

THE SCHNEERSON COLLECTION AND HISTORICAL JUSTICE

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

APRIL 6, 2005

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COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 2:30 p.m. in room 216, Hart Senate Office Building, Washington, DC, Hon. Sam Brownback, Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Sam Brownback, Chairman, Commission on Security and Cooperation in Europe; Hon. Christopher H. Smith, Co-Chair, Commission on Security and Cooperation in Europe; Hon. Benjamin L. Cardin, Ranking Member, Commission on Security and Cooperation in Europe; and Hon. Alcee L. Hastings, Commissioner, Commission on Security and Cooperation in Europe.

Other Members of Congress present: Hon. Norm Coleman, a U.S. Senator from the State of Minnesota.

Witnesses present: Amb. Edward B. O'Donnell, Jr., Special Envoy for Holocaust Issues, Department of State; Rabbi Boruch Shlomo Cunin, Director, Chabad-Lubavitch on the West Coast, Senior Executive Member of Agudas Chasidei Chabad-Lubavitch, and the Delegation appointed by the Lubavitcher Rebbe; Rabbi Joseph Wineberg, noted author on Judaism, Senior Member, Chabad-Lubavitch; Leon Fuerth, Research Professor of International Affairs, George Washington University, former National Security Advisor to Vice President Albert Gore; Rabbi Yehuda Krinsky, former Assistant Chief-of-Staff to the Lubavitcher Rebbe Menachem M. Schneerson, Chairman, International Chabad-Lubavitch Social Services and Educational Organizations, Senior Executive Member and Secretary, Agudas Chasidei Chabad-Lubavitch; Marshall B. Grossman Esq., Alschuler Grossman Stein & Kahan LLP, attorneys for Agudas Chasidei Chabad-Lubavitch; Rabbi Isaac Kogan; and Jon Voight, academy award-winning actor, advocate, human rights issues.

HON. SAM BROWNBACK, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. BROWNBACK. I call the hearing to order.

I thank you all for joining us today. We just got a vote posted in the Senate, and I understand here's a 3:15 vote, I believe, in the House.

The way we're going to operate this is I'm going to hold my opening statement for a little bit later on. I will get it in here during the hearing.

Senator Coleman has a limited schedule; can't be with us for very long. I'm going to turn to him for his opening statement. And then I'm going to turn it over to Congressman Smith to run the hearing in my absence until I can get back from the vote. Then I'll continue, and he'll run over to his vote after that.

I apologize for this musical chairs, literally, type of operation in a very important and key hearing, but we've just got a series of votes that are taking place, and we want to get this meeting going. We've got some excellent testimony on a topic that I hope to get a lot of focus on and interest in moving this on forward.

So with that, I want to turn first to my colleague from the Senate, Senator Coleman, for a brief statement that he would have on this hearing and this topic.

**HON. NORM COLEMAN,
A U.S. SENATOR FROM THE STATE OF MINNESOTA**

Mr. COLEMAN. Thank you, Mr. Chairman.

I do want to thank Chairman Brownback for holding this very important hearing and for inviting me to share a few words. This is an important issue, and we need to shine a light on it. And that's what's being done today.

Persecution's taught the Jewish people a lot about education. As people that have often been dispossessed, we know that the only true wealth is what you carry with you in your heart and between your ears. For the Jewish people, studying our sacred books is more than an academic exercise; it is an essential part of Jewish identity.

The time has come for Russia to return these books to their rightful owners; it is simple as that. The saga has been going on for 90 years. Commitments have been made and have been reneged. Courts have ruled and these rulings have been ignored.

I am here as someone who has marched for Soviet Jewry in my youth. Now, there is no doubt that Russia has made some important progress in those days. But anti-Semitism is still a problem in Russia. And Russia's failure to return these books, the Schneerson Agudas Chabad collection, to return these books to the Chabad community to study and use in preservation is simply unacceptable.

I've been working on this issue for some time now, and I can tell you that few issues have generated the high level of unqualified bipartisan support as this noble effort has. The Senate leadership has been unequivocal in their support. Secretary Rice, during her confirmation hearing, committed to me that she would raise this issue with her Russian counterparts.

In my letter to President Putin, which gathered the signatures of all 99 of my Senate colleagues, 100 U.S. Senators, was given to President Bush for his meeting with President Putin in Bratislava earlier this year. It is an issue that is getting a lot of well-deserved attention.

We would not be here today without the tireless efforts of so many in the Chabad-Lubavitch movement. My good friend, Rabbi

Feller from St. Paul, I know is here today, the indomitable Rabbi Cunin, whose spirit and energy is so moving. Others have joined this fight. I was pleased to meet with Jon Voight, the great actor and great humanitarian who is here with us today. And I am thrilled that Chairman Brownback is using the forum of the Helsinki Commission to raise what I believe is a fundamental question of religious freedom and the rule of law.

One of my favorite quotes is from former Prime Minister David Ben-Gurion, Israeli prime minister, who once said, "Anybody who doesn't believe in miracles is not a realist." That's why we're here today. After decades of frustration, we need a breakthrough. Let's make this miracle happen.

Thank you, Mr. Chairman.

**HON. CHRISTOPHER H. SMITH, CO-CHAIRMAN,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. SMITH. Thank you very much, Senator. And I do want to thank you and Chairman Brownback for convening this hearing.

This week, as we mourn the departure of a devout man of the Christian faith who was a tenacious fighter against anti-Semitism, Pope John Paul II, we are reminded of the great men of the Jewish faith who struggled at the risk of their lives and fortunes to preserve a priceless library of Hasidic writings while the chaos and brutality of fascism and communism raged all around them.

As Co-Chairman of the Commission on Security and Cooperation in Europe, I am proud that this institution is presenting the story of the Schneerson Collection today.

We are honored to have a number of distinguished guests in this room who suffered greatly at the hands of the Soviet Government due to their association with Rabbi Schneerson. Their bravery and perseverance, as has been capsulated in their written statement for the record, is a testament to the power of faith.

The return of the collection is an issue that the Congress and the U.S. Helsinki Commission have followed closely since the early 1990's. We had hoped that with goodwill, patience, and observance of the rule of law the disposition of the collection would be resolved by now.

I understand that the Russian Government believes it has a legal case for keeping the books in Russia. However, Chabad has presented voluminous and impressive information to support its position. And I am unable to understand why the supreme arbitration court decision in favor of Chabad was not carried out.

We are informed that the collection is being transferred to a separate facility in Moscow where the physical conditions are better than the main state library. This would seem to represent progress, but as someone once said, "Nothing is resolved unless it is resolved justly." I hope this hearing will help to point to a just resolution of this.

I would like to yield to my good friend and colleague, the ranking member on the Helsinki Commission, Mr. Cardin, for any opening comments he might have.

**HON. BENJAMIN L. CARDIN, RANKING MEMBER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. CARDIN. Let me thank Chairman Smith for his leadership on this issue and so many issues involving the human dimension of the Helsinki Commission work. And I want to thank Senator Brownback for conducting this very, very important hearing.

I'm going to put my entire statement in the record; I want to hear from our witnesses. But let me just make one point, if I might.

The Helsinki obligations are very important obligations signed by 55 states. They are rather general in nature as to what we commit to do and have a legitimate right to question the actions of other countries as to whether they're living up to their Helsinki Commission commitments.

But we judge that by specific actions. It's the specific action that speaks to whether a country is adhering to the principles of Helsinki.

Russia is not today by its failure to return this very important collection. They should do it. They should do it now. And I think this commission's hearing underscores the priority of our commission in this undertaking.

I thank you all who are here today for being here to join us in this hearing.

The Schneerson Collection represents the cultural history of a community that was destroyed during World War II. And its rightful owner is entitled to this collection. And I believe that today's hearing will give us additional information so that we can continue to make this point.

We will not be satisfied until justice is done. That is what we're entitled under the Helsinki process. And this hearing is, I think, an important part of us carrying out that responsibility.

Thank you.

Mr. SMITH. Thank you very much, Mr. Cardin.

The chair recognizes the President of the Parliamentary Assembly, Alcee Hastings, the gentleman from Florida.

**HON. ALCEE L. HASTINGS, COMMISSIONER,
COMMISSION ON SECURITY AND COOPERATION IN EUROPE**

Mr. HASTINGS. Thank you very much, Mr. Chairman. And I shall not take a long time.

I echo yours and my colleague, Mr. Cardin's, sentiments as well as those of Senator Coleman. I thank you and Senator Brownback for calling this very important hearing.

I'm delighted that our first witness is all of our good friend who has labored actively in response to many requests regarding our rightful property owned by all Jews, not only here, but throughout the world.

Ambassador O'Donnell and I had the good fortune of being at lunch together yesterday at the Anti-Defamation League. And many of the same kinds of issues were discussed.

From the history of war reparations to the recent controversy regarding the Hungarian gold train, we, especially those of us here in Congress, are keenly aware of the sad fact that in addition to lost lives, Europe's Jewish communities lost irreplaceable and in-

valuable artifacts during the war years. When we discover that such items have been found intact, it is only natural and just that we will want to ensure their safe and complete return.

The hard work that has been put forward by the Chabad community and the Lubavitch is deserving of some resolution. It is our hope that this hearing will expedite the return of these critically important documents in the name of the Schneerson Collection and historical justice.

With that, Mr. Chairman, with your permission, I ask unanimous consent that my entire statement be entered into the record.

Mr. SMITH. Without objection, your statement will be made a part of the record. And all members who would like to submit record statements will be so done.

Let me just now introduce our first very distinguished witness, a friend—a good friend. Let me amend that: a great friend of this Commission who has been a strong and articulate voice on behalf of the rightful cause of those who are seeking property restitution and other important aspects of restitution, much of it attributable to World War II. And that is Ambassador Ed O'Donnell.

I would just say to the assembled audience, when we embarked on the Berlin conference on anti-Semitism last year as well as the Vienna conference before that, Ambassador O'Donnell was a great friend and a very informed and articulate person who provided us very valuable information.

And so, Ambassador O'Donnell, thank you for the tremendous work you're doing, and we look forward to your statement today.

**HON. EDWARD B. O'DONNELL, JR., SPECIAL ENVOY FOR
HOLOCAUST ISSUES, DEPARTMENT OF STATE**

Amb. O'DONNELL. Thank you very much, Mr. Chairman. And thank you for that introduction. I appreciate that.

And thank you, CSCE Commissioners, Mr. Cardin.

Congressman Hastings, thank you for your comments as well.

And it's a pleasure to be here. And thank you for the invitation to discuss with the Commission the Schneerson Collection. And I will make a brief summary of remarks. And I would appreciate my written statement be entered into the record.

Mr. SMITH. Without objection, it will be put in the record.

Amb. O'DONNELL. Thank you.

This complex issue has been on our diplomatic agenda with Russia for many years. The fate of the Schneerson Collection resonates as an issue of basic fairness for Members of Congress and for Americans of all religions and faiths. My testimony will address past U.S. Government efforts in support of a resolution of this issue: also the current U.S. Government position and the current Russian position as Russian officials have conveyed it to us.

The Schneerson Collection consists of two parts, the Schneerson Library, a collection of religious texts, and an archive that Chabad discovered at the Russian military archive in 2003. So that we can distinguish between the two separate entities, I'll use the term "library" for the items we have known about for almost two decades and the term "archive" for the more recently discovered materials. The term "collection" will be what I'll use for the two entities together.

Since the early 1990's, the U.S. Government has strongly supported the efforts by Chabad to obtain the Schneerson Library. Our efforts have been at the level of Presidential summits as well as in cabinet, Ambassadorial, and working-level diplomatic discussions.

In 1992, Acting Secretary of State Lawrence Eagleburger denied the Russian State Library, formerly the Lenin State Library, assistance under the Freedom Support Act. He made this decision as a policy matter based on the Russian State Library's continued possession of the Schneerson Library.

In 1993, the United States received a political commitment from the Russians, in the form of a memorandum of understanding, to transfer the Schneerson Library to a facility that was both readily accessible to the Chabad community as well as better suited for the protection and conservation of fragile and valuable documents. The Government of Russia formerly established the Center for Oriental Literature in 1993 under the umbrella of the Russian State Library, thus creating a new home for the collection.

The original plan called for the transfer of the Schneerson Library to the Center for Oriental Literature to take place by March 1994. The building designated by the Russian Government for the new center, however, required far more extensive renovations than foreseen originally.

Unfortunately the center was only opened in 2003. We understand that the Russian State Library expects to complete the transfer of the Schneerson Library to the Center for Oriental Literature in May of this year.

A second subject of the discussions was a library-to-library loan, which was arranged in 1994 between the Russian State Library and the Library of Congress, this under the MOU. The loaned books are still in the United States, and the terms of the loan have been the cause of continuing disagreement between the two parties.

In 2002, the Russian State Library permanently gave a number of volumes from the Schneerson Library to the Marina Roscha Lubavitch synagogue in Moscow. The Schneerson Library had more than one copy of these volumes, and I understand this is approximately 39 books.

This administration remains firmly committed to working with the Russian Government and the Lubavitch community to resolve this issue. Each of our Ambassadors to Russia over the past 15 years have been personally involved in this effort. Our embassy in Moscow monitors events concerning the Schneerson Collection closely and maintains contact with all the parties involved.

In 2003, Ambassador Vershbow suggested to both the Russian minister of culture and to Chabad that the two parties meet with him at the embassy for a roundtable discussion of the Schneerson Library issue. And the Ambassador and the embassy continue to offer this proposal as a way forward.

I also want to acknowledge the helpful and important interventions by Members of Congress on this issue, the most recent being the letter to President Putin signed by all 100 members of the U.S. Senate. Senior White House officials conveyed this letter to President Putin's delegation at the February 24th Bratislava summit.

Russian officials have frequently referred to the Schneerson Library as a national treasure, a part of Russia's cultural heritage. They cite various laws and decrees as providing the basis for Russia to retain the Schneerson Library, which they point out was created in Russia and has always been in Russia.

Russian officials maintain that the divestiture of the Schneerson Library would violate Russian law and would also establish a legal precedent for the return of other cultural property nationalized in the wake of the Russian Revolution.

Despite a political commitment to negotiate a resolution on the final status of the Schneerson Library, the Russians now maintain that they are prepared only to discuss the use of the library and not its transfer.

In closing, I would note that this hearing brings the Schneerson Library and archive to public attention, which we very much welcome. We hope that this hearing will help both parties to realize the importance of reaching a mutually acceptable solution.

For Chabad, the collection has strong and understandable religious value. Chabad members want to be able to benefit from the teachings of their rebbes. According to Chabad leaders, having limited, periodic access to the collection does not serve that purpose.

For Russia, the collection bears witness to the activities of a vibrant Jewish group for nearly two and one-half centuries.

Mr. Chairman, it is now up to both parties to identify their respective interests and to seek an arrangement by which to further and protect those interests. If these hearings help to accomplish that objective, they will have done a service to us all.

Thank you very much, and I look forward to your comments and questions.

Mr. SMITH. Thank you very much, Mr. Ambassador. And thank you for your work on this.

And I would just note that all of us were very encouraged when the President did raise this in Bratislava as well as Secretary Rice when she was undergoing her confirmation, when she made it clear that this would remain a very important part of our dialog with the Russians.

My understanding is that President Bush will be meeting with President Putin on May 9th to celebrate the victory over the Nazis. I wonder if it will be raised there as well. And hopefully with the added backdrop that to me and to my colleagues on the House side and, of course, for the senators—and you pointed out 100 senators have signed that letter—it is dismaying beyond words why they are dragging their feet and not only dragging their feet, moving in the opposite direction and obstructing what seems to be an extremely unfair position.

There are other issues between the Russians and ourselves, including Chechnya and other issues, that are much more vexing and are not as deliverable, it would seem to me, as this one. So I would hope that the Russians would realize how dismaying this truly is that they are continuing down this misguided path.

I would also note for the record we did invite the Russians to be here to present testimony to the Commission. We frequently do that. We have Ambassadors and Ben Cardin and I and Alcee. We go to other capitals and give representation on behalf of our Na-

tion. So there is no real precedent involved here. It is the normal course of what the Commission on Security and Cooperation does. And they have decided to opt out.

They have submitted some materials that we will include in the record, but it would, I think, have been very helpful had they been here to see just how strongly all of us feel in a bipartisan way and in a bicameral way and with the executive branch as well.

So any comments you might have, especially with regards to the May 9th meeting with Putin.

Amb. O'DONNELL. OK. If I may, Secretary Rice, in response to Senator Coleman, since that time when she said we would continue to push on this issue of the Schneerson Collection, we certainly have done that. Ambassador Vershbow and his staff have been in contact with the Russian State Library, the Ministry of Culture, the government officials at various levels, here in Washington, the State Department, the White House with the Russian embassy here.

Also I would say that we continue to use every appropriate opportunity to raise this issue and will continue to do so. And, of course, you mentioned the summit in Bratislava at the end of February when we delivered the letters to President Putin's delegation.

Secretary Rice will be making a trip to Moscow the 19th and 20th of April. And she intends to raise this issue in this her first visit to Moscow since becoming secretary of state. And that's what we see as the next step.

There will be other actions on our part and concrete measures to keep pushing this issue and that it remains a part of our agenda.

I don't have the specific information about the President's meeting in May, but our focus for the next step certainly is Secretary Rice and her raising it during her visit to Moscow later this month.

Mr. SMITH. I appreciate that.

Mr. Cardin?

Mr. CARDIN. Well, let me first thank Ambassador O'Donnell for his service to our country and for your testimony here today. It's been a pleasure to work with you on these issues.

And I think your testimony is very clear, that it is the position of our country that Russia should return the balance of the Schneerson Collection as soon as possible. We said that in December 1997 when some volumes were returned, so we clearly have a position on this.

And I understand the diplomacy, understand how in dealing with Russia and the former Soviet Union for many years that they somehow think that these issues are going to go away and that we won't be interested in the future. Well, they have an awakening here. We are going to stay involved in this issue until we succeed in reaching a just solution, the return of the collection. And I think that is very clear by our hearing here today.

So what I would ask, Mr. Ambassador, is this: that I am very much encouraged by the State Department raising this issue at the highest levels with our President and Secretary of State who will raise these issues at meetings of their counterparts. I would like to have a clear understanding as to what the current status of the number of volumes, et cetera.

And I don't know whether we have that or not, but I think it would be helpful for us if we could know what volumes—percentage still remain under Russian control and what has been released and whether we think that's an accurate number, whether we have a good sense as to the expectation of how much of the collection still remains that we're interested in getting returned. I think that would be helpful for us to have those numbers.

And then last, I would ask that you coordinate, as you always do, the work of the State Department, the work of the administration with the work of the Commission—because I think we have a common strategy—so that we can be the most effective. We'll have meetings with our counterparts in the Parliamentary Assembly coming up as early as next week in Copenhagen, and we'll have additional meetings here in Washington in the summer.

So it'd be helpful if we could just stay completely up to date as to the status of the responses that you're getting from the Russian Federation so that we reinforce what the Secretary is doing, what the President is doing with our counterparts in the Russian Duma.

Thank you.

Amb. O'DONNELL. Thank you, Congressman.

In terms of the numbers, the results are disappointing. The library itself consists of 12,000 volumes, 381 manuscripts. The archive is an estimated 25,000 hand-written pages. So there are two different elements to the Schneerson Collection both that have a different history, the library having been taken by the Soviet Government after the revolution, the archives as a part of World War II and the Holocaust.

And to date, one volume was given to Vice President Gore in 1993. Seven volumes were transferred in the inter-library loan program between the Russian State Library and the Library of Congress under the MOU. And then approximately 39 volumes were transferred on a permanent loan basis to the Marina Roscha synagogue in Moscow.

We understand from the Russian Embassy that they will also have another permanent exhibit of some type. But again, we haven't seen this. And that would be in the Jewish center in Moscow. But that remains to be seen.

But certainly, the results are disappointing. And our basis of this is the MOU and the political commitment by the Russian Government to both safeguard the collection and make sure it's secure and catalogued and also to continue the dialog on the eventual disposition of the Schneerson Collection. And that's what we will continue to push on. And that second part is equally important.

Mr. CARDIN. So we are making progress then in the documentation but not in the return, is that right?

Amb. O'DONNELL. Well, there has not been—the last amount delivered, I think, was in 2002, 2003. But that's on a permanent loan basis. But again, it's very small.

And I think certainly in terms of our objective, it's to—we have several objectives: one, to safeguard the collection and make sure that the Center for Oriental Literature, when it opens in May is, one, an adequate facility—our Embassy has visited that, our officials—but also the important issue of access; that the Chabad com-

munity can access the library, the Center for Oriental Literature for religious purposes.

But also that second part of it of continuing the dialog. And that's where we've got to keep pushing the Russians, that that's not the end of the story, just the adequate facilities, that that's an interim step to safeguard it. But we very much are going to continue to push on that issue of the disposition with the objective, of course, of helping Chabad obtain the Schneerson Collection.

Mr. CARDIN. Thank you. Thank you, Mr. Ambassador.

Mr. BROWNBACK. Congressman Hastings?

Mr. HASTINGS. Thank you very much, Senator. I didn't see you come back in on the rotation.

To our friends in the Lubavitcher and those that are assembled here, as the chairman has said, we rotate out for votes. And we, Mr. Smith and Mr. Cardin and I, have to go all the way over to the House side. Senators have the good fortune of being able to step down the hall. In short, we apologize to you for having to leave to go and vote. And we'll try to get back as quickly as possible.

It's, kind of, hard, too, to apologize for working. I say that all the time to constituents. But I'm sure that you all understand that.

When you look at the history of this matter, I think, Ambassador O'Donnell, first, thank you for the clarity and the brevity of your remarks. And I know the depth of your sincere conviction, as well as those in the State Department and the administration, is demonstrated by the continuing efforts that have been put forward.

But when you look at the history of this matter, if you date back all the way to World War I and the seizure that took place at that time and then the followup seizure of the collection after World War II, I think it important at least that some of us emphasize that these papers, this historic collection, was seized and was not donated. And I think that in and of itself is a distinction, although I have not read the court opinions. And that's the thrust of my question in two parts.

One: To what extent is the impact of the Federal courts decision with respect to Russia returning the documents? And if I'm not mistaken, the Russian Supreme Court has already ruled favorably on this matter. And then what effect does that have on the Federal court?

And then my final question is is there any specific timeline, not the administration's—but to the administration's knowledge that the Jewish community is looking to secure the release of this collection?

It's never too late to right a historic wrong. And as my colleagues have said, we intend to continue to raise this with our interlocutors that our counterparts in the Russian Duma and the Parliamentary Assembly. And you can be assured that we will. And we hope, Ambassador, that we coordinate our efforts.

Thank you very much, Mr. Chairman.

Mr. BROWNBACK. I thank you, Congressman.

Mr. Ambassador, I apologize for not hearing your testimony and for having to leave. I do want to ask a couple questions, and they may be redundant, given that I wasn't able to be here. And I apologize for that.

Ambassador, to the very point of the issue, the President will soon be traveling to Russia, will soon be meeting with President Putin. I think he really should aggressively put at the list of items amongst the top items to address the return of the Schneerson Collection.

It is something that the Russian President, the Russian Government has in their operation to be able to convey. They can resolve this issue that's been left simmering for far too long.

As we all know, as you certainly know and the President knows, these are not just merely a collection of books. These are a connection to the divine. They are extremely important. They cannot be measured in value or worth by any means. And they need to be where they belong and in the community of interest that owns them, that reveres them, that uses them. And the sacred text belongs to them, that they could see and have and learn and grow from.

It's a bit like having the secret book of the cure to cancer and you know it's there, but you can't get access to it, but you know it's there. And you want it. Only it's much more than that than a physical issue. It's a spiritual issue.

And I really hope we can put this up on the agenda, high on the agenda when the President meets with President Putin here the first part of May.

Amb. O'DONNELL. Thank you, Mr. Chairman. And thank you for the invitation to speak today and for holding this hearing.

And I just would like to emphasize that Secretary Rice had answered Senator Coleman that she would continue to push this issue. And we've continued to do that.

Ambassador Vershbow and our Embassy in Moscow and here in the State Department, White House officials and continuing to push on the basis of the MOU, which is a Russian political commitment from 1992 to both safeguard the Schneerson Collection and to continue to discuss with us with best efforts to resolve the disposition of the Schneerson issue.

Now, Secretary Rice will be going to Moscow April 19th and 20th. And she intends to raise this issue. And that is our next step.

Mr. BROWNBACK. It is on her agenda to raise at that time?

Amb. O'DONNELL. Yes, sir.

Mr. BROWNBACK. Good.

Amb. O'DONNELL. And as I think you know, President Bush met with President Putin in Bratislava at the end of February. And the letter from the 100 senators was conveyed to the Russian delegation as a part of that summit meeting. And so, we're continuing to push on this issue.

And I understand your comments about the Presidents meeting in June. And I don't have information today on that, but certainly our next step to focus on is Secretary Rice and her meeting in Moscow.

Mr. BROWNBACK. And then after that, I would ask that you would convey to the administration that it be raised with President Putin at the next time when they meet.

Amb. O'DONNELL. Yes, sir.

Mr. BROWNBACK. And it seems to me to be a fairly clear and quite a doable thing for the Russian Government to deal with. And

I have some great deal of difficulty understanding why it hasn't occurred when the clear value of this and its clear ownership is obvious.

Amb. O'DONNELL. Well, from the Russian Embassy, I can tell you what they have conveyed to us is that they consider this to be a national treasure and a part of their heritage and would set a precedent for return of other archives and books and so on taken by the Communist government around the time of the Russian Revolution.

From our standpoint, we go back to that MOU and that political commitment from 1992 that we will continue to talk about this and also safeguard the collection. And there are a number of objectives here, but certainly safeguarding the collection, access by the Chabad community for religious purposes are two. And that's where we're working as well.

But again, as an interim measure, not as the long-term solution. The long-term solution has to be—and certainly is our position on record—is to help the Chabad community obtain the Schneerson Collection.

Mr. BROWNBACK. Well, I hope you'll push that aggressively within the administration. And it's something that's time. This has gone on for a long time, and this is time for it to happen and for it to move on forward.

Mr. Ambassador, thank you very much for joining us.

Amb. O'DONNELL. Thank you.

Mr. BROWNBACK. I appreciate your willingness to testify. And I appreciate also your willingness to continue to press this issue with some clear degree of strength of interest on this.

This should not be continuing. I understand they may view it as part of a much bigger picture, but I would hope, if nothing else, they could see a reason to separate it out for the sacredness of the text, although I would think they also should deal with the bigger-picture issue of if you've got things that were not conveyed to you but acquired by other means, it seems that that should be reviewed as well.

Thank you for being here today.

Amb. O'DONNELL. Thank you very much, Mr. Chairman.

Mr. BROWNBACK. I apologize for how this is moving. But I wanted to put in a statement at this point in time and present a portion of it that I didn't get to at the speed earlier.

I'm pleased with all the people that are here today and the interest in this topic.

Today's hearing is an effort by the Jewish Chabad community and the United States to recover the Schneerson Collection of sacred Jewish texts that is now in possession of the Russian Government. And our purpose is to try to give this community a chance to tell their story and the history of these texts. As tragic as that story of survival and faith is, it is also a story of hope and perseverance and what it means to live spiritual lives.

There are many in the room today who have seen and lived through unspeakable horrors during World War II and the Holocaust.

As a matter of fact, are there any Holocaust survivors that are here today? And if they are, I would be honored if you would see

fit to stand. Would you please stand if you're a Holocaust survivor? My goodness. [Applause.]

Thank you. You honor us greatly by your presence.

You know, it is an unspeakable thing that you have witnessed and have been through and that your community has experienced. It's also brought an insight into genocide, mass killing. Today is the 11th anniversary of the Rwandan massacres that took place: 800,000 people.

Even as we're here today, a genocide exists in Darfur, Sudan, that many in your community are involved in. And I'm sorry, deeply sorry for what you experienced. It's also brought a light to that experience that's happened in other places as well.

But thank you very, very much for being here and honoring us with your presence. I hope afterwards, if we have some time, I can greet some of you individually. I would very much appreciate that.

The value of the Schneerson Collection of sacred Jewish texts is not financial, but immeasurably spiritual. They are a link between humanity and divinity. In that sense, they belong to all of humanity and on behalf of which the Chabad community has been entrusted with their safekeeping.

On May 9th of this year, leaders from around the world will be in Moscow to celebrate the end of World War II in Europe at a time when the Soviet Union and the free world fought together to defeat Hitler and the Nazis. It would be a welcome gesture by President Putin, on the occasion of civilization's victory over fascism, to order the return of the Schneerson Collection to its rightful owners.

Mr. Putin, I should add, has distinguished himself with many positive gestures toward Russia's Jewish population. In June 2002, he issued a medal of courage to a Russian citizen after she was injured trying to remove a booby-trapped anti-Semitic poster near Moscow. In addition, President Putin has on various occasions strongly and courageously condemned anti-Semitism in Russia. Jewish culture is thriving today to a degree that would have seemed completely unimaginable 20 years ago.

I hope the stories we hear today will persuade the Russian Government to reexamine its position on the Schneerson Collection and return the original texts to the organization that Rabbi Schneerson designated to seek its return.

As I mentioned, the U.S. Government has been engaged for many years regarding the Schneerson Collection. In addition to the efforts by former President Clinton and Vice President Gore, President Bush also raised the issue of the collection with President Putin at a recent meeting. And on two separate occasions, all 100 Members of the Senate signed letters appealing to Presidents Yeltsin and Putin.

And I know of very few issues—I don't know of another issue where 100 Members of the Senate, every one, has signed the letter. I don't know of another issue. [Applause.]

To me, that bespeaks of the clarity of this issue.

During her confirmation hearing on January 19th of this year, Secretary of State Condoleezza Rice stated that the administration will, quote, "very much push," end of quote, on the issue of the Schneerson documents. And we look forward to hearing how that policy is being implemented.

I'd like to thank members of the community that are here today and have prepared written accounts of their persecution in Eastern Europe and the Soviet Union for being associated with Rabbi Schneerson—that they were persecuted for that. They have provided inspiring narratives that will be entered into the written record. And we will also be hearing some of the testimony.

Given the number of witnesses at today's hearing, I'd like to ask the witnesses to summarize their statements and to observe the time limits. Because of the number of witnesses that we have here, I will be running the clock and will run these lights here on a 5-minute basis. And the reason is to really just try to keep things moving along. It's not a hard and fast rule, but we really do want to try to keep the hearing moving forward.

Your full statements will be a part of the record for the hearing itself. So what you will be putting forward in writing will be there.

I'd like to ask the panel members on the second panel to now come forward and take their seats, if you would.

On this second panel, we'll hear testimony from Rabbi Cunin, senior executive member of Agudas Chabad community—if I mispronounce some of these words, I apologize, and some of these names—Jon Voight, Academy Award-winning actor and advocate for human rights issues; Rabbi Joseph Wineberg, who survived the bombing of Warsaw with Rabbi Schneerson and preserved parts of the Schneerson Collection; Leon Fuerth, former national security adviser to Vice President Albert Gore; Rabbi Yehuda Krinsky, former assistant chief of staff to the Rebbe Menachem M. Schneerson; Marshall B. Grossman, Esquire, representing the Agudas Chabad community in the legal effort to recover the Schneerson Collection.

I'm delighted that each of you are here today. As I mentioned, we will run the time clock, if we can get that started when we get going here. I am very pleased that each of you would join us today.

Rabbi Cunin, I believe is here. Yes, please, would you open the testimony of this second round? Thank you for joining us. Good to see you again.

**RABBI BORUCH SHLOMO CUNIN, DIRECTOR,
CHABAD-LUBAVITCH, SENIOR EXECUTIVE MEMBER OF
AGUDAS CHASIDEI CHABAD-LUBAVITCH, AND THE
DELEGATION APPOINTED BY THE LUBAVITCHER REBBE**

Rabbi CUNIN. Chairman, Senator Brownback, all of the wonderful Members of our Congress, of our State Department, the White House, President Bush, Secretary of State Rice, I am here today as a spokesman for our rebbe. I have nothing to say.

I stood with our rebbe, whose spiritual presence can be felt in this room. As we returned to the rebbe, Rabbi Alonov and myself, to Rabbi Kogan from our delegation was able to get from the KGB in Kiev the last audience with the rebbe before his stroke. And the rebbe held gently a picture of his father, Rabbi Yitzak, who died in exile because of the KGB. The rebbe gently held the letters of his mother, Rebbitzin Chana, begging for the release of her husband who was imprisoned for baking matzah for Passover and sharing it with others. And those letters were never sent anywhere

because all they sought to do was to destroy anyone who had any connection to Rabbi Schneerson.

As the rebbe's books lie in cold, frigid cellars in the Russian State Library, as the rebbe's manuscripts—ancient manuscripts with the handwriting of the Alter Rebbe, founder of Chabad, lie untouched by human hands for close to 60 years, as potatoes lie in sacks, in the freezing cellars of the military archives. I am here on behalf of the rebbe to first say how much the rebbe's appreciation and blessing is to this great country. God bless America.

America was the one who opened its arms to the Chabad movement with the coming of the previous rebbe here in 1940. Americans were the ones who saved his lives; the lives of all of those that were saved is only because of the intervention of this great country. God bless America.

You will hear from the other members of our panel all the beauty that lies in these books, those sparks, the soul trapped in isolation, in loneliness, their lives in danger, the lives of the sparks, because of their horrific conditions that the physical papers that they are written on find themselves in.

Eight hundred years ago Maimonides wrote (inaudible) whose books are entombed in these prisons, "There will come a time"—as the rebbe told us, "(inaudible) do what you could do to make an end to this horrific suffering."

Maimonides wrote, "There will come a time there will be no more war, no more suffering. (inaudible)." Eight hundred years ago Maimonides wrote this, that the period is coming of goodness and of kindness with the redemption that will cover the face of the Earth as the waters cover the bed of the sea.

Thank you. God bless you.

Mr. BROWNBAC. Thank you, Rabbi. Thank you, Rabbi.

We'll next have Jon Voight.

Mr. VOIGHT. I'd like to pass for the moment, Senator.

Mr. BROWNBAC. OK.

Rabbi Wineberg is who I had next. And we will also have—there is an additional witness I did not announce, Rabbi Isaac Kogan will also be testifying.

But, Rabbi Wineberg, are you prepared to testify?

**RABBI JOSEPH WINEBERG, NOTED AUTHOR ON JUDAISM,
SENIOR MEMBER, CHABAD-LUBAVITCH**

Rabbi WINEBERG. I would like to thank you—

Mr. BROWNBAC. Let me get that microphone up a little closer, if you could. Thank you. Thank you very much.

Rabbi WINEBERG. May the Almighty bless you all for this great gathering for what you will accomplish, with God's help, for mankind in general—not only for the Jewish people, but for mankind in general.

It's a very serious matter, and people are in a very serious mood. And we were told by our sages, talmudical sages, that they had the power, the godly power to put a whole philosophy in a few words, that always one should begin with a little light sense; call it a joke or whatever.

I would like to say the first thing that I always say that English is my mother tongue: My mother didn't know the language, and I don't know the language. [Laughter.]

Another thing that also our sages taught is us to begin with a word of praise and honor for the host.

And in a sense we are today the guests of the very, very great institution called the Helsinki Commission. May I make a statement that if we had such an institution in the 1930's, in 1938, 1939, perhaps, and maybe more than perhaps, 60 million people that perished in the Second World War would not perish. [Applause.]

Unfortunately the forces of evil started doing things wholesale, not just to kill one person, several persons, the entire world. They're out, God forbid, against the entire world, including themselves with the suicide bombers and so on. And any good act like this to save treasures of spiritual and moral values for which are not only for the Jewish people, it's for the entire mankind, because the entire mankind take from our Bible, from our Talmud and so on. And you could never know what one saying could accomplish—one saying.

I had the great merit to observe the rebbe in the most difficult times, in his most difficult days, in Warsaw when they bombed Warsaw. And (inaudible), may his name be erased, Hitler said a statement that he is going to make Warsaw flat. He flattened out Warsaw. And on such a day, the day before Rosh Hashanah, before the new year—that was in 1939 before Rosh Hashanah.

I was standing with the rebbe, and it was under bombardment across the street. A six-story house fell, and the entire house was destroyed. Many, many casualties. We went into each and every house in Warsaw was a system that had a yard, a backyard. And we were staying between walls in order to—shrapnel from the bombardment would not hit us.

And I took the rebbe—point at them, two suitcases. One was one of these books, perhaps as a symbol one. The other one was the rebbe's phylacteries, tefillin, and prayer shawl standing there. Seeing later how the rebbe in the most difficult days was so concerned about the library, about the archives and so on, I had a deeper understanding why we are called the People of the Book—that's what we are called, the Am HaSefer, the People of the Book.

Because at base I just remembered late after I was interviewed—I just remembered in 1947, I went in a mission from the previous rebbe to South Africa.

Over there there was a Rabbi Hasdan. He was in Stockholm at the beginning of the war. And he showed me letter after letter about where the rebbe had written to him because the books were supposed to go—those books that were in Warsaw—to go to Stockholm and from Stockholm to the United States because the rebbe was hoping to come to Israel before the rebbe came to the United States. One letter after the other—when the rebbe was very much worried about his own children, the success of the present rebbe and his own daughters and so on and then about his spiritual children, the students of the yeshiva. At the same time the rebbe had shown such concern about the books.

May I just make it short? God bless you for taking up an issue which is the concern of the entire mankind. And by saving it, you are saving—like a statement also from our sages: Saving one soul is like saving an entire world.

Here by saving such a thing, you have removed a blemish for the entire world that was not active enough to save us when we were at the Holocaust. And also to see to it that these treasures should come out openly, and people should learn from these beautiful words and with them and with all of you together to meet the righteous messiah speedily. [Applause.]

Mr. BROWNBAC. Thank you, Rabbi. Thank you. Beautiful.

And when you say it's not just for your community, it's for the whole world, I say amen to that. A gentleman, Rabbi Sherman that maybe some of you know in New York, has sent me several editions of interpretations of the writings of the Talmud and then interpretations by the sages. And periodically I'll pull those out and look.

And I feel like I'm a spiritual child there drinking of that same well. And one can only imagine then what's in this set of books and then how much we starve humanity when they're left in the cold. They need human contact. They need contact with souls to be able to flourish.

And we are the poorer. Mankind is the poorer when that doesn't occur. Thanks for continuing to push that.

Leon Fuerth, Professor, thank you very much for joining us.

**LEON FUERTH, RESEARCH PROFESSOR OF
INTERNATIONAL AFFAIRS, THE GEORGE
WASHINGTON UNIVERSITY, FORMER NATIONAL SECURITY
ADVISOR TO VICE PRESIDENT ALBERT GORE**

Mr. FUERTH. It's a great honor.

I must say that when I was a staffer up here, I used to sit back where my former colleagues are now sitting. And little did I imagine ever winding up on this side of your table. But it's a very good opportunity, and I treat it as a great honor.

Before I begin, I'd like to note simply that we transmitted electronically a copy of a message from former Vice President Gore. At some point, I can turn over to you a hard copy of it for your file.

Mr. BROWNBAC. Thank you.

Mr. FUERTH. You already have my statement. And in keeping with the need for speed, I want to just touch on the reasons why as a Senator and then as part of the Clinton/Gore administration, a decision was made to pursue this issue and why it was pursued with such tenacity.

I think there were two fundamental things in play. One of them was an understanding of the meaning of these books rather much in the same way that you, sir, understood them.

I mean, now that we're in the age of the microfiche and the floppy disk, it's not quite the same to have a library. But when you're in the presence of the physical objects that have passed through the hands and the minds of those who have gone before you, that is a connection which future generations may miss as we move from paper to electronics and from reality into the ether.

These books are sacred, not only because of what they contain, which is a record of a spiritual struggle to understand the will of God, but they are also sacred because of who has owned them and spent their lives pouring over them and has used them to teach younger generations. We understood that, as do you.

Second, at the particular period of time when we first met, this community—and I'm not using the royal we; it's then-Senator Gore and myself as his staffer—Russia had emerged from the Soviet Union under very uncertain circumstances. It was threatened all around by chaos. You couldn't tell whether that country would collapse entirely, whether it would be taken over again by the Communists, whether or not it would be taken over by a man on horseback.

So you watched for signs about which way this new government was going. And we thought that their fidelity to their pledge to return this book was a bigger symbol and a bigger indicator of where they were really going to go.

We understood that they were surrounded by opponents. I remember very vividly seeing an edition of a Russian newspaper printed by Pamyat, a right-wing fascist organization which was very vocal in those days. It contained cartoons of Jews. And I remembered years ago getting a book from the Anti-Defamation League showing the way in which Nazi newspapers portrayed Jews as cartoon figures. And I took the book off my shelf and discovered it was the same symbols over again.

And so, I understood that there was going on in front of us a fight over which way Russia would go. And these books were an indicator of how things were going to transpire.

And finally, there is the question of the rule of law, whether or not when you go to a court of arbitration and you get a decision, the decision can be enforced by that court. And in Russia, that was not the case. And these books became a symbol of progress or lack of progress in that direction.

Finally, because I was directly involved, I want to mention the MOU. That MOU was negotiated to be interim. It was a middle step for confidence building and to help secure the physical well-being of the books until such time as their final disposition was made. It was negotiated with the clear understanding that it did not compromise either side's position as to what should be the end state of the books.

But the U.S. Government in those years always made it clear that in our view the proper location for the library was with the Schneerson Collection in New York, and the sooner, the better. [Applause.]

Mr. BROWNBACK. Thank you.

During questioning, I want to discuss with you some of the conversations you had with Russian officials at that time, too.

Rabbi Krinsky, let's go to your testimony, if we could, at this time.

RABBI YEHUDA KRINSKY, FORMER ASSISTANT CHIEF-OF-STAFF TO THE LUBAVITCHER REBBE

Rabbi KRINSKY. Chairman Brownback and all the esteemed members of the Helsinki Commission, I want to assure you of the

profound gratitude of Chabad-Lubavitch communities and beyond all around the world for your realization of the importance of this issue and for your concern and the time you are devoting to it. God grant you success.

In 1957, I was appointed a member of the secretariat of the rebbe, Rabbi Menachem M. Schneerson, of blessed memory. I served the rebbe in that capacity for 40 years. During those years, I was intimately aware of the rebbe's deep concern and hope that the Schneerson Collection would be returned to its rightful home.

Those raised in the Chabad tradition cherish these books and manuscripts. To us, their value is not about art and perhaps not even sanctity. It's about family. These books are like human beings. They give life to life.

There is no question that the Schneerson Collection at the heart of these hearings was wrongfully seized. There is no question, and I needn't tell you, that they were seized neither for love of Judaism or interest in the scholarly works of the Chabad rebbes that motivated the seizure of the Schneerson Collection. There is no doubt that withholding them today rewards the evil gain of a dark, sinister and destructive past.

In September 2000, I attended the dedication ceremony of the Chabad-Lubavitch center in Moscow, the Marina Roscha Synagogue that was mentioned before. President Vladimir Putin was there, and he spoke. He addressed the thousands of people gathered in the plaza before the new edifice and before the international media.

He spoke passionately in praise of Lubavitch work in Russia and expressed deep regret and apologies for the persecution that Lubavitch suffered at the hands of the earlier Russian regime.

Mr. Putin spoke with admiration for the accomplishments of Lubavitch in Russia, for its effectiveness in rebuilding Jewish communities and Jewish life throughout the vast country.

He talked of the value and virtue of Chabad's education network of schools that are finally, he said, providing Jewish children with the education they need and deserve and its ramifications for the good for the larger Russian population.

And then Mr. Putin pledged to do whatever he could to help Lubavitch in its vital work for the benefit of the Jewish people.

Following that ceremony, I had a private conversation with President Putin. He was interested to learn that both my parents were born and raised in Russia. He gave me reason to believe that justice and love of peace and goodness are values he personally subscribes to and aspires to and that they are part of his vision as a world leader.

The return of the Schneerson Collection under his tenure would offer genuine and lasting testimony of his allegiance to justice and the values of a free and just society.

I think you will agree that the position we are in here today as we sit here, where Chabad is forced to plead for the return of its books, is implausibly and patently absurd. They belong to us; they should be returned to us without any further delay.

I have also submitted a full written statement for the commission and would be happy to answer your questions if there are any.

Mr. BROWNBAC. Thank you, Rabbi. Thank you very much. [Applause.]

Marshall Grossman, who has represented the legal efforts to recover the Schneerson Collection?

**MARSHALL B. GROSSMAN, ESQ., ALSCHULER GROSSMAN
STEIN & KAHAN LLP, ATTORNEYS FOR AGUDAS CHASIDEI
CHABAD-LUBAVITCH**

Mr. GROSSMAN. Mr. Chairman, thank you.

Mr. BROWNBAC. Yes, sir.

Mr. GROSSMAN. And thanks to all members of the Commission, to Sean Woo, to John Finerty, to your remarkable staff.

I learned of the work of your Commission in Moscow in helping Anatoly Sharansky and Eda Nudel before they were victims of show trials and later exiled, both internal and to Siberia. I never thought that I would be before you one day.

My colleagues Seth Gerber and Jonathan Stern and I have been working on the legal front to try to right an injustice. We went through the legal system in Moscow. We played by the rules. We won in the trial court and in the Supreme Arbitration Court. Those two courts held that this library—the archives were not known to be in existence at that time—that this library had not been nationalized; that it was owned by Rebbe Schneerson.

And then a funny thing happened on the way to execution. A sole deputy or assistant in ex parte proceedings without notice to anybody on the Chabad side issued an order purporting to nullify the court's decisions.

Secretary Eagleburger saw through that when he found—I don't know what it means as a policy decision; I'm not a nuance guy, I'm a direct guy—when he found that there was a final enforceable judgment ordering the return of these books that had not been executed. That's what Secretary Eagleburger found.

To attempt to enforce this order before the ex parte conduct met with the most hideous of treatment at the hands of the Russian State Library. Many of the rabbis sitting here were threatened by Russian State Library police officers when they attempted to retrieve the library.

Library officials told them that the library was closed because of excess contamination of dust and microbes. They could not get access to these books which Russia now claims to be a national treasure.

The head of the manuscript department at the library got on a bullhorn and incited thugs outside of the library to inflict bodily harm on many of these rabbis who are sitting here today.

The press did not respond very favorably in Moscow to the judicial decrees. Both Pravda and an extreme right-wing publication said that the reason why the "Talmudic yids" wanted their books back was because they hid the secrets of Jewish crimes against Christians. That's what these men have gone through.

The Russians fault us for suing in the United States. We can't use self-help to get these books back. So we are now seeking legal recourse in the United States.

This Commission did not ignore the rulings of the courts in Moscow. On January 24, 1992, this Commission wrote and requested President Boris Yeltsin to return the library to Chabad.

We spoke earlier of 100 Senators signing a letter, and a critical letter, just a couple months ago. It was the second time it was done. On May 31, 1992, all 100 Senators signed a letter to President Yeltsin.

Interim agreement? State Department listen clearly: That agreement is dead. Moscow has not performed. The United States has performed. When Chabad sent eight high-speed, \$50,000 worth of microfilm machines to that library to duplicate that library consistent with the interim agreement, they were turned away and unable to even photocopy the library. It is a dead letter. The time to return those books is now.

National treasure? National treasure accumulated during the course of some of the most vicious persecution, death squads and interrogations, including interrogation into imprisonment of the Lubavitch rebbe. That's a national treasure? Moscow, you have a very strange way of showing what you consider to be your national treasures.

Mr. Chairman, you and this Commission understand what a national treasure is. These men are national treasures. The men and women of Chabad are national treasures, and they deserve to be reunited with their family, which are the books and the manuscripts, the teachings of our people.

I thank you. [Applause.]

Mr. BROWNBAC. Thank you very much.

Rabbi Isaac Kogan?

I want to introduce this witness adequately. He's a former refusenik and a member of the community in Moscow, the delegation appointed by Lubavitcher rebbe Rabbi Schneerson to secure the return of the Schneerson Collection. So this is a key additional witness.

I'm delighted that you are here to join us and very much appreciate your traveling to be with us here today.

**RABBI ISAAC KOGAN, RABBI OF THE AGUDAS CHASIDEI
CHABAD, HEADQUARTERS OF THE FORMER SOVIET UNION**

Rabbi KOGAN. Thank you.

Mr. BROWNBAC. De nada.

Rabbi KOGAN [through interpreter]. Today it is my honor, my dear fellows, to stand before you and tell you about these books and these collections of those who passed away and those who perished looking to protect these books and who studied from these books.

Today marks the day this week when, in 1938, 10 students of Rabbi Schneerson were taken out to be shot only for one reason: for their association with Rabbi Schneerson and his teachings. These were friends of my grandfather, who was also put to death in 1950.

Today I'm going to report to you a book that will bring forth the history of the Lubavitch community.

Today is a very special day for the Jews of Russia to receive their freedom. Today freedom in Russia for Jews is where anybody can

go to Israel, if they so wish to. They can go to school, Jewish schools. They can practice in every which way they feel comfortable in Russia.

That is all when we talk about freedom today in Russia, that's a physical freedom that has been expressed today. However, the spiritual freedom is when we're able to take from these books and teach our children and pass it along to the next generation.

If my grandfather was alive and here today, he would be thanking you for you taking part in this struggle. And God should give you strength and that in the near future we should see the good results.

And I'll be happy to answer any questions that you may have.

Thank you. [Applause.]

Mr. BROWNBACK. And please express to him a great deal of appreciation for traveling the distance and being willing to respond to questions. It's greatly appreciated.

Jon Voight is an Academy Award-winning actor and human rights advocate who has been willing to join us today.

And I'm very delighted, quite pleased you'd be willing to come.

JON VOIGHT, ACADEMY AWARD-WINNING ACTOR AND HUMAN RIGHTS ADVOCATE

Mr. VOIGHT. Thank you, Senator.

It's a great honor for me to be invited to speak to this prestigious committee of yours and to stand with these extraordinary people. I'm very humbled to be at this table with all these righteous, extraordinarily courageous people who have suffered so much for their beliefs.

I am deeply disappointed, as I know everyone in this room is, that the Russian representatives chose to ignore this very, very important moment for us all. Nevertheless, the truth will be heard. And in time—hopefully sooner than later—this will have a happy resolve. And I am hoping that what I have to say reaches these representatives in a very profound way and they can see how important it is to return these holy books to their rightful owner.

My name is Jon Voight, and I am here to show my solidarity with my good and dear friend, Rabbi Cunin. Everyone asks what is my connection to Rabbi Cunin and his cause. And I think of what Rabbi Wineberg said: You should always start with something amusing. I can't think of anything too amusing except that when I'm with the rabbi, everything is an adventure and a happy occasion in many ways.

Always when I speak to the rabbi, when I say, "How are you?"—you know, we used to do this all the time. We greet each other all the time, everyone, you know, "How are you?" Some people say, "Well, let me tell you," you know, whatever. I know when I'm going to meet these gentlemen and I say, "How are you?" and I ask them all the time just because I see the smile on their faces.

They say, "Thank God, good." And it doesn't make any difference what their day is like up to that point; that's the energy that they have, that they give to you, that they expect everyone as human beings to appreciate life and the possibilities that exist. And I'm here in that manner, too, to appreciate the possibilities for change in this very dramatic adventure that we're in.

But they ask what's my connection to this cause. Well, since I'm of the Catholic faith, I understand the basic values of life, including the Ten Commandments. And they say, "Thou shalt not steal." And I'm addressing this to the Russian Government—the representatives of the Government of Russia.

These books are the voices of the ancestors of the Hebrew nation. For anyone else to claim them as their own is a reminder of all the anti-Semitic pollution through years of genocide and destruction of human life.

I say they do not serve you since you are not putting them to use as they are meant to be. Please release Rabbi Schneerson's books. It could prove to the world that you are willing to try to heal the wounds of the survivors of the Holocaust.

Jews and Christians alike are praying for this resolve, as are all the believers of true brotherhood among all people. To hold them as your own is a reminder of everyone who does wrong and harm to others and cannot find the road to repentance and become better.

You can be the givers of a gift that will prove to the world we are all under the care of God's order to love your neighbor as yourself.

I send you all my love, and I pray that this message reaches that part of your soul that speaks to the ability in us to answer God's commandments. [Applause.]

Thanks very much, Senator.

Mr. BROWNBACK. Thank you.

We have several other individuals on the panel who will be willing to respond to questions. I want to ask some questions of some of the panelists. And if others of you see questions that you would like to respond to, please indicate to me so that we can get those into the record.

Please keep your responses direct and to the point, if you could, so that we could get as many of these covered as possible.

I direct this first one to Rabbi Kogan, if I could. And if you could translate this, I would appreciate it.

I am curious to understand the inside view, if you can give that at all, of President Putin and the Russian Government as to why they refuse to negotiate or refuse to return these books. This seems to me to be a very clear case of the Russians have something that belongs to somebody else and that they should be returned.

To the degree you can give me insight, what is the internal thinking as to why this has not occurred?

And, Mr. Fuerth, you might think about that as well.

Actually while he's translating that, could you respond to me about what you saw from the Russians in your negotiations when you were with the Vice President on this collection?

Rabbi KOGAN. Perestroika only started, but not finished.

Mr. BROWNBACK. So it is something that internally they know it's the right thing to do, but they are not yet willing or capable of doing it?

Rabbi KOGAN [through interpreter]. Inside the Russian Government, there still remain elements of—the minister of culture, in particular—there still remain elements of that anti-Semitic feeling that was there for years that has yet to wash itself out. So inside

those structures, there is still that element of when they were originally taken—are still there today, that energy.

I came back today to see that they would return these books. They asked me to come back. The Russian Embassy asked me today about in some way or another to try to cool down this type of discussion.

Mr. BROWNBACK. Well, I have a good way for that to happen: Just return the books. [Applause.]

Thanks for being here.

Professor Fuerth, what did you get from the Russians when you were negotiating with them? Why do they keep these when they clearly don't belong to them?

Mr. FUERTH. Well, from the Russians directly, what you would get would be the kind of legalistic argument that you see in the documents that the commission recently received from the Russian Government. And that would be as far as they would go in an official dialogue over why they were doing this.

So we were left to wonder, as you are, why cling to these books? Why not simply solve the issue by slicing through all of these knots?

And I think that Rabbi Kogan's explanation is a good one. In the particular context of the time when I was serving, I felt that President Yeltsin was sincere when he made commitments to return them. And I think he understood why they should come back.

But I also thought that doing something like this was something of a political third rail; that it was hard for us sitting here to understand how something like that might be converted into an issue for Russian leadership at that particular time.

I remember that Yeltsin was accused in the newspapers of giving away Russia's patrimony. And this was also in the context of every other effort that Yeltsin was making to try to relink Russia in a process of give and take to the rest of the world. Every step he took forward, he was accused of giving up something precious for Russia.

So the best I can make out, it was exactly as Rabbi Kogan says: The hangover of something that had been around for a long time and hadn't gone away, namely, the basic anti-Semitism, resentment of the fall of the Soviet Union among some and the loss of power and prestige, anger at the temerity of some to demand that the Russian Government do anything to please anybody when they didn't want to. And for some at the very top, the possibility that what might seem to be an easy thing to us could release a firestorm for them.

Mr. BROWNBACK. Of a populist backlash that they are giving away national treasures, even though these are sacred Jewish texts?

Mr. FUERTH. They are Jewish texts. And I also think it's important to remember the agony that the Russian people were going through during this time and the possibility that some leader other than the ones who are trying to run the Russian Government would direct their anger at a stand-in. I mean, this was a classical pattern throughout czarist Russian history: find someone upon whom you could unload your anger.

Mr. BROWNBAC. Did they think that this would lead—that other things and perhaps other types of collections would have to be taken out of Russia?

Mr. FUERTH. Yes.

Mr. BROWNBAC. I mean, was that—this is really the tip of the spear, and they just didn't think they could stop?

Mr. FUERTH. Their basic legal argument was built around a fear that if they did this, since so many other objects in their possession had been obtained in much the same way, what would be the basis on which they would say no to the many other claimants who would come forward and wish to avail themselves of the precedent which we were asking them to set?

The case has been made that where the books are concerned, they really didn't create this precedent because the books weren't nationalized. They weren't the same as many other objects that the Soviets had seized.

But that's the way the Russian officials looked at it, particularly officials within the library system because they had the most to lose.

Mr. BROWNBAC. OK. All right.

Mr. Grossman, I want to ask you a question of what the Russian Government claims. And I would like to get your response.

The Russian Government claims that the U.S. Government is not in compliance with the MOU signed in 1993 between yourself and the Minister of Culture of the Russian Federation. How do you respond to that assertion?

Mr. GROSSMAN. From everything that we have seen, the U.S. Government attempted to comply. Chabad attempted to assist the U.S. Government.

In the year 2000, Rabbi Dov Ber Levinson, who is on my left with Rabbi Cunin as well, went to Moscow with eight brand new Canon high-speed microfiche machines in order to at least copy what was there. He was turned away. To our knowledge, those machines are still somewhere in Moscow gathering rust.

So much for the Russian compliance or the Russian facilitation of American compliance.

I want to also emphasize that Chabad was not a party to that interim agreement. Chabad is not a signatory to it. But Chabad, although not a party, did everything within its power to facilitate compliance on the United States side.

And as Professor Fuerth mentioned during his remarks, it was and is an interim agreement. There is an express provision in the agreement that the ultimate possession or retention of the library is to be determined at a later date.

And I wish to close my answer to your question by emphasizing one salient point that has not been emphasized enough today.

This library's home is in New York, as is the home of the manuscripts. It is not in Moscow. The rebbe was a citizen of the United States with residency in New York. As a United States citizen, he is entitled to the return of his property, which upon moving to the United States in 1940 he declared he held in trust for the world-wide Chabad community.

It boils my blood to think that the Russian Government can somehow satisfy its legal and moral imperative by treating these

books as nothing more than museum artifacts to be loaned out one by one or displayed in cases or to permit people to come and use them in a government building. That is not how this library or these manuscripts have been used historically.

They are family members. They are teaching tools. They include Hasidic teaching, philosophy, prayers, 25,000 pages in the handwriting of a series of several generations of Chabad rebbes.

These are not museum pieces. These belong to Chabad in the United States. And we will settle for nothing else, State Department and Moscow representatives sitting behind me, hear me clearly.

Mr. BROWNBACK. Rabbi Cunin, you talked about the need for these books to interact with souls. When these books are returned, when they come to their rightful owners, what will you do with them? How will they be used and preserved?

Rabbi CUNIN. We have Rabbi Levinson, who is our librarian who the rebbe chose as his representative to interact with these books. Under his tutelage, scholars will go through every handwritten word of the rebbe's little notations on the sides of the books. They will look at the manuscripts.

First, Rabbi Levinson will preserve them properly. Then the team of scholars that work under him will publish them.

Then we will open them up, as is happening now in honor of the rebbe's birthday, the 11th of Nisan. The whole library was redone. Rabbi Krinsky and myself had the input to help all of this happen.

We hope for the rebbe's birthday that the answer will be—Senator Brownback, you will come with other people of goodwill, people of righteousness by the rebbe's birthday.

How much time do we have left, around a month, 3 weeks, to come to utilize the facilities where these manuscripts will have joined all the rest of them, those that were given back by the Polish Government? This is all family, as Mr. Grossman said before. And there it'll be open to the entire world.

We have the expertise there. There's no expertise at the Chabad in Russia or anyone else in Russia to be able to deal with this. There is your expert. He sits here with us.

Mr. BROWNBACK. Rabbi Cunin, there is an active and growing Chabad community in Russia today. The Russian Government has returned a few items from the collection to that synagogue in Moscow.

What role does the Russian Lubavitch community play in the effort to have the collection returned to the Schneerson Library in New York City?

Rabbi CUNIN. Rabbi Kogan—

Mr. BROWNBACK. This is something that the Russian Government raises.

Rabbi CUNIN. What the Russian Government raises I can't take responsibility for because I lived with them for 3 years, and I have been through every one of their games, including the MOU or this or that.

And please be aware Mr. Putin's a wonderful human being. And, boy, does he know how to get these books returned. He is a strong leader. He knows what to say and to whom. And they'll be on a plane back to the states at the snap of a finger; very, very swiftly.

Rabbi Kogan is the representative that the rebbe set up in the center of Moscow to speak on behalf of the Chabad community in Russia. And he has spoken clearly today. Rabbi Kogan is the rabbi of the Agudas Chasidei Chabad headquarters for all of the former Soviet Union—built a beautiful building filled with people. Thousands of people come to study and to go through his hands in the center of Moscow.

Mr. BROWNBACK. Then let me return that question to Rabbi Kogan.

Then the Russian Government—there's a growing community of yours in Russia. The Russian Government has returned a few items from the Schneerson Collection to the synagogue in Moscow. What do you respond—what do you say to the Russian Government about why don't you get us more of these back if you returned a few of these?

Rabbi KOGAN. In 15 years, was returned only 39 books. Schneerson Collection Library has 12,000 volumes. It is enough for some 1,000 years.

Mr. BROWNBACK. But why not more? Why have they not—why do they say, "OK, 39, yes, but—"

Rabbi KOGAN. It is the reason why I am today with you.

Mr. BROWNBACK. But they would give some back. Why did they give some back then? Did they say to you why?

Rabbi KOGAN [through interpreter]. I cannot explain that.

Because during 15 years, they give one book like a present for Albert Gore. And during 14 years, they gave 38 for Russian community, nothing more.

Mr. BROWNBACK. Well, none of it makes much sense.

I want to thank the panel and all of you attending here today. This is an incredible collection. It's an incredibly important set of documents. They need to be returned. They need to be returned now.

We are going to continue to push here from the Senate, from our government to do everything that we can.

I don't understand this. This doesn't make any sense to me. So those are some of the more frustrating policy issues when you get involved in those that don't make any sense and you're saying, "Well, why—this is fairly straightforward for us to do."

What also doesn't make sense to me is that I know that people die for lack of knowledge, for lack of wisdom. Without a vision, the people perish. And here you've got a set of documents that have incredible knowledge in them that is very harmful not to have people access to them and using them. And that in and of itself should be the reason why that these should be returned.

My cause is with you. To me, this is a key issue for us in standing up the Helsinki Commission is to stand for human rights. And to me, one of the very first, the foremost human right is what you do with your own soul. And here you're standing up for a set of documents that nourish and feed the soul. And that should be contained and should be dealt with, and they should be returned for that purpose.

I'll push this administration. We'll be pushing the Russian administration to do whatever we can to see that this takes place. [Applause.]

So I want to thank you. I want to thank you all for attending here today this hearing. I'm sorry some of my colleagues had to leave.

I do want to invite, if I could impose upon, those of you that are Holocaust survivors to come up to the front here for a group picture. I would be deeply honored if you'd be willing to do that.

And with that, as they're coming forward, we are adjourning this hearing.

[Whereupon, at 4:18 p.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. SAM BROWNBACK, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Welcome to today's hearing on efforts by the Jewish Chabad community and the United States to recover the Schneerson Collection of sacred Jewish texts that is now in possession of the Russian Government.

The purpose of today's hearing is to give the Chabad community an opportunity to tell its story and the history of these texts which mean so much to them. As tragic as that story of survival and faith is, it is also a story of hope and perseverance and what it means to live spiritual lives.

There are many in the room today who have seen and lived through unspeakable horrors during World War II and the Holocaust. As survivors, you are living witnesses to the many who perished. On behalf of the US Helsinki Commission, I thank each and everyone of you for making the time to come today. Your individual and collective stories will become part of the permanent record of the Commission and in the process become the living voices of those who perished.

The value of the Schneerson collection of sacred Jewish texts is not financial but immeasurably spiritual. For the Lubavitch Chabad community, they are a link between humanity and divinity. In that sense, they belong to all of humanity, on behalf of which the Chabad has been entrusted with their safekeeping.

On May 9th of this year, leaders from around the world will be in Moscow to celebrate the end of World War II in Europe at a time when the Soviet Union and the free world fought together to defeat Hitler and the Nazis. It would be a welcome and magnanimous gesture by President Putin on the occasion of civilization's victory over fascism to order the return of the Schneerson Collection to its rightful owners.

Mr. Putin, I should add, has already distinguished himself with many positive gestures toward Russia's Jewish community. In June 2002, for example, President Putin awarded the Medal of Courage to a Russian citizen, Tatiana Sapunova, after she was injured trying to remove a booby-trapped anti-Semitic poster near Moscow. In addition, President Putin has on various occasions strongly and courageously condemned anti-Semitism in Russia. Jewish culture is thriving today to a degree that would have seemed completely unimaginable twenty years ago.

I hope the stories we hear today will persuade the Russian Government to re-examine its position on the Schneerson Collection and return the original texts to the organization that Rabbi Schneerson designated to seek its return.

As I mentioned, the US government has been engaged for many years regarding the Schneerson collection. In addition to the efforts by former President Clinton and Vice President Gore, President Bush also raised the issue of the Schneerson Collection with President Putin in Bratislava. And on two separate occasions all 100 members of the Senate signed letters appealing to Presidents Yeltsin and Putin.

During her confirmation hearing on January 19th of this year, Secretary of State Condoleezza Rice stated that the Administration will “very much push” on the issue of the Schneerson documents, and we look forward to hearing how that policy is being implemented.

Before we begin, I would like to thank several members of the Lubavitch community who are here today and have prepared written accounts of their persecution in Eastern Europe and the Soviet Union for being associated with Rabbi Schneerson. They are Rabbi Moshe Marozov, Rabbi Avraham Hecht, Rabbi Mordecai Brysky, Rabbi Moshe Gerelitsky, Riva Geisinsky, and Rabbi Moshe Greenberg. Their inspiring narratives will be entered into the written record of this hearing.

Given the number of witnesses at today’s hearing, I would like to ask the witnesses to summarize their statements and to observe the time limits. Your full statements will be part of the hearing record.

**PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN,
RANKING MEMBER, COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**

Thank you, Mr. Chairman. I appreciate your convening this hearing today. The issue of the Schneerson Collection is one that I and many Members of the Congress have followed closely. It is truly impressive that earlier this year every Member of the Senate signed a letter to President Putin asking that he assist in returning the Schneerson Collection to its rightful owners in the United States. A similar effort is being been initiated in the House of Representatives.

One of the main aspects of the Helsinki process is what we call the "human dimension," and the issue before us is not only one of legality but very much in the realm of the human dimension. The Schneerson Collection is not merely a library of antique religious books. It is an inalienable element of a community whose lives are committed to honoring and worshipping their Creator. Their preservation can only be called a miracle and their return to their rightful owners would not only fulfill a court decision, but would be a humanitarian gesture that would gain for Russia the gratitude not only of the Lubavitcher community but of the entire civilized world.

I want to acknowledge the undeniable progress achieved by the Jewish community in today's Russia. President Putin has played a major role in promoting Jewish culture in the Russian Federation. Ironically, some of the Soviet Jews who left the USSR during the Communist era have returned to Russia.

But the fate of the Schneerson Collection is, I would contend, an unexpected deficit in an otherwise generally positive record. I would hope that the Russian Government would look at the suffering, the blood and the tears shed for this treasure of the human spirit and return the Collection to Chabad.

A month from now, in Moscow, dozens of world leaders will commemorate the victory over Nazi fascism. Restoring the Schneerson Collection to the Chabad community would be another victory, a symbolic one to be sure, over the forces that tried to eradicate Jews and Judaism.

I urge President Putin to see that the Schneerson Collection be returned, and I look forward to hearing today's testimony. I know that the accounts we hear today will inspire us to seek a just resolution of this issue.

**PREPARED STATEMENT OF HON. ALCEE L. HASTINGS,
COMMISSIONER, COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**

Mr. Chairman, we are faced with a situation that has become familiar in recent years: how best to return lost property to its rightful owners in the Jewish community.

From the history of war reparations to the recent controversy regarding the Hungarian gold train, we are keenly aware of the sad fact that in addition to lost lives, Europe's Jewish communities lost irreplaceable and invaluable artifacts during the war years. When we discover that such items have been found intact, it is only natural and just that we would want to ensure their safe and complete return.

The question before us today concerns centuries-old sacred documents of enormous historical and cultural value to the Orthodox community, and indeed to world Jewry as a whole. This Collection was lost in two phases, first during World War I when it was seized by Russia's Communist government after being sent to Moscow for safekeeping, and then at the end of World War II the remainder of the collection was taken by the Soviet Army.

Mr. Chairman, I certainly appreciate the efforts of Russia's various governments to preserve, protect, and, in a few instances, to display some of the documents from the Schneerson Collection. I think we can all agree that Russia has been generous in its recognition of the importance of this Collection to the worldwide Jewish community, and I am grateful for the care in which this important Collection has been handled. I can also recognize the sense of some Russian agencies that the Collection represents a piece of Russian cultural history, too, even though the Collection originated in what is now Belarus.

Nevertheless, Mr. Chairman, I believe that it is never too late to right an historic wrong. It seems clear to me that the Schneerson Collection belongs with the Lubavitcher movement, charged as they were by a revered member of the Schneerson family to obtain these sacred artifacts. The Collection very clearly belongs within the Jewish community, as it was seized rather than donated to the Russian government during a time of extraordinary upheaval in Eastern Europe.

I am grateful to all of the participants of today's hearing to bring about an equitable solution to this matter, and I hope that we can resolve some of our differences here today.

**PREPARED STATEMENT OF HON. EDWARD B. O'DONNELL, JR.,
SPECIAL ENVOY FOR HOLOCAUST ISSUES,
DEPARTMENT OF STATE**

Chairman Brownback, Co-Chairman Smith, CSCE Commissioners, thank you for this opportunity to discuss with the Commission the case of the Schneerson Collection. This complex issue has been on our diplomatic agenda with Russia for many years. The fate of the Schneerson Collection resonates as an issue of basic fairness for Members of Congress, and for Americans of various faiths.

My testimony will address past United States Government efforts in support of a resolution of this issue, the current United States Government position, and the current Russian position as Russian officials have conveyed it to us.

PAST EFFORTS OF THE UNITED STATES

The U.S. Government has long been involved in the effort to facilitate a mutually agreeable arrangement between the Russian Government and Agudas Chasidei Chabad ("Chabad") concerning the possession of and access to the Schneerson Collection, which consists of two parts. One part is the Schneerson Library, a collection of religious texts maintained by the first five Lubavitcher Rebbes dating to 1772. The Government of the USSR took possession of the library after the 1917 revolution and, since 1924, has housed it in the Russian State Library. The Schneerson Library has been the focus of our attention since the early 1990's.

The second part of the Collection is an archive of the teachings of the successive Lubavitcher Rebbes. We understand that the Lubavitch organization learned about this material in early 2003 and that it is comprised of documents that the then Rebbe took from Moscow to Rostov-on-the-Don in 1917 and subsequently took to Riga and Warsaw. It is believed that the Nazis seized the archive when they captured Warsaw in 1939 and that the USSR took custody of the archive either in Germany or in Poland at the end of World War II and shipped it to Moscow. It is now stored in the Russian Military Archive outside Moscow.

When it learned about this second Archive, Chabad asked Ambassador Vershbow for advice on how to proceed. The Ambassador responded that after Chabad submitted a formal request for the Archive to the Russian Government, the Embassy would follow-up. Chabad has not yet advised the Embassy that it has submitted a formal request to the Russian Government. The Department had informed Chabad of the possibility of a government-to-government claim. The Embassy has requested permission to inspect the Archive.

So that we can distinguish between these two separate entities, I will use the term "Library" for the items we have known about for more than two decades, and the term "Archive" for the recently discovered materials. The term Collection will be used to refer to the two entities together.

Since the early 1990, the United States Government strongly supported efforts by Chabad to obtain the Schneerson Library. Our efforts were at the level of presidential summits, as well as in cabinet, ambassadorial and working level diplomatic discussions.

In 1992, Acting Secretary of State Lawrence Eagleburger denied the Russian State Library, formerly the Lenin State Library, assistance under the FREEDOM Support Act. He made this decision as a policy matter, based on the Russian State Library's continued possession of the Schneerson Library. In so doing, Acting Secretary Eagleburger noted that the U.S. Government was committed to seeing the Schneerson Library transferred to its rightful owners, and had raised the issue with President Gorbachev and President Yeltsin.

In a 1993 Memorandum of Understanding, the United States Government received a political commitment from the Russians to transfer the Schneerson Library to a facility that was both readily accessible to the Chabad community as well as better suited for the protection and conservation of fragile and valuable documents.

The Government of Russia formally established the Center for Oriental Literature in 1993 under the umbrella of the Russian State Library, thus creating a new home for the Collection. The original plan called for the transfer of the Schneerson Library to the Center for Oriental Literature to take place by March 1994. The building designated by the Russian Government for the new center, however, required far more extensive renovations than were foreseen originally. A lack of funding slowed construction. The result was a decade of delay. The Center formally opened in 2003. Renovation of the building is now nearing completion. The building includes separate space for the storage of the Schneerson library as well as space for Chabad adherents to perform religious ceremonies. We understand that the Russian State Library expects to complete the transfer of the Schneerson Library to the Center for Oriental Literature in May.

A second subject of the discussions was a library-to-library loan, which was arranged in 1994 between the Russian State Library and the Library of Congress. The loaned books are still in the United States. The terms of the loan have been the cause of continuing disagreement.

In addition, Russia made a good-will gesture in 1993 when Russia presented then Vice President Gore with one book from the library. The Vice President immediately presented the book to the Lubavitch community.

In 2002, the Russian State Library permanently gave a number of volumes from the Schneerson Library to the Lubavitch synagogue in Moscow, Marina Roscha. The Schneerson library had more than one copy of these volumes.

In summary, the discussions, based on the 1993 MOU, centered on two separate issues—access to and the preservation of the collection, and a permanent resolution of the issue. The result of years of often intense effort has been a minimum of progress on these issues.

POSITION OF THE UNITED STATES GOVERNMENT

This Administration remains committed to working with the Russian Government and the Lubavitch community to resolve this issue. Each of our ambassadors to Russia over the past 15 years has been personally involved in this effort. Our Embassy in Mos-

cow monitors events concerning the Schneerson Collection closely and maintains contact with all of the parties involved.

In 2003, Ambassador Vershbow suggested to both the Russian Minister of Culture and to Chabad that the two parties meet with him at the Embassy for a “roundtable” discussion of the Schneerson Library issue. The Embassy continues to offer this proposal.

I also want to acknowledge the helpful and important interventions by Members of Congress on this issue, the most recent being the letter to President Putin signed by all 100 members of the Senate. Senior White House officials conveyed the letter to President Putin’s delegation at the February 24 Bratislava Summit.

RUSSIAN GOVERNMENT’S POSITION

Russian officials have frequently referred to the Schneerson Library as a national treasure, a part of Russia’s cultural heritage. They cite various laws and decrees as providing the basis for Russia to retain the Schneerson Library, which they point out was created in Russia and has always been in Russia. Russian officials frequently maintain that divestiture of the Schneerson Library would violate Russian law, and would also establish a legal precedent for the return of other cultural property nationalized in the wake of the Russian revolution.

The Russians made a political commitment to negotiate a resolution of the final status of the Schneerson Library, but now maintain that they are prepared only to discuss the use of the library and not its transfer. Russian officials maintain that the establishment of the Center for Oriental Literature and the refurbishment of a building to house the Center show Russia’s intention to provide the Schneerson Library with a modern and appropriate facility.

Additionally, Russian officials maintain that Chabad has not fulfilled responsibilities it assumed for appraising the value of the library and insuring it, and for funding conservation and safekeeping measures undertaken by the Russians.

CONCLUSION

In closing, I would note that this hearing will bring the Schneerson Library and Archive to public attention, which we welcome. We hope that the hearing will help both parties to realize the importance of reaching a mutually acceptable solution. For Chabad, the Collection has a strong and understandable religious value. Chabad members want to be able to benefit from the teachings of their Rebbes. According to Chabad leaders, having limited, periodic access to the Collection does not serve that purpose. For Russia, the Collection bears witness to the activities of a vibrant Jewish group for nearly two and one-half centuries.

It is now up to both parties to identify their respective interests and to seek an arrangement by which to further and protect those interests. If these hearings help to accomplish that objective, they will have done a service for us all.

**PREPARED STATEMENT OF RABBI BORUCH SHLOMO CUNIN,
DIRECTOR, CHABAD-LUBAVITCH, SENIOR EXECUTIVE
MEMBER OF AGUDAS, CHASIDEI CHABAD-LUBAVITCH, AND
THE DELEGATION APPOINTED BY THE LUBAVITCHER REBBE**

Agudas Chasidei Chabad of United States ("Chabad") has been provided with a copy of two documents that apparently were submitted to the United States Helsinki Commission by the Russian Federation. The documents are titled "Fact Sheet" and "Background Information," and are attached hereto as Exhibits "A" and "B", respectively. These documents purport to set forth certain "facts." In fact, "fiction" is the better description. Chabad provides this background paper in response to the Russian Federation's submissions.

[NOTE.—The information referred to can be found on pages 62 and 63.]

I. BACKGROUND

A. THE CHABAD RELIGIOUS ORGANIZATION

Chabad is an over 200-year-old Jewish organization (and now non-profit religious corporation) which follows and teaches the spiritual tenets and religious directives of Rabbi Israel Baal Shem Tov and seven successive generations of spiritual leaders referred to as Rebbes (or Rabbis). Rabbi Menachem Mendel Schneerson (the "Seventh Rebbe") was the most recent of the seven Rebbes to serve and lead Chabad as its spiritual leader. Chabad's worldwide headquarters and central library are located in Brooklyn, New York.

B. THE SCHNEERSON COLLECTION

The Schneerson Collection consists of rabbinic books, archives, and manuscripts on Chabad Chassidic philosophy, Jewish religious law, prayer, and tradition. Its value is priceless under any measure.

The Schneerson Collection consists of two parts: First, there is the "Library" that was established, maintained and augmented by the first five Chabad Rebbes dating back to 1772. It contains over 12,000 books and 381 manuscripts. The Library is presently being held at the Russian State Library in Moscow. Second, there is the "Archive." The Archive is the historical repository of the handwritten teachings of a succession of Chabad Rebbes, including their correspondence and records. The Archive contains over 25,000 handwritten pages, and the vast majority of it is presently being held at the Russian State Military Archive in Moscow. The balance of the Collection is stored at Chabad's central library in Brooklyn, New York.

The Schneerson Collection is and has historically been recognized as being held in charitable trust by Chabad for the benefit of the Chabad community. Exh. C at 2, 6. Many of the books and manuscripts that comprise the Collection were received as gifts from supporters of Chabad in the form of ma'amad ("support" or "dues"). Unlike a personal gift donated for the benefit of an individual, ma'amad functions as membership dues allocated for the benefit of the entire Chabad community, the Rebbe, and the related commu-

nity institutions. Ma'amad and other funds used for the purchase of books and manuscripts for the Schneerson Collection were principally donated by American donors. Exh. C at 2, 4. The Collection is not personal to any individual; it is held in trust by Chabad for the benefit of the Chabad community.

C. THE RUSSIAN STATE LIBRARY'S WRONGFUL POSSESSION OF THE LIBRARY

In 1915, during World War I, when the advancing German army was approaching Lubavitch, Russia, Rabbi Shalom Dov Baer (the "Fifth Rebbe") fled with his family and followers, took with him those Library books and manuscripts which he could carry, and sent the rest of the Library for safe keeping to storerooms belonging to the Persits family in Moscow. Exh. D. The Bolshevik Revolution and the Civil War that followed prevented the Fifth Rebbe from again having access to the Library.

In or around 1919, the Department of Scientific Libraries, operating under the auspices of the People's Committee on Education of the former Soviet Union, took physical possession of and sealed the Library in 35 boxes. Exh. E.

When the Fifth Rebbe passed way in 1920, his only son, Rabbi Joseph Isaac Schneerson, succeeded him as the "Sixth Rebbe." The Fifth Rebbe's will bequeathed the Library to the Sixth Rebbe except for a few books which were left to the Fifth Rebbe's wife and granddaughters. Exh. C at 5. Correspondence between the Sixth Rebbe and officials in the former Soviet Union proves that the Schneerson Collection was never "entrusted" to the Rumyantsev State Museum or any other governmental body and therefore is not an "asset" of the Russian Federation, as the Russian Federation now alleges. Exh. A at 1.

In 1921, at the request of the Jewish Religious Council, the Department of Scientific Libraries, under the auspices of the People's Committee on Education, issued a resolution approving the return of the Library to the Sixth Rebbe. At that time, however, the Sixth Rebbe lacked the funds to secure the return of the Library within the timeline specified in the resolution. Because the Sixth Rebbe did not have the funds to retrieve the Library, the Department of Scientific Libraries issued an Emergency Order authorizing the physical transfer of the Library to the storage facilities of the Russian State Library. Exhs. D & F.

One year later, the Sixth Rebbe obtained the necessary funds to retrieve the Library and he repeatedly requested that the Library be returned to him. For example, on or about November 22, 1922, the Sixth Rebbe wrote to the Director of the Russian State Library and requested permission to "remove my book Collection" at his "own expense." On or about February 5, 1925, the Sixth Rebbe wrote the Department of Scientific Libraries that he had not "abandoned" the Library and had "every reason to expect that my Collection of books . . . will be rightfully returned to me." Exhs. D & G.

While working to secure the return of the Library, the Sixth Rebbe also maintained and augmented the Archive (i.e., the manuscripts) for the benefit of the Chabad community. In 1927, the Soviets arrested the Sixth Rebbe, and incarcerated him at Spalerno prison in Leningrad. There, he was interrogated, tortured, and sen-

tenced to death. Exh. H at 142, 145–147. Under pressure from Western governments, the Sixth Rebbe was permitted to leave the former Soviet Union in 1927 and settle in Riga, Latvia, where he became a citizen. When he left the former Soviet Union, the Sixth Rebbe took the Archive with him with the permission of the Leningrad Customs Office. Thus, the former Soviet Union demonstrated its own lack of ownership to the Archive. Exh. I.

The Sixth Rebbe took the Archive with him once again when he later moved from Latvia to Otwock, Poland in 1933. At Otwock, a suburb of Warsaw, the Sixth Rebbe re-established the central Chabad yeshiva (school) and maintained the Archive.

D. THE RUSSIAN STATE MILITARY ARCHIVE'S WRONGFUL POSSESSION OF THE ARCHIVE

On September 1, 1939, World War II began in Europe when Nazi Germany attacked Poland from the west. On September 17, 1939, the Soviets attacked Poland from the east. During the attack on Poland, the Sixth Rebbe was unable to take the Archive with him when he left Otwock for refuge in Warsaw. The Sixth Rebbe remained in Warsaw during its bombardment and fall to Nazi Germany. With the intercession of the United States Department of State and others, the Sixth Rebbe was eventually given safe passage back to Riga, Latvia. From Latvia, the Sixth Rebbe continued to Stockholm, Sweden, and finally arrived in the United States on March 19, 1940, later becoming a United States citizen. The Soviet Army captured Warsaw towards the end of World War II, seized a large portion of the Archive, and transferred it to the Russian State Military Archive, where it remains in storage to this day. The balance of the Archive remained in Poland after the war and, as discussed below, was returned to Chabad by Poland.

In order to relocate Chabad's worldwide headquarters from Europe to the United States, Chabad was incorporated in 1940 (it had existed as an unincorporated association since the 1920s); Chabad's central library was established in Brooklyn, New York; and, most importantly, the Sixth Rebbe expressly confirmed in numerous writings that Chabad owns the entire Schneerson Collection. For example, in his letter to the librarian of the Jewish Theological Seminary dated February 25, 1946, the Sixth Rebbe wrote that the "books" and "manuscripts" which constitute the Schneerson Collection are the property of "Agudas Chasidei Chabad of America and Canada." Exh. J.

In the years following the Sixth Rebbe's death in 1950, his relatives and followers recognized Chabad as the rightful owner of the entire Schneerson Collection. The Sixth Rebbe died without leaving a will. His widow took out letters of administration and the estate was closed in 1958. Exh. C at 5; Exh. K. The Schneerson Collection was not included in his personal estate. Each of the Sixth Rebbe's two daughters executed a sworn "fiduciary release" declaring that she had received "everything due me from said Estate." None of the daughters received any books, nor was the Schneerson Collection included in the Sixth Rebbe's widow's estate when she died intestate in 1970. Exh. C at 5.

In the 1970s, Chabad discovered that a portion of the Archive remained in Poland, and requested the assistance of the United

States in securing its return to New York. In 1974, Poland returned the manuscripts to Chabad's central library and each of the Sixth Rebbe's two living daughters assigned and transferred any rights they may have had to the Schneerson Collection to Chabad. Exh. L.

As the rightful owner of the Schneerson Collection, Chabad's standing to seek the return of the Collection cannot be called into doubt by the Russian Federation, or anyone else.

The Russian Federation's "Fact Sheet" wrongly suggests that there are ongoing efforts by the Sixth Rebbe's heirs to inherit the Schneerson Collection. Exh. A, at 1. This is not true. In 1986, the United States Second Circuit Court of Appeals held in *Agudas Chasidei Chabad of U.S. v. Gourary*, 833 F.2d 431 (2d Cir. 1987) that the Schneerson Collection is, and has historically been, recognized as held in charitable trust by Chabad for the benefit of the Chabad community. Exh. C at 2,6. Gourary was the only challenge by a relative of the Fifth Rebbe over the ownership of any portion of the Schneerson Collection.

E. CHABAD EXHAUSTS ALL OPTIONS IN THE RUSSIAN FEDERATION TO SECURE THE RETURN OF THE SCHNEERSON COLLECTION

In or about December 1990, the Seventh Rebbe designated Rabbi Yosef I. Aronov, Rabbi Boruch Shlomo Cunin, Professor Veronika Irina, Rabbi Isaac I. Kogan and Rabbi Shalom Dovber Levine (collectively, the "Chabad Delegation") to obtain the return of the Schneerson Collection to Chabad. Exhs. M & N. No other Chabad representatives have been vested with this authority.

In late 1990, Chabad formed the Jewish Community of Lubavitch Chassidim ("Chabad Community") as its representative in the former Soviet Union. On or about September 6, 1991, Russian Federation General Secretary Mikhail Gorbachev, through Alexander Yaakovlev, his special advisor, instructed the Russian State Library to return the Library to Chabad. On or about September 26, 1991, the Chabad Community petitioned the Russian State Arbitration Tribunal for an order directing the return of the Library, Case No. 350/13-H. That same day, the Russian State Arbitration Tribunal placed a lien on 12,087 books and 381 manuscripts located at various storage facilities of the respondent, the Russian State Library. Exh. O.

On or about October 8, 1991, a three-judge panel of the Russian State Arbitration Tribunal held that the Library belongs to the Chabad Community, thus ruling against the Russian State Library. The Arbitration Tribunal expressly ordered the Russian State Library to return the Library to the Chabad Community within one month. In so doing, it made the following factual findings and order:

"Having reviewed the documents in the case, and having heard statements of the counsel of the parties, the Arbitral Tribunal found, that the Schneerson Library is comprised of the books of theological and liturgical nature, in ancient Hebrew, collected by several generations of Lubavitch Rabbis. Said books and manuscripts were taken to a library in 1921 pursuant to a mandate of the former People's Commissar on Education. The documents provided, do not confirm the fact of

Schneerson Library acquiring a status of National property. The disputed Collection of books and manuscripts also could not be declared ownerless, as for a number of years, starting from 1922, the owner of books and manuscripts applied to various bodies of the Soviet State, requesting their return.

Pursuant to the Provisions of the Commune, its members do not hold private property and live in adherence to a centuries-structure of collateral subordination: a Rabbi belongs to all Chassidim of the world, and the property is only communal.

It should be noted, that the Seventh Lubavitch Rabbi also confirmed, that the Schneerson Library belongs to the communal property of the entire Agudas Chasidei Chabad movement.

In view of these circumstances the plaintiff has the ownership right with regard to the Schneerson Library, in the order and on the basis, provided in the Article 10 of RSFSR Law On Ownership in RSFSR." Exh. P at 1-2 (emphasis added).

The Russian Federation and the Russian State Library appealed the decision to the Russian Supreme Arbitration Court claiming that the Collection was "nationalized" and had become property of the state. On November 18, 1991, the Russian Supreme Arbitration Court expressly rejected the appeal. The Russian Supreme Arbitration Court concluded that the "evidence on file in this case does not contain any basis upon which assumption can be made that the aforementioned Collection belongs to anyone other than the Lubavitcher Rebbe." It further ordered the transfer of the Library to a "Jewish National Library," which by ruling dated November 15, 1991, participated in the case as a third party, on behalf of the Chabad Community. Exh. Q at 3, 4. These rulings refute the Russian Federation's renewed but discredited claim that the Schneerson Collection was "nationalized." Exh. A at 1.

On January 29, 1992, the Deputy Chairman of the Russian Federation ordered the Russian State Library to deliver the Library to the Chabad Delegation. The Russian Federation refused to enforce this order and the Russian Supreme Arbitration Court's order directing the transfer of the Library to a "Jewish National Library." Instead, on or about February 14, 1992, B.I. Puginsky, the assistant to the Deputy Chief Arbitrator of the Russian Supreme Arbitration Court, unilaterally purported to nullify the Russian State Arbitration Tribunal rulings dated September 26 and October 8 and the Russian Supreme Arbitration Court ruling dated November 18, 1991. Exh. R at 3. His conduct was without legal justification and lacked any legal or binding effect under Russian law. Under Russian law, an assistant cannot abrogate a decision of the Russian Supreme Arbitration Court. Only a higher court can overrule a lower court under Russian law, and there is no higher court than the Russian Supreme Arbitration Court.

A few months later, on or about February 19, 1992, the Russian Federation issued a decree purporting to cancel the orders of the Russian State Arbitration Tribunal and the Russian Supreme Arbitration Court. So much for the rule of law!

F. THE MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES AND THE RUSSIAN FEDERATION

On December 16, 1993 Leon Fuerth, then Assistant to United States Vice President Al Gore for National Security Affairs, and Evgeny Sidorov, then Minister of Culture of the Russian Federation, entered into an interim agreement titled Memorandum of Understanding ("MOU"). It was to provide interim access for Chabad to the Library until "the question of the return/retention of the Schneerson [C]ollection" was resolved. Exh. S at 1. Chabad was not a party to the MOU.

Pursuant to the MOU, the Russian Ministry of Culture agreed to move the Schneerson Collection from the Russian State Library to an unnamed "new facility" by no later than March 31, 1994. The Russian Federation also promised to "maintain and catalog" the entire Schneerson Collection; place the Schneerson Collection catalog on microfilm; provide access to the Collection "at all times;" establish facilities at the building housing the Schneerson Collection that would permit Chabad members to study the Library's contents and "conduct religious devotions;" place a "selection" of the Collection on loan to the U.S. Library of Congress for an unstated duration; and join the United States in using its "best efforts to resolve the question of the return/retention of the Schneerson [C]ollection by the earliest possible date." Exh. S.

The Ministry of Culture also agreed to work with the United States in insuring and appraising the Library and designating those responsible for managing the day-to-day operations of the Library. Exh. S at 1.

The MOU further states that Chabad (a) "indicated its willingness to bear a fair share of the costs" of preserving, maintaining, operating, cataloging, microfilming, training and insuring the Library and (b) would assist Russian scholars interested in reading and interpreting texts contained in the Library. Exh. S at 2.

According to the "Fact Sheet," the Russian President's decree #1687 of November 9, 1993 purportedly contains many of these same guarantees. Exh. A at 1.

1. THE RUSSIAN FEDERATION MATERIALLY BREACHES THE MOU

The Russian Federation claims that it "has fulfilled all [its] commitments with regard to the Library of Schneerson" by, among other things, establishing "a separate storage room for storing and using the Schneerson Collection" that "provide[s] unhindered access to and offer[s] wide opportunities for using the library, including an opportunity to perform religious rites by Chasidim without violating the Russian law." Exh. A at 1-2. In fact, the Russian Ministry of Culture has materially breached both the spirit and express terms of the MOU and the Russian decree dated November 9, 1993 which is referred to in the Russian Federation's "Fact Sheet." Exh. A at 1.

Although the Russian Ministry of Culture did place a portion of the Library at the Center for Oriental Literature, most of the Library remains either at the Russian State Library's main library or at its storage facility in Chimki, Russia. In addition, no portion of the Archive—which is a part of the Schneerson Collection and

is comprised of over 25,000 manuscripts— has been placed at a separate facility, cataloged, or made available to Chabad. Exh. T at 1–2.

The Russian Federation has also failed to catalog the entire Schneerson Collection (including most of the Library and the entire Archive); has not placed any portion of the incomplete catalog on microfilm; and has not provided Chabad with unfettered access to the Schneerson Collection. Exh. T at 2.

Most significantly, the Russian Federation has not made any meaningful effort, let alone its “best efforts,” to return the Schneerson Collection to Chabad.

The Russian Federation maintains that placement of the Library at Center for Oriental Literature was the “only possible” measure that the Russian Federation could take to preserve the Schneerson Collection. Exh. B at 2. Returning the Collection to its rightful owner in the United States, Chabad, is the proper measure that must be taken.

The Russian Federation’s “Fact Sheet” and “Background Information” also suggest that it has tried to resolve the fate of the Library by “work[ing] with the Moscow Maryina Roschcha Jewish community, which represents the interests of Agudas Chassidei Chabad in Russia” and says it has negotiated agreements with Russia’s Chief Rabbi, Berl Lazar. Exh. A at 3; see also Exh. B at 3. Neither Rabbi Lazar nor the Maryina Roschcha Jewish Community has the authority to represent Chabad in this matter. Exh. N; Exh. M; & Exh. T at 2. The only individuals designated by the Seventh Rebbe and Chabad to negotiate for the return of the Schneerson Collection are the members of the Chabad Delegation. Exh. M & Exh. N.

Moreover, the Russian Federation’s contention that the return of 39 duplicate copies of Chabad’s books was a “gift” is insulting. Chabad owns not only these 39 books but also the 39,000 other books and manuscripts that the Russian Federation has failed to return to Chabad. Similarly, the Russian Federation’s claim that it is assisting the implementation of a “permanent exhibition” of the Schneerson Collection’s items at the Library of the Moscow Jewish Community Center does not satisfy Chabad’s demand that the entire Collection be returned to the United States. Exh. A at 3; Exh. B at 3. The Collection is not a trophy for display. It is a heritage to be returned. Indeed, it is conduct inconsistent with the return of the Collection.

2. CHABAD COMPLIES WITH THE TERMS OF THE MOU

Though Chabad was not a party to the MOU, Chabad has nevertheless voluntarily incurred significant cost in attempting to catalog and preserve the Collection.

In July 2000, Rabbi Shalom Dovber Levine—the Director of Chabad’s central library in Brooklyn, New York and a member of the Chabad Delegation—traveled to Russia at Chabad’s expense to assist in cataloging the Library. After Rabbi Levine arrived at the Russian State Library, officials at the Russian State Library stopped Rabbi Levine in the midst of his examination of the Library’s contents. Nonetheless, in the limited time provided to him, Rabbi Levine was able to conclusively identify 4,354 books belong-

ing to the Library. Since his July 2000 visit, the Russian Federation has not allowed Rabbi Levine to complete his examination of the entire Library nor has it permitted him to access and catalog the Archive. Exh. T at 1. The Russian Federation is mistaken in suggesting that Rabbi Levine determined that the entire Schneerson Collection contained only 4,354 books. Exh. B at 3.

Unaware that the Russian Federation would prevent Rabbi Levine from completing his assignment of cataloging the Collection, Chabad absorbed additional costs and expenses. Chabad paid for Rabbi Levine to train a staff of three to assist in identifying and cataloging the Library's contents. Chabad also paid the expense of hiring and training two librarians capable of identifying and stamping the books with a seal indicating that they are a part of the Schneerson Collection. Exh. T at 1. Chabad even purchased in the United States and sent to the Russian State Library eight microfilming machines that were manufactured by Canon USA, Inc. To ensure that the microfilm machines operated properly, Chabad covered the expense of sending to Moscow an American technician employed by Canon to assist in installing the microfilm machines. Remarkably, the Russian Federation refused to permit the use of this equipment and technology.

The Russian Federation's claim that the United States government has failed to (a) insure the Collection; (b) create an international board to estimate the Schneerson Collection's value; or (c) provide funding for the Schneerson Collection's safe keeping, is misleading and inaccurate. Exh. A at 2. Chabad is willing and able to pay all reasonable costs associated with insuring the Schneerson Collection, convening an international board to estimate the value of the Collection, and provide for the Collection's safekeeping until its return to Chabad's central library in the United States. Exh. T at 2.

G. THE PURPORTED "LOAN" OF SEVEN BOOKS TO CHABAD

In 1994, the Russian Ministry of Culture purportedly "loaned" seven books to the Library of Congress on its own accord. The Library of Congress then provided the books to Chabad. Chabad positively identified the books as being part of its Collection of sacred books and manuscripts that have been wrongfully withheld by the Russian Federation for decades. In 1996, the Ministry of Culture informed the United States government that the "loan" to Chabad could be "extended indefinitely." Exh. U. Because Chabad is the rightful owner of the Schneerson Collection, it is absurd for the Russian Federation to argue that Chabad is in wrongful possession of its own books and manuscripts. Exh. A at 3.

H. THE SCHNEERSON COLLECTION IS NOT ENTIRELY ACCESSIBLE TO THE PUBLIC AND IS LARGELY UNUSED

The Russian Federation maintains that "many Jewish entities" and other organizations are presently "using the books from [the Schneerson] Collection." Exh. B at 3. Given that Chabad's access to the Schneerson Collection has been restricted it is difficult to conceive how "many" different individuals and organizations could be actively accessing the Collection.

II. LEGAL BACKGROUND

A. RUSSIAN LAW AND INTERNATIONAL LAW REQUIRE THE RUSSIAN FEDERATION TO RETURN THE SCHNEERSON COLLECTION TO CHABAD

The Russian Federation's assertion that Russian law and international prevent it from returning the Library to Chabad is contrary to Russian law, international law and is belied by its treatment of the Schneerson Collection. Moreover, the Russian Federation's submissions do not even attempt to directly disprove Chabad's rightful ownership of the Archive.

1. RUSSIAN LAW PERMITS THE RETURN OF THE SCHNEERSON COLLECTION

The Russian Federation's contention that the Schneerson Collection cannot be returned under Russian law because it is housed in the Russian State Library and therefore constitutes a "high-value object of national cultural heritage of the peoples of Russia" is without merit. Exh. B at 1; see also Exh. A at 1. The Schneerson Collection does not belong to the Russian Federation but to Chabad. Indeed, any claim that Russian law prevents its return Chabad is undermined by (a) the Russian Federation's "Background Information" identifying the Schneerson Collection as constituting "private" property rather than the property of the Russian Federation; (b) American and Russian court rulings establishing that the Collection belongs to Chabad; and (c) international law prohibiting the wrongful taking of property. See Exh. B at 1–2; Exh. O; Exh. P at 1–2; & Exh. V; see also section II.A.2, *infra*.

Furthermore, the fact that the Collection has been "preserved" in poor conditions, hidden from those most interested in accessing the Collection, and not made easily accessible to the public, shows that the Russian Federation does not consider the Collection a "high-value object." Exh. T at 2. The Collection reflects Chabad's "cultural heritage," not the heritage of the country which imprisoned, tortured, and murdered its leaders and followers. Significantly, the Russian Federation never claimed or treated the Schneerson Collection as a "high-value object" until the Chabad community began seeking its return in the 1990s.

2. THE RUSSIAN FEDERATION'S FAILURE TO RETURN THE SCHNEERSON COLLECTION TO CHABAD VIOLATES INTERNATIONAL LAW

The Russian Federation's seizure of the Collection violates international law.

There are three requisites for establishing a wrongful taking in violation of international law. The taking (a) must not be for a public purpose, (b) aliens must be discriminated against, and (c) there must be a failure to provide just compensation. Exh. V.

The Russian Federation's wrongful withholding of the Schneerson Collection serves no public purpose. Russian neglect has caused the Collection to degrade while the bulk of the Collection remains hidden from the public in storage facilities of the Russian State Library and Russian State Military Archive.

The discriminatory nature of the taking is highlighted by the documented history of the former Soviet Union's oppression of the Jewish people and, in particular, followers of the Sixth Rebbe.

Finally, the Russian Federation has provided no compensation to Chabad for its wrongful taking of the Schneerson Collection. Indeed, the Schneerson Collection is not for sale. It is sacred and irreplaceable and therefore must be returned to its rightful owners in the United States.

3. THE PARIS TREATY DOES NOT PREVENT THE RETURN OF THE COLLECTION

The Russian Federation claims that Articles 2 and 4 of the Paris Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of November 14, 1970 ("Paris Convention") makes the Schneerson Collection a part of Russia's cultural heritage. Exh. B at 1. As its title suggests, the Paris Convention operates to prohibit and prevent the "illicit" import, export and transfer of ownership of cultural property. Exh. W. The return of the Schneerson Collection to its lawful owners would not violate the Paris Convention because the Convention only prohibits "illicit" transfers of ownership. Chabad is the rightful owner.

4. RETURN OF THE COLLECTION TO CHABAD WILL NOT SET A LEGAL PRECEDENT WHICH THREATENS THE EXISTENCE OF THE RUSSIAN STATE LIBRARY, NOR WILL IT SOW DISCORD WITHIN SOCIETY

The Russian Federation's claim that returning the Schneerson Collection "jeopardize[s] [the] further existence of Russia's largest library" because the Schneerson Collection—like the bulk of the Collections stored at the Russian State Library—were "expropriated and nationalized," is unfounded. Exh. B, at 2 (emphasis added). The Russian State Arbitration Tribunal has already held that the Schneerson Collection was never nationalized. Exh. P at 1–2. Accordingly, its return will not create any precedent obligating the Russian Federation to return property that is both nationalized and expropriated.

It is also troubling that the Russian Federation believes that returning the Collection to its rightful owners will create societal discord. The majority, if not the only, individuals interested in accessing the Schneerson Collection are Jews and, in particular, Chabad's leaders and followers. If the Russian Federation were to voluntarily return the Collection to Chabad's central library in New York, Chabad and the Jewish community will recognize the Russian Federation for its efforts.

Chabad reasonably expects that such a gesture will improve the government's standing before its citizenry and the world. Indeed, return of the Schneerson Collection to Chabad will demonstrate to the world Russia's stated commitment to religious tolerance and the rule of law.

**PREPARED STATEMENT OF MARSHALL B. GROSSMAN, ESQ.,
ALSCHULER GROSSMAN STEIN & KAHAN LLP, ATTORNEYS
FOR AGUDAS CHASIDEI CHABAD-LUBAVITCH**

My name is Marshall Grossman. I am an attorney in the Santa Monica, California law firm of Alschuler Grossman Stein & Kahan. We represent Chabad in its efforts to recover the Schneerson Collection. Thank you very much for the opportunity to address this distinguished Commission.

I first became involved in Chabad's efforts to secure the return of the Schneerson Collection shortly after Chabad discovered that a portion of the "Library" was in storage at the Russian State Library in the late 1980s.

Upon making this discovery, Chabad sought recovery of the Library through the Russian legal system.

In 1991, Chabad's representatives in Russia petitioned the Russian courts for an order compelling the Russian State Library to return Chabad's books and manuscripts. On September 26, 1991 the Russian State Arbitration Tribunal issued an order to the Russian State Library directing it to sequester the 12,087 books and 381 manuscripts that comprise the Library.

On October 8, a three-judge panel of the Russian State Arbitration Tribunal held that the Library belongs to Chabad. The Tribunal ordered the Russian State Library to return Chabad's books and manuscripts within one month. In its decision, the court specifically found that the former Soviet Union had not nationalized the Library nor had it ever been without an owner.

On November 18, 1991 the Russian Supreme Arbitration Court affirmed that the Library had never been "nationalized" by the Soviet government and ordered that the collection be returned.

The execution of these orders was thwarted at every turn of the road.

On February 14, 1992 an assistant to the Chief Arbitrator of the Russian Supreme Arbitration Court unilaterally purported to nullify the prior rulings by the Russian State Arbitration Tribunal and Russian Supreme Arbitration Court. No assistant can nullify a decision of the Russian Supreme Court.

But this Commission did not ignore the Russian court decisions. On January 24, 1992, this Commission wrote and requested President Boris Yeltsin to return the sacred Library to Chabad. And on May 31, 1992, all 100 United States Senators signed a letter to President Yeltsin requesting that he fulfill the promise he made to Secretary of State Baker to return the Library to Chabad.

On October 24, 1992, the United States Congress enacted the Freedom Support Act. Section 202 of the Act prohibits our government from providing financial assistance to a governmental entity where there is a failure to comply with a final court judgment that the entity is unlawfully withholding books or other documents of historical significance owned by persons in the United States. In November, 1992 Secretary of State Lawrence Eagleburger confirmed that the Russian State Library will not receive federal assistance unless and until it returns the Library to Chabad.

In addition to the Library, Chabad recently learned that the Russian Federation was in possession of the second portion of the Schneerson Collection, the "Archive." Chabad believed that the Ar-

chive had been lost or destroyed during World War II. This Archive, which is comprised of over 25,000 handwritten manuscripts by the founders and leaders of Chabad, sits in storage facilities at the Russian State Military Archive. The Archive was seized by the Nazis and then by the Soviet Army in Poland toward the end of World War II.

On June 10, 2004 Chabad wrote President Putin requesting the return of the Archive to Chabad. The letter remains unanswered.

Because the Collection has not been returned to Chabad, Chabad has been left with no choice other than to pursue its legal claims in United States federal court. On November 9, 2004, Chabad filed a lawsuit in United States District Court for the Central District of California against the Russian Federation. Chabad seeks the return of the Collection to Chabad's central library in New York.

A wrongful taking in violation of international law occurs where the taking (a) was not for a public purpose, (b) aliens were discriminated against, and (c) the plaintiff was not provided with just compensation. Clearly the facts in this case show that such a violation has occurred.

The Russian Federation's wrongful withholding of the Schneerson Collection serves no public purpose. The Collection is believed to be deteriorating while most of the Collection remains hidden from the public in storage facilities. The discriminatory nature of the taking is demonstrated by the well-documented history of the former Soviet Union's oppression of the Jewish people and, in particular, the followers of the Sixth Rebbe. And finally, the Russian Federation has not provided any compensation to Chabad for its wrongful taking of the Schneerson Collection. The Schneerson Collection is priceless. It is not for sale, at any price.

Your efforts to secure the prompt return of the Schneerson Collection are essential. On February 24, 2005 all 100 United States Senators again signed a letter to President Putin. It was personally delivered to him when he met with President Bush last month. I close by reading the last sentence of this letter: "We urge you to return these sacred religious texts, archives, and manuscripts to Chabad, which would be a significant example of your government's commitment to justice, human rights, and religious freedom."

Thank you.

**PREPARED STATEMENT OF LEON FUERTH,
RESEARCH PROFESSOR OF INTERNATIONAL AFFAIRS,
THE GEORGE WASHINGTON UNIVERSITY,
FORMER NATIONAL SECURITY ADVISOR TO
VICE PRESIDENT ALBERT GORE**

My purpose in writing this document is to attest to the fact that efforts to retrieve the so-called Schneerson Library from the Russian Federation were undertaken during both Clinton administrations, persistently and at the highest levels of the government.

My narrative actually begins, however, in 1992, when I first met Rabbi Cunin and his sons. At that time, I was working for then-Senator Albert Gore, Jr., as his aide for national security affairs. The Cunins appeared in the reception room of Gore's Senate office, asking for an opportunity to talk with anyone who might help them. I was contacted, responded, and our association began at that point.

The Cunins described the history of the collection and their efforts to secure it from the Lenin Library in Moscow, where it had been traced after nearly three quarters of a century, as the result of some effective research and sleuthing. They asserted that President Yeltsin had personally committed to President Bush that the books would be returned, but that action had not been forthcoming. I established the accuracy of their report in telephone conversations with contacts in the Department of State who had personal knowledge of the circumstances, including President Yeltsin's commitments. It seemed to me that failure to act on this commitment would be a potentially significant test of Russian fidelity to other potential commitments. I also felt that Russian reaction to the Cunins' efforts to secure the books were also a good gauge for measuring the underlying strength of anti-Semitism in Russia.

Senator Gore was already a known figure in Moscow, because of his leadership in arms control and environmental issues. With his permission, I added "the books" to his agenda. Materials already submitted as part of the present legal action trace some of the ensuing initiatives in terms of correspondence between Senator Gore and the Russian government, as well as other forms of communication in the form of petitions from the U.S. Senate.

When Senator Gore became Vice President, I joined him as his national security adviser and remained in that position for both of his terms. We carried the issue of the books into the White House and it became not only an objective of the Vice-President's but of the administration as a whole, including the President.

In 1992 Presidents Clinton and Yeltsin agreed to establish the US-Russian Bi-national Commission, to be chaired jointly by Vice President Gore and Prime Minister Chernomyrdin. This group became a central element in the relationship between both countries, and led to regular working sessions in Moscow, Washington and other locations. Mr. Gore's visits to Moscow almost involved a meeting with President Yeltsin, and P.M. Chernomyrdin's visits to Washington would routinely include a meeting with President Clinton.

The books would always be part of preparatory contacts and then, on most occasions would be raised by the Vice President directly with both Chernomyrdin and Yeltsin, and less regularly, by

President Clinton in his contacts with Yeltsin. In Moscow, the issue was pursued very persistently by a succession of US ambassadors, including ambassadors Pickering and Collins. Both ambassadors would accompany me when I was in Moscow to staff Commission meetings, to negotiating sessions about the books with ranking Russian officials, including the Russian Minister of Culture.

These negotiations resulted in the only occasions when books were released from the collection to come to the United States. On one occasion, a single book was released to Vice President Gore, who turned it over to Rabbi Cunin. On a second occasion, seven or so volumes were turned over to President Clinton in the course of a summit visit to Moscow.

Unfortunately, that is as far as we were able to get, notwithstanding repeated assurances from the Russian side, from Chernomyrdin on down, that the matter would be completed soon and in full. As an interim step, aided by ambassador Pickering, I negotiated a memorandum of understanding with then-Russian Minister of Culture, Mr. Sidorov, under the terms of which the books would be placed in more appropriate locations within the library complex. Two things should be noted regarding this agreement: first, that it was explicitly intended to be an interim measure, pending full disposition of the books, and was not considered to prejudice the position of either side on that point; and second, that the agreement was between governments—Chabad was not a formal party to them. For some time there were delays in execution on the Russian side, based on one problem or another. I cannot recall ever having been informed that the terms of the memorandum had been executed.

Russian obduracy on this issue remained both a great frustration and a mystery, given the many other problems that were being solved successfully during the eight years of the Clinton/Gore administration. My colleagues and I interpreted the difficulty to be a reflection of the political weakness of Russian governance at the time, involving an ongoing social and economic crisis, in the context of which the issue of the Schneerson Library seemed to arouse a mix of injured national feeling and old-time anti-Semitism.

The Russians themselves advanced various other defenses including a fear that returning the books would open Russian museums to a flood of other demands for returns of works “acquired” by the state during the Soviet period. We might have been more sympathetic to this concern had it not been for the wholesale return of religious texts and other treasures to the Orthodox Church during this period: a clear-cut distinction based obviously on the growing political importance of the Church during these years.

Neither were we persuaded by the alternative Russian argument that the Schneerson library was a national treasure, in view of certain facts: (1) the collection had been completely hidden from view for nearly a quarter of a century, and its existence only revealed when tracked down by outsiders; (2) I personally saw the circumstances in which this “treasure” was stored in the deeper stacks of the Lenin library, and, even making allowances for its extremely low budget, it was clear to me that the books were not being held under conditions of respect; and (3) the fire-bombing of the Chabad office in Russia, and the destruction by arson of the

Marina Roscha synagogue in Moscow, were reminders that if the Russian government thought of the books as a national treasure, elements of Russian society certainly did not have the same opinion of the Jewish people, from whose midst the books had come. I continue to hope that the rightfulness of Chabad's claim will ultimately be recognized in Russia, and the books returned to the keeping of those for whom they are living, sacred texts.

**PREPARED STATEMENT OF RABBI JOSEPH WINEBERG, NOTED
AUTHOR ON JUDAISM, SENIOR MEMBER, CHABAD-LUBAVITCH**

I thank the Helsinki Commission for allowing me to describe my experiences with the Sixth Lubavitcher Rebbe, Rabbi Joseph Isaac Schneerson, during the German invasion of Poland. I would also like to describe to you the Sixth Rebbe's commitment to establishing a library for the benefit of Chabad and the entire Jewish community.

My name is Rabbi Joseph Wineburg. I was born in Poland on November 10, 1917. I presently live in Brooklyn, New York. I am the author of *Lessons in Tanya*, which is a multivolume work that was personally edited by the Rebbe, Rabbi Menachem Mendel Schneerson. *Lessons in Tanya* is a commentary on the fundamental work on Chabad philosophy written by the First Lubavitcher Rebbe, Rabbi Shneur Zalman of Liadi.

I speak to you both as a student of the Sixth Rebbe and as a survivor of Nazi Germany's bombardment of Poland. The Germans murdered my entire immediate family, including my mother, five brothers, and two sisters. Few members of my extended family survived. I first met the Sixth Rebbe in 1934 when I was a student at his school (his Yeshivah) in Warsaw. I joined the Sixth Rebbe in late 1935 when he moved the Yeshivah to Otwock, Poland. At the time, and until the period leading to the war, almost 300 students attended the Yeshivah. As a Yeshivah student, I was one of among several students who reviewed the Sixth Rebbe's lectures for publication.

While a student, and later when I joined the Sixth Rebbe in America, I was fully aware of the Sixth Rebbe's affection for the Schneerson Collection of books and manuscripts located in Otwock. The Sixth Rebbe considered the collection to be a treasure belonging to the Chabad community for the benefit of world Jewry. Included in the collection were original manuscripts written by the Rebbe's predecessors. During many of the Rebbe's lectures, I often heard the Rebbe quote from these manuscripts and other portions of the Schneerson Collection.

I accompanied the Sixth Rebbe when Nazi Germany first attacked Poland on September 1, 1939. I was one of the few students that stayed with him throughout the thunderous attacks since most of the students left Otwock to join their families. We fled to Warsaw on September 4, 1939. On the first day of the attack (as well as on many other occasions) the Rebbe, his family, and I were almost killed by one of the many bombs that the Luftwaffe dropped on Poland. One bomb struck the home where the Rebbe and part of his family lived. Thankfully, no one was injured. Instead, we were fortunate to find temporary protection by moving to a courtyard that had not yet been bombed and provided protection from shrapnel. This shelter was short-lived however because, once the fires from nearby buildings became too large, we were forced to find new sanctuary away from the fires. We were able to avoid being killed though we were never far away from the exploding bombs.

When buildings erupted in flames and collapsed around us during the terrifying bombing attacks, the Rebbe expressed deep concern for the protection of his family, his students, the Yeshivah,

and the Schneerson Collection of books and manuscripts. In fact, I assisted in transporting the Rebbe's eighty-year-old mother from one shelter to the next since she was bound by a wheelchair and could not move on her own. The Rebbe also expressed grave concern for those students remaining in Otwock. The Rebbe therefore sent me to return to Otwock by foot in order to care for the students.

I was in Otwock for a short time and then I fled to Vilna and then to Shanghai. I was reunited with the Rebbe in 1944 when I finally arrived in the United States. Shortly after my arrival, I joined the Rebbe in his efforts to establish Chabad's worldwide headquarters in America. At his direction, I served as one of Chabad's emissaries and traveled to South Africa, South America, and other countries in order to raise funds to develop the new American headquarters. Among the tasks assigned to me was to re-establish the Schneerson Collection by seeking rare manuscripts and other writings that would be of benefit to the entire Chabad community. I know that when the Sixth Rebbe passed away in 1950, he was disappointed that he could not recover the portion of the Schneerson Collection that remained in Poland.

I am a witness to the terrible destruction of my community and my people. The Schneerson Collection contains the cultural and spiritual heritage of a community that was slaughtered during one of the most terrible events in world history. In memory of my family and in memory of all those who were murdered during the Holocaust, I ask for your assistance in returning the Schneerson Collection to the Chabad community in America.

**PREPARED STATEMENT OF RABBI YEHUDA KRINSKY,
FORMER ASSISTANT CHIEF-OF-STAFF TO THE
LUBAVITCHER REBBE**

Good afternoon, ladies and gentlemen of the Helsinki Commission.

My name is Yehuda Krinsky, and I thank you for the opportunity to address this distinguished commission gathered. As someone who has been personally involved in Chabad's long struggle to reclaim the Schneerson Collection, I am grateful to the Commission's Chairman, Senator Brownback, and to each of the esteemed members of the Commission assembled here today, who recognize the worthiness of this matter.

I was born in Boston, Massachusetts, in 1933. In 1946, at the age of 12, my parents sent me to study at the central Chabad-Lubavitch yeshiva in New York, and I have been involved with the Lubavitch movement ever since. On the occasion of my bar mitzvah—and on many subsequent occasions until his passing in 1950—I had the distinct honor to receive the personal blessings of Rabbi Joseph I. Schneerson, the sixth Rebbe (1880–1950). In his noble personage, I saw the image of a towering figure who had endured inhumane treatment, physical brutality, and incarceration at the hands of the communists. I saw before me a giant who remained totally focused and undeterred in the face of a death sentence—and who ultimately prevailed.

Born and raised in Russia, Rabbi Schneerson had inherited from his father and his predecessors, a unique library of sacred texts and manuscripts on a wide range of Jewish interests, among them Talmud, law, history, mysticism, liturgy and more. It is this collection that is at the heart of the hearings here today, and which we have fought to reclaim for many years with a single-minded determination. I grant you that some people may not understand the great lengths we have gone to retrieve this collection. Allow me, then, to explain the particular and perhaps peculiar nature of our attachment to the Schneerson Collection.

Those of us raised in the Chabad-Lubavitch tradition cherish these books and manuscripts. To us, their value is not about art, nor even about their sanctity. It's about family. You see, to us, books, like human beings give life. And within every one of these books and manuscripts there burns persistently, the moribund embers of Jewish souls that refuse to die. Like the exilic Jewish family that has been dispersed and fragmented over many years, these books and manuscripts tell the story of a family torn apart.

In considering the prevailing circumstances at the time the books were seized—the oppressive communist milieu in which the Jewish people, Chabad in particular was targeted by a program of insane hatred and violence that sought literally to eviscerate Jewish life from Russia, practice and scholarship, I think you will agree that the position we are in today, where Chabad is forced to fight for the return of its books, is implausibly absurd.

When communism came to power in 1917, its regime launched a campaign of persecution that would ravage the Chabad community. Under its brutal regime, Chabad Chasidim would experience the varieties of religious persecution. In this Kafkaesque nightmare, Chabad Chasidim, "Schneerson's people," as the communists

labeled them, were pursued, arrested and executed; their homes were plundered and pillaged, their wives exiled, their children left orphaned, often starving to death. Sentences of 25-years of hard labor in the Siberian gulag, and solitary confinement were routine.

The Schneerson Collection dates back 200 years ago to the city of Liozna, in White Russia, today, Belarus, with Rabbi Schneur Zalman (1745–1812), a famous mystic and codifier of Jewish law, who founded Chabad. His son would inherit his books and writings and add to it, as would subsequent Chabad Rebbes, all of whom descended from Rabbi Schneur Zalman. Over time, the collection grew with additions by each respective Rebbe and his community—by additions indigenous to their times and community.

In 1916, during the First World War, the fifth Rebbe, Rabbi Shalom Dov Ber Schneersohn (1860–1920), was forced to leave the town of Lubavitch—where his ancestors lived for more than 100 years, and for which the Chabad-Lubavitch movement is named. Not incidentally, “Lubavitch” means “city of love.” The Rebbe left Lubavitch and took up residence in Rostov-on-Don. According to eyewitness accounts, he had his library carefully packed into crates. He took all the manuscripts and a portion of the books with him to Rostov-on-Don, and sent the major part of the books for safekeeping to Moscow. These books, however, were soon seized by the communist regime which came to power after the Revolution in 1917.

During the tenure of his son, the sixth Rebbe, Rabbi Joseph I. Schneerson, who succeeded him in 1920, the library was rebuilt by adding many new collections and volumes. At the same time, the Soviet authorities began a systematic persecutory campaign against him because of his activities in promulgating Judaism and sustaining and expanding Jewish spiritual life throughout the Soviet Union. For this, he was arrested in 1927. He was interrogated, tortured and incarcerated at the notorious Spalerno Prison in Leningrad and sentenced to death. Many governments including the United States, intervened, and his death sentence was commuted. But he was forced to leave Russia, and took up residence in Riga, Latvia, taking with him those portions of the library that had not been confiscated.

While in Riga, the Rebbe continued his educational and spiritual outreach efforts in Russia, developing a vast network of underground schools and aid programs throughout the USSR. At the same time, he continued to enlarge on the library, and tried unsuccessfully to reclaim his father’s books from where they were placed in storage, back in 1916, in Moscow.

In the early 1930’s, the Rebbe moved with his students to Warsaw, Poland. But with the Nazis on the march, Poland did not offer a safe haven for long. In 1939, as German bombs rained down on Warsaw, Rabbi Schneersohn placed the library in storage. Most of the texts disappeared in the chaos and destruction of World War II.

Thanks to the historic efforts of the United States government, the Rebbe was again rescued and evacuated from Nazi occupied Poland, and brought safely to these shores. Upon his arrival in the United States, in March of 1940, Rabbi Joseph I. Schneersohn reestablished Chabad-Lubavitch’s worldwide headquarters in New

York. Today, Chabad is the largest Jewish organization in the world, with some 2,700 branches around the globe, with an army of some 25,000 dedicated emissaries in some 65 countries.

In the 1940's, the Rebbe established the Chabad-Lubavitch publishing arm, Kehot Publication Society, to publish and disseminate the teachings of Judaism to a generation that had survived the terror of the communists, and the death machine of the Holocaust, and too, for Jews in the free world. The Rebbe had an abiding appreciation and love for books. To his last day, in 1950, he believed that the missing parts of his collection had survived, and would be some day be recovered. In his writings, he referred to the collection as a "national treasure belonging to the entire Jewish people."

In 1957, I was privileged to be chosen to serve as a member of the Secretariat of the seventh Rebbe, Rabbi Menachem Mendel Schneerson (1902–1994), of blessed memory, who had assumed leadership of the Chabad-Lubavitch movement in 1950. He was the son-in-law of the sixth Rebbe. I served the Rebbe in that capacity for nearly 40 years. In 1988, he appointed me sole executor of his will. I also serve as Chairman of various Chabad oversight entities, and of Chabad's international educational and social services divisions.

In 1972, we first learned that a small portion of the library last seen in Poland had, in fact, survived World War II, and was located at an institute in Warsaw. Incredibly, the institute was providing tourists with original pages of these irreplaceable manuscripts as souvenirs. This institute had no idea what these manuscripts were and to whom they belonged. Indeed, they catalogued the authors of this collection as "anonymous."

Again, Chabad turned to the United States Department of State for assistance, and they did, in fact, intervene. With their help, the Polish government returned the books and the manuscripts to the Chabad-Lubavitch central library in New York, in 1977.

At the time, we did not know whether any other books or manuscripts from the Schneerson Collection remained in Europe or the Soviet Union. For the most part, experts surmised that the texts were forever lost, along with the millions of lives lost to Hitler and Stalin. Many Jewish books, we knew, had been burned by the Nazis or disposed of by the Soviets. It was part of the systematic attempt to uproot Jewish life and eradicate all traces of Judaism. But like his predecessor, the seventh Rebbe told me on numerous occasions that the library would be found intact.

In the 1980's, Rabbi Yosef B. Friedman, director of the Kehot Publication Society, made a remarkable discovery. While attending an International Book Fair in Moscow, he visited the Lenin Library and studied the catalogue of the Hebraic department. Our senior librarian, Rabbi Shalom Levinson, had provided him with markers by which the Schneerson Collection could be identified. To Rabbi Friedman's utter amazement, the books examined at the Lenin Library were indisputably, the originals from the fifth Rebbe's collection that was seized in 1916!

In response to this discovery, the Rebbe launched an effort to secure the return of the collection to its rightful owners. The Rebbe appointed a special delegation of international Chabad leaders—

who are with us here today—to devote themselves to free the collection.

But the saga of the missing books continues.

In the late 1990's, someone approached me with photocopies of some other manuscripts he had brought from Russia, and I was able to immediately confirm that these manuscripts were indeed from the original writings of the sixth Rebbe, and his predecessors. Upon further investigation, we learned that these sample copies were part of some 40,000 pages of manuscripts from the Schneerson Collection, and that they were stored in the Russian State Military Archives in Moscow. For almost six decades, we had no idea where these documents were. The Soviets never revealed their existence, and never made any real attempt to catalog or preserve them.

As you see, this peripatetic collection was always vulnerable. Torn hither and thither, banned and banished, neglected and violated, it survived in the most inhospitable of circumstances. Withheld from those who made these texts come to life and from those who would draw life from its weathered pages, this broken collection miraculously persisted and found its core in the fragments of its precious remains, from where it grew once again.

The Schneerson collection contains manuscripts from Chabad-Lubavitch Rebbes that are of specific and almost exclusive interest to Jewish scholars and Chabad students. It constitutes the spiritual life and philosophy of generations of Chabad leaders, and is rich with insight to a tradition and history that continues to be lived by Chabad today.

Like the men and women of Chabad-Lubavitch.

Today, we have thousands of representatives, or Shluchim, as we call them, who have dedicated themselves to Jewish revival, creating vibrant Jewish communities in 65 countries around the world. Among these are the grandchildren of one noble, matriarch, who was known as "Aunt Sara," or Mrs. Katznellenbogen. In 1937, her husband was arrested and executed by the communists.

Deeply committed to the teachings of Rabbi Schneerson, to his Chasidim and to the values of Chabad, she joined an underground committee that formed to raise money and organize documentation to facilitate the escape of Jewish families from Soviet Russia. At risk of death to herself, she thus spirited hundreds of Jews out of the country. She did this until she was arrested herself. Neither the incarceration nor the severe conditions would crush the spirit of this gallant woman who had endured the gamut of deprivations and violence as one of "Schneerson's people."

In the spirit of Chabad, Mrs. Katznellenbogen joined an underground group that formed to raise money and organize documentation to facilitate the escape of Jewish families from Soviet Russia. At risk of death to herself, she thus spirited hundreds of Jews out of the country. She did this until she was arrested herself. Neither the incarceration nor the severe conditions would crush the spirit of this heroic woman who had endured the gamut of deprivations and violence as one of "Schneerson's people."

To protect her family, Sara Katznellenbogen lived by an assumed name. When she was caught, she denied her true identity. Hoping to force a confession, her interrogators led her into a cell where she

saw the gaunt, skeletal apparition of her youngest child, Moshe. Moshe was only 15 years old. She did not know he had been arrested. The emotional meeting was designed to break her disguise and spirit. Mother and son thus met eye to eye. For love of one another, Moshe denied she was his mother, Sara denied he was her son.

The following day, Sara Katznellengoben died of heart failure in a Soviet prison in Tbilisi, Georgia. The year was 1952.

Such were the circumstances that surrounded the seizure of the Schneerson Collection. I needn't tell you that it was neither love for Judaism nor interest in the scholarly works of the Chabad Rebbes that motivated the seizure of the Schneerson collection.

Members of the Commission! There is no question that the Schneerson Collection has been taken from its rightful owners. There is no mistaking that these holy books were seized in unholy measure. There is no doubt that withholding them today rewards the evil gains of a dark and destructive past.

In September of 2000, I attended the dedication ceremony of the Chabad-Lubavitch Center—at the Marina Roscha Synagogue in Moscow. President Vladimir Putin was there and he addressed the thousands who gathered on the plaza in front of the new complex. He spoke passionately in praise of the Lubavitch work in Russia, and expressed deep regret and apologies for the persecution that Lubavitch suffered at the hands of the earlier Russian regimes.

Mr. Putin spoke with great admiration for the accomplishments of Lubavitch in Russia, for its effectiveness in rebuilding Jewish communities and Jewish life throughout the vast country. He talked of the value and virtue of Chabad's education network of schools that are finally providing Jewish children with the education they need and deserve, and its ramifications for the larger Russian population. And then, Mr. Putin pledged to do whatever he could to help Lubavitch in its vital work for the benefit of the Jewish people.

Following the ceremony, I had a private conversation with Mr. Putin. He was interested to learn that both my parents were born and raised in Russia. He gave me reason to believe that justice and a love of peace and goodness are values he personally subscribes to and aspires to, and that they are part of his vision as a world leader.

The return of the Schneerson Collection under his tenure will offer genuine and lasting testimony of his allegiance to justice and the values of a free and just society.

To me, these books and manuscripts have a human quality. They give life to life!

Like a child wrongly taken from hearth and home, these books and manuscripts beg to be restored to their family. * * * * * Allow me to conclude by thanking you again for holding these hearings. In his lifetime, the late Rebbe was very moved by the diligent efforts of various American administrations on behalf of freedom and human rights, and he gave them his blessings. I am sure you all have his blessings now as well.

The Rebbe spoke often of the *chesed*—the kindness of our great country. He was ever mindful of the warm embrace he and his predecessor, and indeed, Chabad as a whole, found upon these

shores. The United States of America has to its great credit, proven to be a haven and a healing ground from which Jewish life would blossom and grow after the Holocaust.

I am confident that in your desire to see justice done, you will succeed in this noble and worthy effort to restore the Schneerson Collection to its home, to Agudas Chasidei Chabad at Lubavitch World Headquarters in New York, its rightful family!

**STATEMENT SUBMITTED FOR THE RECORD BY AL GORE,
FORMER VICE PRESIDENT**

I thank the Helsinki Commission for allowing me to submit this statement. The Commission deserves applause for its attention to the issue.

For decades, Chabad has sought the return of the Schneerson collection of irreplaceable and rare Jewish books and manuscripts. What always struck me about this quest was its moral clarity. This was an effort by a once-persecuted religious community, settled and flourishing in America, to reclaim part of its heritage. This same sense of clarity has been shared by many others of both parties in successive congresses and administrations.

In May 1992, that clarity is what caused the entire membership of the U.S. Senate to sign a letter I co-authored, as an appeal to Russian President Boris Yeltsin to accomplish the return of the Schneerson collection to Chabad. In October of that year, this same sentiment supported passage of the Gore-Lieberman amendment to the Russian aid bill, prohibiting non-humanitarian US assistance to governmental entities unlawfully withholding historically important books and documents that are the property of American citizens. On December 2, 1992, acting Secretary of State Lawrence S. Eagleburger concluded that the Russian State Library would be denied financial assistance pursuant to the Act.

As Vice President of the United States, I worked to make the return of the Schneerson collection a continuing theme during the Clinton Administration's discussions with the Russian government. Many members of my staff, the National Security Council, the State Department—and many members in Congress—worked very hard to press Russia to return the collection. On my first trip to Russia as vice president in December 1993, I made it clear that the United States hoped to see progress on the library's total return to Chabad. At that time, a single volume from the collection was released as a goodwill gesture. I had the opportunity to present that book to a senior representative of Chabad, and can tell you it was a strongly moving event.

The return of the Schneerson collection to Chabad will demonstrate Russia's stated commitment to human rights, religious tolerance, and the rule of law. I look forward to the day when the entire Schneerson collection is returned to the Chabad community. The full and final release of these texts and documents will be a joyful event for everyone who treasures freedom of worship.

**MATERIAL SUBMITTED FOR THE RECORD
BY THE RUSSIAN EMBASSY**

Thank you for inviting the Government of the Russian Federation to present its position in regard to the Schneerson Collection of Jewish books and manuscripts (Schneerson Collection). There have been a great number of misstatements and misrepresentations generated in the press and other fora regarding the Collection, and we welcome the opportunity to state our point of view.

The Schneerson Collection consists of books and manuscripts accumulated between the 18th and 20th centuries that are part of the Russian State Library (the Library) and of other written materials seized in Poland during World War II from the enemy Nazi forces that are part of the Russian State Military Archives (the Archives). The Collection is of great importance to the Russian nation and to both Russian Jewry and the Jewish Community all over the world. The Collection originated in Russia and the USSR, as did the Chassidic movement from which the Collection springs. It has continuously remained part of the Russian cultural heritage ever since.

The majority of the writings housed in the Library were collected by Rabbi Shalom Ber Schneerson, the fifth Lubavitch rabbi. When he fled to the Russian city of Rostov-on-Don in 1915 to escape the advancing German Army, Rabbi Schneerson sent his collection to Persits' (Polyakov's) book depository in Moscow. After his death, these books were nationalized by two decrees issued in 1919 and 1920 by the Soviet of People's Commissars (Soviet Government) and transferred to the Rumyantsev Public Library, later called the Lenin Library. The Russian State Library is the successor to the Rumyantsev Library. Ownership and possession have remained with the Library since the original transfer and nationalization and have been confirmed in a number of subsequent laws and decrees of the Russian Federation.

The documents housed in the Archives were collected by Rabbi Josel Itzkha Schneerson, the Sixth Lubavitch rabbi. They originated in the Soviet Union, Latvia and Poland, as the rabbi moved from place to place. The documents were recovered from Nazi-occupied Poland and transferred back to the Soviet Union.

The Agudas Chassidei Chabad (Chabad), which now claims rights of ownership over the Collection, has made repeated attempts to obtain the Collection from the Russian government, each of which has been given fair consideration but denied on the basis of Russian and international law. A court case filed by the Chabad in 1991 in the Russian Federation Court of Arbitration resulted in a lower court decision in their favor, however, on a subsequent appeal the decision was overturned on the grounds that the Chabad had failed to establish ownership. The Chabad had the option of proceeding in a court of general jurisdiction to have the question of ownership of the Collection resolved but they declined to exhaust their judicial remedies. Instead, the Chabad sought to mobilize various US government officials to pressure the Russian government to turn over the Collection to Chabad headquarters in New York.

In late 1993, as a response to the Chabad demands, a Russian Federation Presidential Decree was issued approving the creation of a Center for Oriental Literature as part of the Russian State Li-

brary, with a special room for storage and usage of the Collection (including the performance of religious rites). The Collection is in the process of being transferred to the new Center, the transfer process will be completed in June 2005. The Center assures unhindered access to the Collection as well as its preservation in good condition. The prayer room is large and welcoming. Many Jewish organizations and scholarly institutes already make use of the Collection, including scholarly institutions in other countries, including Israel.

On December 16, 1993, Assistant to the Vice President for National Security Affairs, Leon Fuerth and the then Russian Federation Minister of Culture, Y. Sidorov, signed a Memorandum of Understanding in which the Russian side committed to create the facility described above and to maintain the Collection in good condition, sponsored by qualified professional staff. The Russian side also agreed to catalogue the Collection. All of these steps have been taken. Unfortunately, a number of the commitments made by the US side have not been fulfilled (to provide financial support for preservation and to return books from the Collection made available under the International Library Loan).

The Russian side has continued to work with Moscow's Jewish community, including the representatives of the Chabad in Russia. Among other things, the Russian side has given the Chabad duplicate copies of books from the Collection and has entered discussions regarding a permanent exhibition of books from the Collection at the Library of the Moscow Jewish Community Center.

The Chabad, for their part, have abandoned their Russian judicial remedies and are apparently not satisfied with the government-to-government resolution of the problem achieved in 1993. Instead, the Chabad have filed suit in California and are coordinating their litigation effort with the current effort to get Congressional support to pressure the Russian government to give them the Collection. As for their litigation efforts, the Russian Federation believes those are improper and will respond accordingly in court. As for their efforts before Congress, the Russian government believes these are inappropriate and unnecessary under the circumstances and believes that issues as to the Collection should be resolved through full implementation of the 1993 Memorandum of Understanding.

In conclusion, it is our position that the Collection belongs to Russia. It is part of the national cultural heritage of Russians and of Jewish communities around the world. Removing the Collection from Russia may have made sense in the Soviet days, when there were serious obstacles to the practice of Judaism and additional problems with open access to scholarly and archival materials. Today, however, it does not make sense, especially since those conditions no longer exist. The Russian Federation Constitution guarantees freedom of religion and Russian law recognizes Judaism as a protected religion, which played a significant role in revitalizing Judaism in Russia. Today synagogues are open and operating, religious objects are freely available and the Collection is available to both the public at large and the Jewish community.

FACT SHEET—SCHNEERSON LIBRARY

In 1915, Shalom Ber Schneerson, a rabbi of Lubavitch, trying to escape from the advancing German arm, moved to the Russian town of Rostov-on-Don, while sending his collection of rare manuscripts and books on Judaism to Moscow. After he died, not long before the end of the World War I, his library was nationalized and entrusted to the Rumyantsev State Museum, which was transformed into the State Public Library in 1924. Since then Schneerson relatives have been making unsuccessful efforts to inherit his library.

In 1991, the community of Chasidic Jews of Lubavitch in New York claimed their ownership rights to the library. In response, the U.S. Side was informed that in the Russian legislation there was a number of legal norms providing for the indivisibility and inalienability of the collections of the Russian State Library as a national library constituting a valuable part of Russia's cultural heritage of (Articles 25 and 26 of the Fundamentals of the Russian Law Regulating Culture; Decree by the President of the Russian Federation No. 1487 "On High-Value Objects of the Cultural Heritage of the Peoples of the Russian Federation" of November 30, 1992).

By decision taken in 1993 approved by the President's decree # 1687 of November 9, 1993, after numerous appeals by the U.S. Chasidic community to return the books, a Center of Oriental Literature was established on the basis of the Russian State Library with a separate room for storing and using the Schneerson collection. That was a compromise decision: it provided unhindered access to and offered wide opportunities for using the library, including an opportunity to perform religious rites by Chasidim without violating the Russian law as regards inalienability of the assets of a national library.

At the same time, upon urgent request of the U.S. Embassy in Moscow and the community of Chasidic Jews, seven books were shipped to the Library of Congress of the United States of America in accordance with the International Library Loan. Later on, they were loaned on the same conditions to the Agudas Chassidei Chabad Library in New York. Regardless of the fact that the term of the loan has expired, the books have not been returned yet.

According to the Memorandum of Understanding signed by Assistant to the Vice-President of the United States of America for National Security Affairs Mr. Fuerth and Minister of Culture of the Russian Federation Mr. Sidorov in December 1993, the Russian Side has fulfilled all the commitments with regard to the Library of Schneerson:

- new premises for the Center for Oriental Literature were allocated, restored and commissioned, including a room for reading books and periodic publications in Yiddish and Hebrew and a special room for the Lubavitch Chasidic community Chabad (Agudas Chassidei Chabad) to study materials of the Schneerson collection and to perform religious rites;

- the collection is kept in due conditions, it was catalogued and its safety is secured;

- members of the staff in charge of routine management of the collection are highly professional.

However, none of the commitments undertaken by the US Side in the Memorandum has been fulfilled:

- the collection has not been ensured yet;
- an international expert board to estimate the Collection value has not been established;
- the US Side has not provided any additional funding for the activities related to safe keeping and usage of the Collection;
- the seven books that the Agudas Chassidei Chabad Library in Brooklyn received in 1995 under the International Library Loan have not been returned.

The Russian Side, nevertheless, continued to work with the Moscow Maryina Roshcha Jewish community, which represents the interests of Agudas Chassidei Chabad in Russia. The Library of the Moscow Jewish Community Center received 39 duplicate copies of books as a gift. Preparations were underway to hold a permanent exhibition of Schneerson collection's items at the Library of the Moscow Jewish Community Center.

The US Side returned to the issue of the Schneerson Collection restitution late last year, while the Agudas Chassidei Chabad community filed in December a lawsuit against the Russian Federation, the Russian Ministry of Culture and Mass Communications, the Russian State Library and the Russian State Military Archive.

MINISTRY OF CULTURE AND MASS COMMUNICATIONS

BACKGROUND INFORMATION

on Joseph Y. Schneerson's Collection of Books and Manuscripts, as well as Related Problems

The Schneerson Collection is a private collection accumulated in the Lubavitch community of what is now the Smolensk Region of Russia. Its last owner, Joseph Y. Schneerson, passed away without leaving a will or any immediate heirs.

Under the international law (articles 2 and 4 of the Paris Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of November 14, 1970, as well as private law), this collection is part of Russia cultural heritage. Under the Russian law (Law on Export and Import of Cultural Property; article 23 of the Fundamentals of Law on Russia's Archives), the Schneerson Collection, being part of Russia's cultural heritage, cannot be taken out of the country.

The Schneerson Collection is housed in the Russian State Library (RSL). There is a series of legal rules providing for the indivisibility and inalienability of the RSL's collections as a national library, which constitutes a high-value object of national cultural heritage of the peoples of Russia (Russian President's Decrees on High-Value Objects of the National Heritage of Russia # 294 of December 8, 1991 and On High-Value Objects of the Cultural Heritage of the Peoples of Russia # 1487 of November 30 1992; the Charter of the Russian State Library, enacted by the Regulation of the Government of the Russian Federation # 227 of March 23, 2001).

In addition, being private, the Schneerson Collection is not covered by the Executive Order of the President of Russia On the Transfer of Places of Worship and Other Religious Property to Religious Organizations, as well as the Regulation of the Government of the Russian Federation On the Transfer of Publicly Owned Places of Worship and Other Religious Property to Religious Associations.

Besides, the RSL's most valuable collections, as well as those of many other libraries in the world accumulated largely through expropriation and nationalization. Divestiture of one of their parts is going to set a legal precedent thus jeopardizing further existence of Russia's largest library and sowing discord within the society.

Proceeding from the current legislation and bearing in mind public opinion on this issue, the negotiations can only be conducted regarding civilized cooperation in terms of the collection use and creating a favorable conditions to the Chasidic community as users of the collections, but not about the transfer of the materials.

In accordance with paragraph 1.25 of the Decree of the President of the Russian Federation On the Measures to Implement Agreements reached in the Course of High-Level State Visits to the United States and Canada, RSL management has ensured safety of the Schneerson collection materials provided description, access, opportunity to make copies and display at exhibitions.

In order to resolve the issue of the Schneerson collection, the only possible measure has been undertaken in October 1993—establishment on the basis of RSL of the Center for Literature of Asian and African Countries (later renamed into the Center for Oriental Literature, or CEL), which, apart from other things, has special premises for storage and usage, including for religious purposes, of the Schneerson collection. This compromise decision allows, without violating current legislative norms on inalienability of the national library assets, for unhindered access to the collection for all interested persons and for broad usage possibilities, including practice of some religious rites by the Chasides.

Rabbi Levinson, Director of the Agudas Chassidei Chabad Library in Brooklyn, worked in July 2000 in CEL and other RSL depositories. He familiarized himself with the state of the collection, storage conditions, conducted a major identification job for 4354 books, belonging to the Schneerson collection.

In accordance with the agreements reached by the Minister of Culture of the Russian Federation Mikhail Shvydkoy and Chief Rabbi of Russia Berl Lazar, the Chasid Library within the Russian Agudas Chassidei Chabad Community was established in Maryina Roshcha, Moscow, in 2001. CEL actively participated in the preparation and implementation of this project.

39 duplicate books, belonging to the Schneerson collection, were transferred to the Moscow Jewish Community Center Library as a gift. A permanent exhibition is under preparation to display books from the Schneerson collection on the premises of the Moscow Jewish Community Center Library.

Access to the collection is absolutely free.

Many Jewish entities, namely the Russian Jewish Congress (RJC), the "Maryina Roshcha" community, and also different institutions that study Judaism are using the books from this collection.

The Center for Eastern Literature of the Russian National Library cooperates with the Center for Jewish Civilization Study at the Moscow State University School of Asia and Africa, the Jerusalem University Friends Society of Russia, the Jewish Academic Library. Students and professors use in their research both the modern literature as well as the Schneerson and Ginzburg archives.

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Director General of the Russian State Library.



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