Hungary, Italy, Latvia, Lithuania, Moldova, Russia, Scotland, Slovakia, Spain, Sweden, Switzerland and the Ukraine. Scores of synagogues, *yeshivas*, seminaries, day schools, camps, community centers, *mikvehs* and other communal institutions have been established to serve the needs of the survivor communities throughout Europe. There are Chabad Houses on university campuses in England, Italy, and Scotland serving thousands of students. In France alone, Lubavitch is established in 23 cities. Even in Germany, the wellspring of the *Shoah*, Lubavitch has established permanent institutions in Berlin, Cologne, Frankfurt, Munich, Offenbach and Potsdam.

Australia

The Previous Rebbe, shortly after the war, sent ten Lubavitcher families to Australia to serve the survivor community there. In the intervening years, Lubavitch has spread throughout Australia. The Jewish communities of Balaclava, Bondi, Brisbane, Carandale, Glenwaverly, Gold Coast, Melbourne, Perth, Sydney and Tasmania are now served by more than 30 Lubavitcher

institutions. Synagogues, schools, *yeshivas*, *mikvehs*, seminaries, publishing houses, relief organizations, camps, community centers – all funded by Lubavitch to serve what is primarily a survivor community.

Africa

In their flight from Hitler, Jews fled to Africa as well. Lubavitch has a permanent presence everywhere in Africa having a sizable Jewish community and in even in places that do not. In Cape Town, Casablanca, Fez, Gallo Manor, Johannesburg, Kwa-Zulu, Kinshasa and Tunis all have Lubavitcher synagogues and social service organizations. The South African Jewish community is also served by Lubavitcher schools and *yeshivas*. Seven hundred university students attend Chabad's weekly Talmud classes on South African University campuses. Prior to the mass emigration of Jews from North Africa, Lubavitch schools educated more than 7,000 students a year in 70 separate institutions in Morocco, Djerba and elsewhere.

Asia

Even in Asia, perhaps the most far-flung of Jewish communities, where the small survivor communities mix with the small communities of Jews spared the horror of the *Shoah*, Chabad is to be found. Chabad's ties predate the *Shoah*, but were strengthened during the war as Lubavitcher chassidim fled through the Asian republics to safety. The Chief Rabbis of Armenia, Uzbekistan, Almaty and Kazakhstan are each Lubavitcher emissaries. Chabad has a permanent presence in Bangkok, Dagestan, Georgia, Hong Kong, Kazachstan, Samarkand, Shanghai, Singapore, Tashkent and Yerevan and sends emissaries to other Asian cities during holidays.

Conclusion

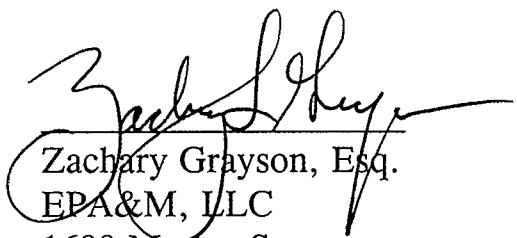
More than a half century has passed since the destruction of European Jewry. During these last forty years, Jewish life was given the opportunity to flourish in the West. Synagogues with great edifices were constructed. Jewish schools and institutions were founded and hundreds of thousands of our youth were educated. The only period to approach the freedom and creativity of these past forty years was the golden age of Spanish Jewry.

The same cannot be said for the Jewish communities of Eastern Europe. The oppression of Fascism was replaced with the oppression of Communism. Pogroms welcomed many of those who chose to return to their homes. The few remaining synagogues were closed, used as stables or theaters. There was no Jewish renaissance in Eastern Europe. In many ways, the Communists were completing what Hitler had begun – the eradication of Jewish culture and life in Eastern Europe.

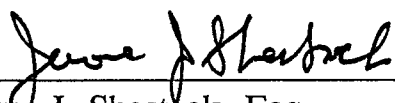
Throughout this time, Chabad maintained a comprehensive underground network working clandestinely to strengthen Jewish life behind the Iron Curtain. Now that the Curtain has finally fallen, there is the historic opportunity to reclaim and rebuild – an opportunity that did not exist ten years ago and may not exist ten years hence.

When history judges how the Court allocated these funds that had been plundered from these communities, it will do so in an age where those very communities either exist or have vanished. We respectfully submit that the future existence of those Jewish communities may well be determined by how these moneys are allocated.

Respectfully submitted,



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Dated: December 10, 1999