

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AGUDAS CHASIDEI CHABAD
OF THE UNITED STATES,

Plaintiff,

v.

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

Defendants,

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

**AFFIRMATION OF SETH M. GERBER IN RESPONSE TO THE STATEMENT
OF INTEREST OF THE UNITED STATES**

1. I am an attorney duly licensed to practice law in the State of California and have been admitted *pro hac vice* in this matter, and am a partner at the Santa Monica, California office of the law firm Bingham McCutchen LLP. I have served as counsel of record for plaintiff Agudas Chasidei Chabad of United States ("Chabad") since the commencement of this case on November 9, 2004, and am submitting this Affirmation in response to the Statement of Interest of the United States filed on February 21, 2014. I have personal knowledge of the matters affirmed herein and can and would testify competently thereto if called to do so.

2. After Chabad obtained a favorable judgment in mid-2010 and subsequently filed its motion for civil contempt sanctions in April 2011, my co-counsel Alyza Lewin and I were invited to attend two meetings at the Russian Embassy in Washington, D.C. with Russian

Government officials, including Georgiy Y. Borisenko, Minister-Counselor of the Russian Embassy, Svetlana V. Shatalova, Third Secretary of the Russian Embassy, and Sergey L. Chumarev, Counsellor of the Russian Embassy. During these meetings, Ms. Lewin and I attempted to negotiate a resolution of this dispute, but no agreement was reached with the Russian officials to return a single book or manuscript of the Library or Archive. When it became clear that the Russian Government would not agree to return any of Chabad's property, Chabad proceeded with its then-pending motion for civil contempt sanctions.

3. Following this Court's issuance of civil contempt monetary sanctions in the amount of \$50,000 per day against defendants Russian Federation, Russian Ministry of Culture and Mass Communication, Russian State Library, and Russian State Military Archive (collectively, "Russia") on January 16, 2013, Chabad was promptly invited to a meeting in Helsinki, Finland by a Russian oligarch. I personally flew to Paris and then to Helsinki with my former law partner, Marshall Grossman, and Rabbis Boruch Shlomo Cunin, Yosef Cunin, and Chaim Cunin. We met with the Russian oligarch and other Chabad rabbis who had flown in from around the world at a conference room at the airport in Helsinki. During our meeting, we discussed a potential path to resolution of the dispute with the Russian oligarch. We were told that this oligarch had personally met with Russian President Putin before meeting with us. The oligarch told us that we would have to discuss the proposal in a face-to-face meeting in Moscow with high-ranking officials from the Kremlin. I offered to fly to Moscow at the earliest opportunity for such a meeting. The Russian oligarch responded by telling us that he would set up a meeting and would get back to us in a few days. We flew back to Paris and awaited further instructions.

4. After returning to Paris, we were contacted and advised that we would meet with a high-ranking official of the Russian Government the following Monday, February 18, 2013. We were

instructed to go to the Russian Consulate in Paris, France to obtain visas, and my understanding is that the visas we obtained state in Russian that we would be entering the Russian Federation at the invitation of the Russian President's Office. On February 17, Rabbi Boruch Shlomo Cunin, Rabbi Chaim Cunin and I were flown by private jet to Moscow and taken to a hotel near Red Square. On February 18, we were driven to the Russian oligarch's office where we attended a face-to-face meeting with, among others, the Russian oligarch and Yuri Ushakov, former Ambassador of the Russian Federation to the United States. During our meeting, we discussed the potential path to resolution which we had discussed with the oligarch in Helsinki the prior week. We left the meeting hopeful and with the understanding that Ambassador Ushakov would discuss the proposal with Russian President Putin in the near future. We immediately left Moscow and flew back to Paris.

5. The following day, I flew to the United States, and upon landing in Newark, New Jersey to catch a connecting flight, I learned that Russian President Putin had attended an event at the Jewish Museum and Tolerance Center in Moscow and personally announced his intention to move books from the Library to a branch of the Russian State Library ("RSL") at that museum. It was obviously disappointing that Russian President Putin had rejected the proposal discussed with the Russian oligarch in Helsinki. Notably, Russian President Putin did not make any announcement concerning the fate of the Archive, which apparently remains at the Russian State Military Archive in Moscow.

6. On or about February 21, 2013, Chabad issued a press release rejecting Russian President Putin's proposal to move the Library to the RSL-branch at the museum in Moscow on numerous grounds, including that Chabad is the rightful owner of the collection, and its return to the United

States is the only acceptable outcome that is consistent with the clear directives of the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson.

7. Based on the foregoing, I strongly believe that this Court's rulings have had an impact in the decision-making at the highest levels of the Russian Government. While I appreciate the efforts of the U.S. State Department in engaging in government-to-government negotiations regarding the Collection, I am not aware of any material progress that has been achieved by the U.S. State Department in the course of those negotiations. In fact, after a year of negotiations by the U.S. State Department, it is my understanding that no diplomatic notes have even been exchanged to set forth a path to resolving this dispute. I believe that Chabad's effort to enforce a judgment in this action could bring the Russian Government back to the negotiating table. Before this Court issued its sanctions order, the State Department told us that the Russian Government would never speak with us again if Russia was found in contempt. In fact, the direct opposite happened. This Court's judgment and sanctions order got the Russians talking.

I declare that the foregoing is true and correct under penalty of perjury under the laws of the United States and that this affirmation was signed in Los Angeles, California, on this 28th day of February, 2014.



Seth M. Gerber