
In the Supreme Court of the United States

YESHIVA UNIVERSITY, VICE PROVOST CHAIM NISSEL, AND PRESIDENT ARI BERMAN,

Applicants,

v.

YU PRIDE ALLIANCE, MOLLY MEISELS, DONIEL WEINREICH, AMITAI MILLER,
AND ANONYMOUS,

Respondents.

To the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court
of the United States and Circuit Justice for the Second Circuit

**RESPONDENTS' APPENDIX OF EXHIBITS
VOLUME 1 OF 3 (Pages R. App. 4 to R. App. 342)**

Katherine Rosenfeld
Max Selver
Marissa R. Benavides

Debra L. Greenberger
Counsel of Record

Emery Celli Brinckerhoff Abady
Ward & Maazel LLP
600 Fifth Ave, 10th Floor
New York, New York 10020
(212) 763-5000
dgreenberger@ecbawm.com

Counsel for Respondents

TABLE OF CONTENTS

VOLUME 1

EXHIBIT A: N.Y. Sup. Ct., Plaintiffs' Mem. of Law in Further Opposition to Defendants' Converted Motion for Summary Judgment (Doc. 229).....	R.App.4
Exhibit 1	R.App.36
Exhibit 2	R.App.44
Exhibit 3	R.App.53
Exhibit 4	R.App.59
Exhibit 5	R.App.66
Exhibit 6	R.App.68
Exhibit 7	R.App.70
Exhibit 8	R.App.79
Exhibit 9	R.App.82
Exhibit 10	R.App.84
Exhibit 11	R.App.187
Exhibit 12	R.App.201
Exhibit 13	R.App.205
Exhibit 14	R.App.209
Exhibit 15	R.App.268
Exhibit 16	R.App.270
Exhibit 17	R.App.275
Exhibit 18	R.App.294
Exhibit 19	R.App.318
Exhibit 20	R.App.323
Exhibit 21	R.App.330
Exhibit 22	R.App.332

VOLUME 2

Exhibit 23	R.App.343
------------------	-----------

VOLUME 3

EXHIBIT A: N.Y. Sup. Ct., Plaintiffs' Mem. of Law in Further Opposition to Defendants' Converted Motion for Summary Judgment (Doc. 229)

Exhibit 24	R.App.788
Exhibit 25	R.App.790
Exhibit 26	R.App.807
Exhibit 27	R.App.816
Exhibit 28	R.App.819
Exhibit 29	R.App.828
Exhibit 30	R.App.830
Exhibit 31	R.App.860
Exhibit 32	R.App.866
Exhibit 33	R.App.893
Exhibit 34	R.App.895
Exhibit 35	R.App.911
Exhibit 36	R.App.916
Exhibit 37	R.App.930
Exhibit 38	R.App.933
Exhibit 39	R.App.947
Exhibit 40	R.App.972
EXHIBIT B: N.Y. Sup. Ct., Defendants' Answer (Doc. 333)	R.App.998
EXHIBIT C: N.Y. App. Div., Brief for Defendants-Appellants (Doc. 18) ..	R.App.1009
EXHIBIT D: N.Y. App. Div., Ex. 16 to Decl. of K. Rosenfeld (Doc. 11)	R.App.1072
EXHIBIT E: N.Y. App. Div., Ex. 17 to Decl. of K. Rosenfeld (Doc. 11).....	R.App.1075
EXHIBIT F: N.Y. Sup. Ct., Decision & Order (Doc. 149)	R.App.1084
EXHIBIT G: N.Y. Sup. Ct., Ex. 2 to Decl. of K. Rosenfeld (Doc. 7)	R.App.1088
EXHIBIT H: N.Y. App. Div., Ex. 15 to Decl. of K. Rosenfeld (Doc. 11)	R.App.1090
EXHIBIT I: N.Y. Sup. Ct., Ex. 1 to Decl. of K. Rosenfeld (Doc. 87).....	R.App.1095
EXHIBIT J: N.Y. Sup. Ct., Aff. of Emma Doe (Doc. 26).....	R.App.1146

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

YU PRIDE ALLIANCE, MOLLY MEISELS,
DONIEL WEINREICH, AMITAI MILLER,
and ANONYMOUS,

Plaintiffs,

-against-

YESHIVA UNIVERSITY, VICE PROVOST
CHAIM NISSEL, and PRESIDENT ARI
BERMAN,

Defendants.

Index No.: 154010/2021
Kotler, J.

Mot. Seq. No. 6

**MEMORANDUM OF LAW IN FURTHER OPPOSITION
TO DEFENDANTS' CONVERTED MOTION FOR SUMMARY JUDGMENT**

Emery Celli Brinckerhoff Abady Ward & Maazel LLP
600 Fifth Avenue, 10th Floor
New York, New York 10020
(212) 763-5000

TABLE OF CONTENTSPAGE NO.

TABLE OF AUTHORITIES	iii-v
THE COURT SHOULD DENY SUMMARY JUDGMENT BECAUSE YESHIVA UNIVERSITY IS NOT A “RELIGIOUS CORPORATION”	1
I. YU IS AN EDUCATIONAL CORPORATION ORGANIZED “EXCLUSIVELY” FOR EDUCATIONAL PURPOSES AND NOT A “RELIGIOUS CORPORATION”	2
A. YU Is Not a “Religious Corporation” Under New York Law	2
1. A “Religious Corporation” is an Entity Created for Religious Purposes, Which YU Is Not.....	3
2. YU Is Incorporated Exclusively for Educational Purposes.	4
3. YU Is Not a “Religious Corporation” Under Any Body of Law.	5
B. YU Has Never Claimed to be a “Religious Corporation” Until this Lawsuit.....	6
1. YU’s Corporate History Belies Its Baseless Claim to Be a “Religious Corporation.”	7
2. YU Publicly Represents and Reports that it is a Non-Sectarian Educational Corporation.	8
a. YU Reports to the New York State Attorney General.....	8
b. YU Reports to New York State.	10
c. YU Reports to Federal and Local Agencies.	10
C. YU Wrongly Seeks Summary Judgment That It Is a “Religious Corporation” Based on Its Religious Identity and Activities Rather Than its Legal Status.....	11
II. PERMITTING YU TO SELF-EXEMPT AS A “RELIGIOUS CORPORATION” SUBVERTS THE LEGISLATIVE INTENT TO OUTLAW DISCRIMINATION BY PLACES OR PROVIDERS OF PUBLIC ACCOMMODATION.....	13
A. The City Council Intended Section 8-102’s Exceptions for “Distinctly Private” Clubs, Benevolent Corporations, and Religious Corporation—Not A Public-Facing Research University Like YU.....	14

1.	The Council Amended the Law in 1984 to Include More, Not Fewer, Entities as Public.....	14
2.	The Council Did Not Intend to Create a Broad Religious Exemption from Section 8-102.....	15
B.	The Council Intended Universities Such as YU to Be Covered Places or Providers of Public Accommodation.....	16
1.	YU is A Public-Facing Institution, Not a “Distinctly Private” Membership Entity.....	17
a.	YU’s Public-Facing Mission.....	17
b.	YU’s Professional Opportunities	18
c.	YU’s Community Engagement.....	19
III.	SUMMARY JUDGMENT IS PREMATURE AND DEFENDANTS HAVE FAILED TO CARRY THEIR BURDEN TO SHOW NO TRIABLE ISSUES OF FACT EXIST	20
A.	Summary Judgment for Defendants Is Premature Because Plaintiffs Have Not Conducted Sufficient Discovery into YU’s Claimed “Functional” Religious Status	20
B.	Defendants Have Not Met Their Burden on Summary Judgment.....	21
IV.	YU HAS NO FIRST AMENDMENT DEFENSE.....	23
V.	YU’S DISCRIMINATION HARMS LGBTQ STUDENTS BY DENYING THEM EQUAL RESOURCES AND OPPORTUNITIES AND BY STIGMATIZING THEM.....	23
	CONCLUSION.....	24
	CERTIFICATION	25

TABLE OF AUTHORITIES**Cases**

<i>Agudist Council of Greater N.Y. Imperial Sales Co.</i> , 158 A.D.2d 683 (2d Dep’t 1990)	4
<i>Bell v. Maryland</i> , 378 U.S. 226 (1964)	23
<i>Bodden v. Stouall</i> , 907 N.Y.S.2d 98, 2009 WL 5731183 (N.Y. Sup. Ct. Bronx Cnty. 2009)	20
<i>Brown v. St. John’s University</i> , No. 08 Civ. 2218, 2010 WL 11627391 (E.D.N.Y. June 28, 2010)	21, 22
<i>Cath. Charities of Diocese of Albany v. Serio</i> , 7 N.Y.3d 510 (2006)	23
<i>Farrugia v. North Shore Univ. Hosp.</i> , 820 N.Y.S.2d 718 (N.Y. Sup. Ct. N.Y. Cnty. 2006)	12
<i>Gay Rights Coal. Of Georgetown Univ. Law Ctr. v. Georgetown Univ.</i> , 536 A.2d 1 (D.C. 1987)	2
<i>Gifford v. Guilderland Lodge, No. 2480, B.P.O.E. Inc.</i> , 272 A.D.2d 721 (3d Dep’t 2000)	12
<i>Global Minerals & Metals Corp. v. Holme</i> , 35 A.D.3d 93 (1st Dep’t 2006)	20
<i>In re Watson’s Estate</i> , 171 N.Y. 256 (1902)	3
<i>Kroth v. Congregation Kadisha, Sons of Israel</i> , 105 Misc. 2d 904 (Sup. Ct. N.Y. Cnty. 1980)	6
<i>Lubonty v. U.S. Bank. N.A.</i> , 34 N.Y.3d 250 (2019)	13
<i>Matter of Lueken</i> , 97 Misc.2d 201 (N.Y. Sup. Ct. Queens Cnty. 1978)	2
<i>N.Y. State Club Ass’n, Inc. v. City of N.Y.</i> , 487 U.S. 1 (1988)	13, 14
<i>Naarim v. Kunda</i> , 801 N.Y.S.2d 23, 2005 WL 1355143 (N.Y. Sup. Ct. Kings Cnty. 2005)	11

<i>People v. Carroll</i> , 93 N.Y.2d 564 (1999).....	3
<i>People v. Pabon</i> , 28 N.Y.3d 147 (2016).....	3
<i>People v. Schneider</i> , 37 N.Y.3d 187 (2021).....	13
<i>PGA Tour, Inc. v. Martin</i> , 532 U.S. 661 (2001).....	16
<i>Temple-Ashram v. Satyanandji</i> , 84 A.D.3d 1158 (2d Dep’t 2011).....	4, 5
<i>U.S. Power Squadrons v. State Human Rights Appeal Bd.</i> , 59 N.Y.2d 401 (1983).....	17
<i>Venigalla v. Nori</i> , 11 N.Y.3d 55 (2008).....	3
<i>Watt Samakki Dhammikaram, Inc. v. Thenjitto</i> , 631 N.Y.S.2d 229 (Sup. Ct. Kings Cnty. 1995).....	6
Statutes & Rules	
42 U.S.C. § 1218(a)	22
42 U.S.C. § 12187.....	22
92 N.Y. Jur. 2d Religious Organizations § 23	4
N.Y. C.P.L.R. § 3211.....	20
N.Y. C.P.L.R. § 3212.....	20
N.Y.C. Admin. Code § 8-101	23
N.Y.C. Admin. Code § 8-102	<i>passim</i>
N.Y.C. Admin. Code § 8-107	15
N.Y.C. Admin. Code § 8-130	12
Religious Corporations Law § 2	3
Religious Corporations Law §§ 40-489	3

Other Authorities

28 C.F.R. Pt. 36, App. B (2007) 22

**THE COURT SHOULD DENY SUMMARY JUDGMENT BECAUSE YESHIVA
UNIVERSITY IS NOT A “RELIGIOUS CORPORATION”**

Defendants’ converted summary judgment motion should be denied because: (1) Defendants fail to establish a prima facie case entitling them to judgment as a matter of law that Defendant Yeshiva University (“YU”) is an exempt “religious corporation” under Section 8-102 of the New York City Human Rights Law (“NYCHRL”); (2) the plain text of Section 8-102 and its legislative history establish that YU—a New York educational corporation—is not a “religious corporation”; (3) the legislative intent of the provision would be eviscerated by exempting YU; (4) YU’s own corporate history and self-presentation prove it is not a “religious corporation”; (5) if the Court applies YU’s invented “functional” test to define YU’s corporate status, summary judgment is premature because Plaintiffs lack sufficient discovery and; (6) even on the current limited record, some of which is newly before the Court on this sur-reply brief, genuine factual disputes predominate.

YU’s bid to evade the City’s Human Rights Law is shocking because it is so long-settled that universities may not deny resources to students because of their sexual orientation. At YU, LGBTQ students may attend the University, but they may not form a student organization and they may not use its classrooms, meeting places, bulletin boards, email lists, Zoom links and other resources for their student organization’s activities—because of their sexual orientation. The NYCHRL requires “full and equal enjoyment, on equal terms and conditions,” not second-class status. Over fifty law professors at YU’s renowned Cardozo School of Law agree that YU’s “unacceptable treatment of our LGBTQ+ students” is “wrong and unlawful.” Ex. 31. In 1987, the D.C. Court of Appeals held, under D.C.’s Human Rights Law, that Georgetown University, another elite research university with a “cherished religious heritage,” must give its LGBTQ student group access to the same facilities as other student

groups. *Gay Rights Coal. Of Georgetown Univ. Law Ctr. v. Georgetown Univ.*, 536 A.2d 1 (D.C. 1987).

Thirty-four years later, YU seeks to turn New York City's Human Rights Law, the strongest in the nation, into a backwater, concocting a sweeping exemption for itself that lacks any basis in the statute and that the City Council did not intend. YU is not a "religious corporation" by any stretch of the imagination.

I. YU IS AN EDUCATIONAL CORPORATION ORGANIZED "EXCLUSIVELY" FOR EDUCATIONAL PURPOSES AND NOT A "RELIGIOUS CORPORATION"

YU has not met its burden to make a *prima facie* showing that it is entitled to judgment as a matter of law by tendering sufficient evidence to demonstrate the absence of any material issues of fact that it is an exempt "religious corporation" under Section 8-102 of the NYCHRL. YU is not a religious corporation. It is an educational one. No New York court has ever held that an educational corporation incorporated under the Education Law is actually a "religious corporation." YU would be the first.

YU is incorporated as an "educational corporation under the Education Law." Ex. 1 ¶ 1. Its Certificate of Incorporation states that it is "organized and operated *exclusively* for educational purposes," and states no religious purpose or governance whatsoever. *Id.* ¶¶ 8-9 (emphasis added). These facts are fatal to YU's claim to be a "religious corporation." *See Matter of Lueken*, 97 Misc.2d 201, 203 (N.Y. Sup. Ct. Queens Cnty. 1978) ("In determining what kind of corporation is presently proposed, it is incumbent upon [the Court] to make this evaluation based on the purposes set forth in the certificate of incorporation.").

A. YU Is Not a "Religious Corporation" Under New York Law

The straightforward language of the NYCHRL requires that to be exempt as a "religious corporation," an entity must be organized as one. "[W]hen the statutory language is

clear and unambiguous, it should be construed so as to give effect to the plain meaning of the words used.” *People v. Pabon*, 28 N.Y.3d 147, 152 (2016) (citations omitted). Because YU is not incorporated as a “religious corporation,” it is not exempt.

1. A “Religious Corporation” is an Entity Created for Religious Purposes, Which YU Is Not.

To be a “religious corporation,” an entity must be a “corporation created for religious purposes.” RCL § 2. The Religious Corporations Law (“RCL”) – the statute laying out the “[legal] rules for the governance of religious bodies,” *Venigalla v. Nori*, 11 N.Y.3d 55, 61 (2008)—is the only place where the term “religious corporation” is defined in New York law.¹ The RCL identifies two types of “religious corporations”: an “incorporated church” and “unincorporated church.” RCL § 2. Both are “created to enable its members to meet for divine worship or other religious observances.” *Id.* The RCL’s definition of a “religious corporation” applies whether the term is used in the NYCHRL or any other statute.² See *People v. Carroll*, 93 N.Y.2d 564, 568-69 (1999) (using definition of term in Family Court Act to supply definition of undefined term in Penal Law). The RCL’s examples of types of religious corporations—synagogues, mosques, and churches—are instructive: they confirm that a “religious corporation” is a legal entity created for the purpose of worship or religious observance. See *In re Watson’s Estate*, 171 N.Y. 256, 259 (1902) (“Section 2 of the [RCL] defines a religious corporation to be a corporation organized for religious purposes. We are not much the wiser for this definition, but

¹ The RCL establishes rules for formation and governance of religious corporations, such as certificates of incorporation, qualification of voters, and powers of trustees. It enumerates more than twenty different types of religious corporations, all places of worship—e.g., various Christian churches, “churches affiliated with the Islamic faith,” and synagogues. RCL §§ 40-489.

² The NYCHRL intentionally uses the term “corporation,” making clear that the statute refers to a legal entity. Corporation, Black’s Law Dictionary (“An entity . . . established in accordance with legal rules into a legal or juristic person that has a legal personality distinct from the natural persons who make it up.”).

an examination of the statute shows that its provisions are devoted to the organization and government of the various denominational churches.”).³

2. YU Is Incorporated Exclusively for Educational Purposes.

YU’s Certificate of Incorporation creates an “educational corporation” whose purpose is to operate “exclusively for educational purposes.” New York courts rely heavily on the language in certificates of incorporation defining the corporation’s purpose to determine whether a corporation is legally organized as a “religious corporation.” The Second Department has held that a Hindu Temple incorporated under the Not-for-Profit Corporations Law (“N-CPL”) is a de facto “religious corporation” because it is “a place of worship” whose certificate “states that it is a religious corporation formed to promote the philosophy of Bhagvad Gita” and includes “the signature of a Justice of the Supreme Court,” a requirement for incorporating under the RCL. *Temple-Ashram v. Satyanandji*, 84 A.D.3d 1158, 1160 (2d Dep’t 2011) (cleaned up); *see also Agudist Council of Greater N.Y. Imperial Sales Co.*, 158 A.D.2d 683, 683 (2d Dep’t 1990) (“In light of the petitioner’s valid certificate of incorporation which indicates that its purposes are to provide religious services and services to senior citizens, the Supreme Court properly determined that the petitioner is a religious corporation”). YU’s stated exclusive educational purpose in its incorporating documents disposes of its claim to be a de facto “religious corporation.”

YU’s charter also requires no religious governance of its affairs, even though “there is, as a rule, denominational control of the temporalities of religious corporations.” 92

³ The City’s lawyers at the time this statute went into effect also defined “religious corporation” under Section 8-102 solely by reference to the RCL’s definition, explaining to the New York Court of Appeals that “a religious corporation would be either ‘an incorporated church created to enable its members to meet for divine worship or religious observances,’ or ‘an incorporated congregation, society, or other assemblage, accustomed to meet for the same purpose.’” Ex. 18 at 18.

N.Y. Jur. 2d Religious Organizations § 23. Under YU’s Certificate of Incorporation, “[p]ersons of every religious denomination shall be equally eligible to offices and appointments.” Ex. 1 ¶ 8. Its bylaws contain no rules of religious governance at all. *See* Ex. 2. YU does not require that its trustees, officers, administrative leaders, faculty or students be of a religious faith.⁴ The Court’s inquiry should end here: YU is an educational corporation that operates “exclusively for educational purposes”; it is not incorporated as a “religious corporation,” and it has no legally required religious governance or control. It qualifies for no exemption.

3. YU Is Not a “Religious Corporation” Under Any Body of Law.

Defendants point to the language in Section 8-102 that exempts “religious corporations” incorporated under either the RCL *or* the Education Law to argue that YU somehow qualifies as a de facto “religious corporation” because it is organized under the Education Law. But this argument fails because whatever statute it is incorporated under, YU is still organized “exclusively” for educational purposes.

Corporations incorporated under statutes other than the RCL may be de facto “religious corporations” under New York law, but only if they satisfy the definition of a “religious corporation” *under the Religious Corporations Law* based on their corporate purpose in their governance documents. For example, in *Temple-Ashram*, the Second Department held that a Hindu Temple incorporated under the N-CPL “may be considered a ‘de facto’ religious corporation *in accordance with the Religious Corporations Law*” because it is a “place of worship” whose certificate of incorporation meets “a hybrid of the relevant criteria of both the

⁴ No religious organization has any role in hiring or firing YU Trustees or officials. Students also are not subject to any religious observation requirements. They are not required to attend or take part in religious services, Ex. 10 52:5-53:15; they are not required to wear religious garments, *id.* 75:2-6; and they are not required to maintain religious restrictions on what they eat, *id.* 77:23-78:5.

Religious Corporations Law and the N-PCL.” *Temple-Ashram*, 84 A.D.3d at 1160 (emphasis added).

Defendants’ cited cases follow the same analysis: “the plaintiff corporation [incorporated under the N-PCL] was established primarily for religious purposes, continues to operate as such, and thus falls within the ambit of the Religious Corporations Law” because it was a “*temple/residence*” established, under its certificate of incorporation, “for the study of Buddhism.” *Watt Samakki Dhammikaram, Inc. v. Thenjitto*, 631 N.Y.S.2d 229, 231 (Sup. Ct. Kings Cnty. 1995) (emphasis in original); *see also Kroth v. Congregation Kadisha, Sons of Israel*, 105 Misc. 2d 904, 910 (Sup. Ct. N.Y. Cnty. 1980) (“[S]ince, if unincorporated, [the corporation, a synagogue] could now only be incorporated under the Religious Corporations Law, that statute is applicable to its governance”). Thus, for a corporation incorporated under the Education Law—like YU—to qualify as a de facto “religious corporation,” it must still meet the RCL’s definition of a “religious corporation”: a legal entity created for the purpose of worship or religious observance. YU fails to qualify because it is created “exclusively” for educational purposes.

B. YU Has Never Claimed to be a “Religious Corporation” Until this Lawsuit

YU invented the idea that it is a “religious corporation” under Section 8-102 of the NYCHRL for purposes of defending this lawsuit, hunting for a safe harbor from the City’s anti-discrimination laws. YU’s corporate history and its decades of consistent representations to local, state and federal government confirm what is obvious from the face of its corporate documents: it is an educational corporation formed for educational purposes.

The University’s *own attorneys* from Weil Gotshal & Manges, “special counsel engaged to review this issue,” concluded in 1995 “after an exhaustive review of the ordinance and applicable case law,” that the University’s governance documents and representations about

its corporate status precluded it from seeking a religious exemption from the NYCHRL as a “religious corporation”: “The attorneys firmly believe that YU would not qualify for a religious exemption, based on its charter and its actions over the course of decades, including representations that have been made concerning the University’s legal status as a nondenominational institution.” Ex. 3 at 3. That remains as true today as it was then.

1. YU’s Corporate History Belies Its Baseless Claim to Be a “Religious Corporation.”

In 1967, YU legally transformed itself from a corporation with a religious purpose in its charter, comprised of both a secular academic program and a seminary ordaining future rabbis) to a corporation with an exclusively educational purpose granting only secular degrees, separately incorporated from the seminary.

YU was first incorporated in 1897 as the Rabbi Isaac Elchanan Theological Seminary (“RIETS”) under the Membership Corporations Law. The corporation’s purpose was the “promotion of the study of Talmud and assistance in educating the preparing students of the Hebrew faith for the Hebrew Orthodox ministry.” Ex. 4. In 1945, that corporation’s name changed to “Yeshiva University.” Ex. 6.

In 1967, YU petitioned the Board of Regents to amend and restate its Charter to become an educational corporation under the Education Law because:

[T]he original purpose of the corporation as stated in [the 1897 Certificate of Incorporation] is no longer applicable or appropriate in light of the degree granting schools and divisions comprising the University and its present corporate activities in connection therewith. The membership association which was originally formed under the designation of Rabbi Isaac Elchanan Theological Seminary Association has long since ceased to function as an association or part of the University.

Ex. 7 at 4.

Also in 1967, YU formally split from its seminary, RIETS, which in turn incorporated separately. After the split, RIETS retained a religious purpose clause,⁵ but YU did not. YU became a corporation “organized and operated *exclusively* for educational purposes.” Ex. 1 ¶ 9 (emphasis added). The Regents approved these requests as “long overdue,” noting that the original charter “has been amended from time to time for and on behalf of the Education Department to reflect the expansion of this institution into a complex university.” Exs. 8-9.

In 1969, YU again changed its Certificate of Incorporation, this time to eliminate “Religious Education” degrees from its charter to be “consistent with its present corporate organization and operation.” Ex. 7. YU clarified that “[i]t is also desired to effectuate the foregoing change to clarify the corporate status of the University as a non-denominational institution of higher education.” *Id.* at 5-6. YU testified that the corporation’s “non-denominational” status “is true” today. Ex. 10 at 105:9-15. YU’s current corporate purpose and structure are not products of happenstance; they reflect a considered choice to become an educational corporation with an exclusively educational purpose to qualify for public funding.⁶

2. YU Publicly Represents and Reports that it is a Non-Sectarian Educational Corporation.

a. YU Reports to the New York State Attorney General.

In 2018, to obtain an exemption from reporting as a charitable organization, YU informed the New York State Attorney General’s Office that it was an “educational institution,”

⁵ 1970: “The purposes are to prepare students for the rabbinate and to issue the traditional Certificate of Ordination in connection therewith.” Ex. 5.

⁶ According to the scholarship of a current YU professor, YU split from RIETS in 1967 “to reconstitute itself as formally ‘nonsectarian’ in order to comply with the [New York Constitution’s] provision that public money not be used to ‘aid schools under the control and direction of any religious denomination or in which any denominational tenet.’” Ex. 11. An Emory law professor—and YU alumnus—writes that this corporate reorganization bars YU from seeking a religious exemption under the NYCHRL: “It is a secularly chartered but religiously affiliated institution, a status . . . unprotected by the rights granted to religious institutions.” Ex. 12.

and not an organization “incorporated under the religious corporations law or . . . with a religious purpose or [] operated, supervised or controlled by or in connection with a religious organization.” Ex. 13.

Schedule E (Form CHAR410, CHAR410-A or CHAR410-R) Must be attached to form CHAR410, CHAR410-A or CHAR410-R		Request for Registration Exemption for Charitable Organizations New York State Department of Law (Office of the Attorney General) Charities Bureau - Registration Section 120 Broadway New York, NY 10271 www.charitiesnys.com		Open to Public Inspection
Full Name of Organization Yeshiva University		Fed. employer ID no. (EIN) 13-1624225	NY State registration no. 44-1846	
If your organization is not claiming exemption from registration under either or both Article 7-A or the EPTL, do not complete Schedule E and do not submit a blank Schedule E. An exemption request that is not accompanied by all required documentation as listed below and in CHAR410, CHAR410-A or CHAR410-R Part D (Attachments) will not be considered. Do not request exemptions that cannot be supported by the documentation required. An exemption request has not been granted unless you receive a letter confirming your organization's exemption.				
Indicate whether you are claiming an exemption from the EPTL or Article 7-A or both. Complete the corresponding exemption request questions.				
EPTL <input type="checkbox"/> ⇔ Complete Part I (EPTL), skip Part II (Article 7-A). Article 7-A <input type="checkbox"/> ⇔ Complete Part II (Article 7-A), skip Part I (EPTL). Both EPTL and Article 7-A <input checked="" type="checkbox"/> ⇔ Complete Part I (EPTL) and Part II (Article 7-A). If you complete one but not both exemption request parts, your organization may be exempted under only one law and registered under the other law, in which case your organization would be required to file annually with the Charities Bureau.				
Part I: EPTL Exemption Request				
Registration exemption claim (check all that apply)		Required additional documentation (in addition to attachments listed in CHAR410, CHAR410-A or CHAR410-R Part D)		
<input type="checkbox"/> 1. Organization is not charitable		None		
<input type="checkbox"/> 2. Organization does not conduct activity in NY State		If your organization lists a New York address in either question 3 (Mailing address) or question 4 (Principal NYS address) of CHAR410, CHAR410-A or CHAR410-R Part A, attach a detailed explanation of why the organization has a New York address but claims not to conduct activity in NY State		
<input type="checkbox"/> 3. Organization is a government agency or is controlled by a government agency		For organizations controlled by a government agency, attach a description of the relationship between your organization and the government agency and either: • a copy of the letter from the Charities Bureau confirming the government agency exemption of that other organization, or • a copy of the government agency's charter and , if applicable, IRS tax exemption determination letter		
<input type="checkbox"/> 4. Organization reports annually to either the U.S. Congress or the NY State Legislature		Attach a copy of either: • the most recent annual report filed with the U.S. Congress or the NY State Legislature, as the case may be; or • a letter from such legislative body confirming that your organization reports annually to it		
<input type="checkbox"/> 5. Organization is incorporated under the religious corporations law or is another type of organization with a religious purpose or is operated, supervised or controlled by or in connection with a religious organization		Attach a copy of listing in official denominational directory (for example, "Blue Directory"), if applicable; and For organizations operated, supervised or controlled by or in connection with another organization that is exempt from registration as religious, attach a description of the relationship between your organization and that other organization and either: • a copy of the letter from the Charities Bureau confirming the religious exemption of that other organization, or • a copy of that other organization's certificate of incorporation, by-laws, trust agreement and/or other organizational document and amendments, and , if applicable, IRS tax exemption determination letter		
<input checked="" type="checkbox"/> 6. Organization is an educational institution, museum or library incorporated under the NY State Education Law or by special act		None		

YU testified that its Director of Tax & Compliance, Alan Kluger, registered YU as an educational corporation, and not a “religious corporation,” because “it would be difficult”

to produce documents showing its entitlement to this religious exemption and did not know whether any such documents existed. Ex. 10 at 109:5-16:22.

b. YU Reports to New York State.

In 2011, YU received \$90 million in bond financing from New York State to build classrooms and dormitories. Ex. 10 at 167:3-68:11. To receive that money, it represented that: “The University is an independent, coeducational, nonsectarian, not for profit institution of higher education.” Ex. 14 at YU01251. Although the funding was partially for classrooms, YU “agree[d] that . . . the Project or any portion thereof will not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination.” *Id.* at YU01301.

c. YU Reports to Federal and Local Agencies.

In a funding application submitted to the U.S. Department of Homeland Security, YU checked a box that it was a “Not For Profit” entity and not a “Sectarian Entity.” Ex. 15.

Grant Application		Homeland Security Non Profit Grant	
Project No	Grantee Name		
HS21-1471-E00	Yeshiva University	04/22/2021	
Project Title: FY2021 NSGP-UA			
Contacts Mr. Paul Murtha Director Of Security 500 West 185Th Street New York, NY 10033 Phone:646-592-4480, Ext:6200 Fax: Email:pmurtha@yu.edu Mr. Cristobal Hiraldo Physical Security Manager 500 West 185Th Street New York, NY 10033 Phone:212-960-5221, Ext:5481 Fax:212-960-0072 Email:hiraldo@yu.edu Ronald Nahum Director of Finance and Administration 500 W 185th St New York, NY 10033 Phone:646-592-4002, Ext: Fax: Email:rnahum@yu.edu Randy Apfelbaum Director of University Operations 500 West 185th Street New York, NY 10033 Phone:646-592-4113, Ext: Fax: Email:randy.apfelbaum@yu.edu		Project Start: 10/01/2021 Project End: 09/30/2024 Project Period: Years 3 Months 0 Submission Date: 04/15/2021 EIN: 13-1624225 Municipality No: Dun & Bradstreet No: 071036636 Charities Registration No: <input checked="" type="checkbox"/> Not For Profit <input type="checkbox"/> Sectarian Entity County: New York Region: New York City BUDGET SUMMARY Grant Funds: \$150,000.00 100.00% Matching Funds: \$0.00 0.00% Total Funds: \$150,000.00	

Similarly, in an application to the City of New York for funding, it described itself as “a community-based not-for-profit corporation or other public service organization.”

Ex. 16.

C. YU Wrongly Seeks Summary Judgment That It Is a “Religious Corporation” Based on Its Religious Identity and Activities Rather Than its Legal Status

Defendants never define a “religious corporation”; their argument rests on an impressionistic, imprecise use of the legal term in order to sweep YU under it. Defendants sometimes incorrectly characterize the exemption as one for “religious organizations” rather than “religious corporations.” Defendants claim there is “no particular test or measure to define a religious organization,” Dkt. 71 at 9 (cleaned up), just that it be an “organization that has religious functions, regardless of form,” Dkt. 107 at 7. A hazy suggestion that one look to an entity’s “functions” is all that Defendants offer. But that result flouts the term’s plain meaning. A “religious corporation” is a *legal status* under New York law. YU does not have it.

YU asks the Court to interpret the word “religious” in “religious corporation” as an adjective, such as one might say that someone was a “religious person.” But the plain language of the statute is clear that it requires the legal corporate status of a “religious corporation.” YU also urges the Court to disregard the statute’s plain meaning and deem it a “religious corporation” based on its religious identity. Accepting that the University has a Jewish identity, and that Judaism is deeply important to the University’s existence and activities, it is still not a “religious corporation” as the law requires. The NYCHRL’s exemption does not extend to religiously-identified or religiously-affiliated organizations: it is by its own terms limited *only* to “religious corporations.”

Naarim v. Kunda, 801 N.Y.S.2d 237 (Table), 2005 WL 1355143 (N.Y. Sup. Ct. Kings Cnty. 2005) illustrates the point. There, the court held that the fact that a summer camp

provides “boys with a summer vacation in a religious, spiritual atmosphere” does not make it a religious corporation because “a religious corporation should be one formed primarily for religious purposes; exercising some ecclesiastical control over its members, having some distinct form of worship and some method of discipline for violation thereof.” *Id.* at *2 (cleaned up). Just so here. YU’s claim that its undergraduate campus has a religious atmosphere or identity is irrelevant. Its lack of religious corporate status precludes it from being a “religious corporation.”

YU asks to be deemed a “religious corporation” based on how it “functions,” although that test exists nowhere in law and violates the NYCHRL’s rules of statutory construction that it be “liberally and independently construed with the aim of making it the most progressive in the nation.” *Farrugia v. North Shore Univ. Hosp.*, 820 N.Y.S.2d 718, 724 (N.Y. Sup. Ct. N.Y. Cnty. 2006). Critically, “[e]xceptions to and exemptions from the provisions of this title shall be construed narrowly in order to maximize deterrence of discriminatory conduct.” N.Y.C. Admin. Code § 8-130(b). Defendants do the opposite, exploding a narrow exemption into an unlimited one.

Section 8-102’s use of the term “religious corporation” is not accidental or superfluous. Courts have therefore strictly construed the statute’s exemptions based on the enumerated corporate forms, particularly since it is couched as absolute exemption. *See Gifford v. Guilderland Lodge, No. 2480, B.P.O.E. Inc.*, 272 A.D.2d 721, 722-23 (3d Dep’t 2000) (“A plain reading of the statute reveals that the exemption for organizations formed pursuant to the Benevolent Orders Law is absolute and not subject to limitation. This interpretation accords with the legislative intent behind the amendment deeming religious corporations and benevolent

orders to be ‘distinctly private.’’).⁷ Conversely, an entity such as YU that lacks the corporate form specified in the statute cannot be exempt.

II. PERMITTING YU TO SELF-EXEMPT AS A “RELIGIOUS CORPORATION” SUBVERTS THE LEGISLATIVE INTENT TO OUTLAW DISCRIMINATION BY PLACES OR PROVIDERS OF PUBLIC ACCOMMODATION

YU’s expansive, textually unmoored definition of a “religious corporation” would violate the City Council’s explicit intent in passing the 1984 law: to expand protections against discrimination in public accommodations.

As the Court correctly noted in its August 18, 2021 Decision & Order, Section 8-102 differentiates between places or providers of “public accommodation” and places or providers of “private accommodation.” Dkt. 117 at 6. When it passed the statute in 1984, the Council sought to increase public accommodations protections to include *more* providers and places on the public side of the line, and exempt only a limited group of three “distinctly private” membership-based entities. “When resolving a question of statutory interpretation, the primary consideration is to ascertain and give effect to the legislature’s intent.” *People v. Schneider*, 37 N.Y.3d 187, 196 (2021); *see also Lubonty v. U.S. Bank. N.A.*, 34 N.Y.3d 250, 255 (2019) (“In a manner consistent with the text, we may look to the purpose of the enactment and the objectives of the legislature.”). Section 8-102’s legislative history demonstrates that the Council intended to cover a public-facing educational corporation, such as YU, as a public accommodation.

⁷ The Supreme Court specifically cited the “unique” corporate nature of “religious corporations”—to which “the State has extended special treatment in the law” and which “continue[] to be treated in a separate body of legislation”—as a basis for upholding the law from a challenge by private club owners. *See N.Y. State Club Ass’n, Inc. v. City of N.Y.*, 487 U.S. 1, 16-17 (1988).

A. The City Council Intended Section 8-102's Exceptions for "Distinctly Private" Clubs, Benevolent Corporations, and Religious Corporation—Not A Public-Facing Research University Like YU

1. The Council Amended the Law in 1984 to Include More, Not Fewer, Entities as Public.

Before 1984, the NYCHRL prohibited discrimination in any “place of public accommodation,” but it exempted “private” clubs. Ex. 36. In 1984, the City Council amended the law to bring “private clubs that are determined to be sufficiently ‘public’ in nature” within the law’s protections. *N.Y. State Club Ass’n*, 487 U.S. at 5. The goal was to target the City’s remaining private men’s clubs that refused to admit women and other traditionally excluded groups such as Jews, since their ongoing exclusion from these clubs harmed their employment, professional and business advancement. Ex. 19 § 1 (Local Law 63 (1984)); Ex. 17.

The 1984 amendment exempted small, “distinctly private” clubs (with fewer than 400 members), not serving meals, and not open to the public for any purpose. N.Y.C. Admin. Code § 8-102(9) (1984). In addition, the amendment stated that “a *corporation* incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a *religious corporation* incorporated under the education law or the religious corporations law” “shall be deemed to be in its nature *distinctly private*.” *Id.* (emphasis added).

The three “distinctly private” entities exempted by the Council—small private clubs, benevolent corporations, and religious corporations—shared important characteristics: (1) they were private; (2) they were membership organizations; and (3) they were not places of business, professional, or employment opportunity. The City Council exempted these entities because they did not pose a barrier to the advancement of “women and minorities”: “Because small clubs, benevolent orders and religious corporations have not been identified in testimony

before the Council as places where business activity is prevalent, the Council has determined not to apply the requirements of this local law to such organizations.” Ex. 19; *see* Ex. 18 at 18.

The City Council “recognize[d] the interest in private association asserted by club members,” but found that “the public interest in equal opportunity” outweighed that interest. Ex. 19. In balancing private associational rights with this important public interest, the Council found that only truly (“distinctly”) private, “family-like” membership groups deserved protection to discriminate in their membership, while larger, public-facing entities with market interactions did not: “To have their privacy protected, clubs must function as extension of members’ homes and not as extension of their business. Racial prejudice will not be permitted to infect channels under the guise of privacy.” Ex. 20 at 4. Then-Mayor Koch and Council President Bellamy explained that the exception is limited to private groups coming together for strictly private purposes: “We all agree that distinctly private clubs that are strictly social, religious or fraternal in nature are not at issue.” Ex. 21; *see also* Ex. 22.

2. The Council Did Not Intend to Create a Broad Religious Exemption from Section 8-102.

The legislative history contains no evidence that the Council intended to broadly exempt large religiously-affiliated corporations—universities, hospitals, or any other organization—from the definition of a public accommodation. To the contrary, the history shows a commitment to expand the law into more and more domains. Accordingly, the statute must be interpreted as it reads: as exempting three enumerated private places (clubs, religious corporations, and benevolent corporations), rather than as a religious exemption *per se*.

The Council was fully aware of how to carve out a broader religious exemption that is not limited to “religious corporations,” and it did so elsewhere at Section 8-107(12). In 8-107(12), the Council allowed a wider array of religious organizations, whether or not

incorporated as “religious corporations,” to claim exemptions in matters of employment, sales, housing rentals, and admissions, areas of public life where organizations might legitimately seek to favor co-religionists. The Council chose the narrower term “religious corporation” for the public accommodations provision, evidencing its determination that discrimination in providing facilities to the public was almost entirely prohibited. The Court is bound to observe and effectuate the distinction intended by the Council: “religious corporations” can seek to exclude themselves from the public accommodations provision, but simply religiously-affiliated or identified entities may not. YU’s undergraduate college has a Jewish religious identity, campus culture, and community, but it is not a “religious corporation” exempt from the law that covers every other university in New York City.

The Council’s intent carving out a narrow exemption would be undermined by allowing YU to claim it is a “religious corporation.” Defendants do not point to a shred of evidence in the legislative record that the Council intended to exempt a public-facing university serving thousands of students, funded almost entirely by public monies, when it narrowly exempted three enumerated private, membership organizations.

B. The Council Intended Universities Such as YU to Be Covered Places or Providers of Public Accommodation

It is undisputed that Section 8-102 includes all universities in New York City as places or providers of public accommodation. *See* Ex. 23 at 39 (“The term ‘place or provider of public accommodation’ would now include both public and private educational institutions” based on the City’s “independent and overriding interest in routing out discrimination from its schools.”). Students who attend universities and colleges are “members of the public,” using these institutions as places of public accommodation. *See PGA Tour, Inc. v. Martin*, 532 U.S. 661, 690 (2001). *PGA Tour* makes clear that students are a university’s public, notwithstanding

that they have applied to attend the university. *See id.* (professional golf tour was public accommodation, even though only highly skilled golfers who had won preliminary competitions were permitted to compete). Once open to the public, there is no right to maintain a caste system within a university that differentiates the benefits provided to students because of sexual orientation. The Council's decision to include all universities and colleges in Section 8-102 further confirms that YU is a covered public accommodation and the 5,000 students who attend the schools and college making up YU are its public.

1. YU is A Public-Facing Institution, Not a “Distinctly Private” Membership Entity.

On the spectrum of public to private, YU is distinctly public and completely unlike the “distinctly private” entities the Council excluded from the law.⁸ YU has invited the public—its students—to receive educational services in order to prepare them to be citizens and workers in the world. It is a public-facing entity, large in size, and it holds itself open to the public. It bears no resemblance to the small, intimate, membership associations that the Council exempted

a. YU's Public-Facing Mission

YU's mission is to educate its student and community so they may positively influence the broader society and world at large:

- Our students learn and go forth, as both educated and ethical people, to share their own talents and wisdom with society.

⁸ The Council required that the exempt entity be not just private, but meet the higher bar of “distinctly private.” In interpreting the parallel language in the State Human Rights Law, the Court of Appeals explained that to be “distinctly private” does not “refer simply to private clubs or establishments closed to the public but uses more restrictive language excluding from the statute's provisions only clubs which are ‘distinctly private.’ We construe it strictly to promote its purposes.” *U.S. Power Squadrons v. State Human Rights Appeal Bd.*, 59 N.Y.2d 401, 412 (1983).

- Our University serves as a platform to bring Yeshiva's collective wisdom to the world through our community outreach, publications, seminars and broad range of academic programs.

Ex. 24; *see* Ex. 33.

YU's Strategic Plan focuses on "infus[ing] our unique mission into a dynamically growing changing market and achiev[ing] a global impact." Ex. 25 at YU00932.

b. YU's Professional Opportunities

YU is laser focused on the employment opportunities and professional advancement of its students, echoing Section 8-102's central concern: that "all persons . . . have a fair and equal opportunity to participate in the business and professional life of the city, and may be unfettered in availing themselves of employment opportunities." Ex. 19. YU prides itself on "preparing students for success in the lives they lead and the careers they build." Ex. 25 at YU00932. YU's undergraduate campus regularly brings employers to campus to "recruit students." Ex. 10 at 84:22-24. It hosts "nights for accountants," and "other corporate entities come to campus." *Id.* at 84:24-85:2. It has a robust career center, *id.* at 84, which touts graduates' employment in several industries—accounting, finance, education, technology, medicine/research, real estate—all essential parts of New York City's business and professional life. <https://www.yu.edu/sgc/outcomes>; *see* Ex. 26.

And that is to say nothing of YU's graduate schools, like Cardozo Law School, the Ferkauf Graduate School of Psychology, and Wurzweiler School of Social Work, whose very purpose is to train students to join specific professions. *See, e.g.*, <https://cardozo.yu.edu/about> ("Cardozo Law School . . . has innovative programs that prepare you to succeed in your legal career. Our location in New York City—a global hub of business, culture, and the law—offers unparalleled options and opportunities."). YU is a place where students are prepared for

professions and employment.⁹ *Cf.* Ex. 19 (exempting religious corporations that “have not been identified in testimony before the Council as places where business activity is prevalent.”).

c. YU’s Community Engagement

YU holds its campuses open to New York City’s broader public in myriad contexts. This year, it applied for \$10 million in state funding to build a pedestrian plaza on Amsterdam Avenue to “provide a needed space for respite and community gathering in Washington Heights.” Ex. 27. It is meant to be “an open plaza for the community” at “the heart of the [undergraduate] campus.” Ex. 10 at 182:20-84:11. YU also submitted a Community Project Funding Request to Congress this year, seeking \$1 million to renovate “Weissberg Commons,” a YU building containing “a multipurpose events space” currently used for “both academic and public-facing events” and “community-facing activities,” including by the local community board, local public school students, and as a community vaccination hub open to the public. *See id.*; Ex. 28 at YU01158. In its application, YU touted how “the project will significantly contribute to the overall benefit of the Washington Heights community.” *Id.*

Because the University is a paradigmatically public-facing institution, it would be entirely contrary to the Council’s intent in exempting “distinctly private” entities if YU was excluded.

⁹ Defendants’ claim to be a “religious corporation” rests entirely on the Jewish identity or activities of its undergraduate colleges. *See* Dkt. 71. Defendants have cherry-picked its three undergraduate schools out of the eleven constituent undergraduate and graduate schools that comprise the University. Ex. 10 at 22:7-21. Defendants’ analysis entirely ignores its graduate schools, all part of the corporation too, where President Berman attests that “the focus shifts to professional training and academic research,” and which “are not structured with the same religious environment.” Dkt. 83 ¶ 8. Defendants’ exclusive reliance on the undergraduate college’s “religious character” not only ignores that “religious corporation” refers to corporate form; it also pretends that more than half of YU does not exist.

III. SUMMARY JUDGMENT IS PREMATURE AND DEFENDANTS HAVE FAILED TO CARRY THEIR BURDEN TO SHOW NO TRIABLE ISSUES OF FACT EXIST

A. Summary Judgment for Defendants Is Premature Because Plaintiffs Have Not Conducted Sufficient Discovery into YU's Claimed "Functional" Religious Status

Even disregarding YU's chosen corporate form and "exclusively educational purpose," and applying Defendants' unbounded functional test—even though no authority, including the authority Defendants cite, says "functions" determine corporate status—summary judgment is premature because Plaintiffs have not had the chance to conduct critical discovery into YU's assertions.

First, Plaintiffs have not yet had the opportunity to depose Defendants Vice Provost Chaim Nissel and President Ari Berman.¹⁰ Defendants stake their entire claim that YU is a "religious corporation" on facts asserted in the affidavits of these two party-witnesses. They cite Nissel and Berman more than 40 times in their moving brief on the converted motion. *See* Dkt. 71 at 2-13. Summary judgment is premature under CPLR 3212(f) where "facts essential to justify opposition to a motion for summary judgment are exclusively within the knowledge and control of the movant." *Global Minerals & Metals Corp. v. Holme*, 35 A.D.3d 93, 103 (1st Dep't 2006). Nissel and Berman's affidavits provide essentially no documentary or other support for the statements they make therein; the only way to understand the factual basis for their assertions is to depose them. *See Bodden v. Stouall*, 907 N.Y.S.2d 98 (Table), 2009 WL 5731183, at *4 (N.Y. Sup. Ct. Bronx Cnty. 2009) (summary judgment premature before

¹⁰ The Court permitted discovery because "Yeshiva directly put into controversy its religious nature by arguing that it was a religious corporation and pointing to facts and evidence which went beyond the scope of a CPLR § 3211 motion," Dkt. 149, at 1. Plaintiffs served notices for Berman's and Nissel's depositions on August 24, 2021, and filed a motion to compel their depositions, which is fully submitted as of November 8, 2021, and currently pending. *See* Dkts. 151, 167 (Mot. Seq. 9).

depositions of party-witnesses whose affidavits gave “skeletal accounts”). Facts essential to justify opposition to Defendants’ claim that YU’s “functions” make it a religious corporation—should the Court adopt that erroneous test—are in the exclusive possession of Defendants, making summary judgment on that basis premature.

Second, information obtained in other requested discovery is also highly likely to create triable issues of fact about YU’s religious “functions.” However, much of that discovery remains outstanding. To date, the only witness deposed was the University’s corporate representative, who was unable to answer many questions that relate to Defendants’ “functional” test,¹¹ and responded “I don’t know” 75 times during his deposition. Defendants have also blocked other important discovery: they have refused to provide responsive documents about YU’s funding from religious sources (Ex. 34); they have ignored Plaintiffs’ document deficiency notice demanding unredacted production of improperly redacted Form 990, DASNY Bond Issue, and Self-Study Report (Ex. 35); and they have moved to quash a third-party production regarding Defendants’ potential religious representations to the New York State Commission on Independent Colleges and Universities. Dkt. 159.

B. Defendants Have Not Met Their Burden on Summary Judgment

Even on the current limited record, triable issues of fact preclude summary judgment as a matter of law that YU “functions” as a religious corporation for the purpose of the public accommodation definition of the NYCHRL. In *Brown v. St. John’s University*, No. 08 Civ. 2218, 2010 WL 11627391, at *9-10 (E.D.N.Y. June 28, 2010), the court analyzed whether summary judgment was appropriate in favor of St. John’s University, a large, Catholic-affiliated

¹¹ Ex. 10 at 57:24-58:3; 65:6-12; 82:24-83:2; 116:5-11; 209:20-25; 108:17-109:4; 133:20-24; 135:7-15; 137:2-8; 161:9-22; 176:25-177:11; 201:10-14; 203:20-23; 78:18-21; 80:20-81:4; 83:18-20; 57:24-58:3; 138:6-8; 48:6-15, 51:23-52:4.

research university in New York City, on the ground that it was an exempt “religious organization” under Title III of the Americans with Disabilities Act (“ADA”), which prohibits private entities from discriminating against people with disabilities in public accommodations. 42 U.S.C. § 1218(a).¹² The court was asked to determine whether St. John’s was exempt under the ADA’s exception for a “religious organization,” and applied a multi-factor test examining the institution’s mission, curriculum, corporate governance, and operation. *Brown*, 2010 WL 11627391, at *12. The court denied summary judgment to St. John’s, concluding that it could not find based on the current record that St. John’s was entitled to the religious exemption set forth in the statute as a matter of law.

The same factors that the *Brown* court found sufficient to create issues of fact also preclude summary judgment for YU in this case using its own preferred “functional” analysis. YU does not require that its trustees, officers, administrative leaders, faculty or students be of a religious faith. There is no required religious observance for students. The university’s mission statement foregrounds the pursuit of wisdom and professional development. YU’s charter documents grant it the authority to award 22 degrees—all of which are secular degrees, unlike RIETS, which exclusively ordains rabbis. *See* Exs. 29-30.

At minimum, these facts create triable issues of fact that preclude summary judgment as a matter of law that YU “functions” as a religious corporation within the meaning of the public accommodation definition of the NYCHRL.

¹² The ADA exempts “religious organizations or entities controlled by religious organizations, including places of worship” from its public accommodation provisions, while the NYCHRL more narrowly exempts “religious corporations incorporated under the education law and the religious corporation law. *Compare* 42 U.S.C. § 12187, *with* N.Y.C. Admin. Code § 8-102. The ADA exemption for “religious organizations” is “very broad, encompassing a wide variety of situations.” 28 C.F.R. Pt. 36, App. B (2007).

IV. YU HAS NO FIRST AMENDMENT DEFENSE

Applying Section 8-102 of the NYCHRL to YU does not violate Defendants' First Amendment rights. It is a neutral law of general applicability, and the Council's intent to prohibit discrimination in places of public accommodation provides a rational basis for its enactment. *See Cath. Charities of Diocese of Albany v. Serio*, 7 N.Y.3d 510, 521 (2006).

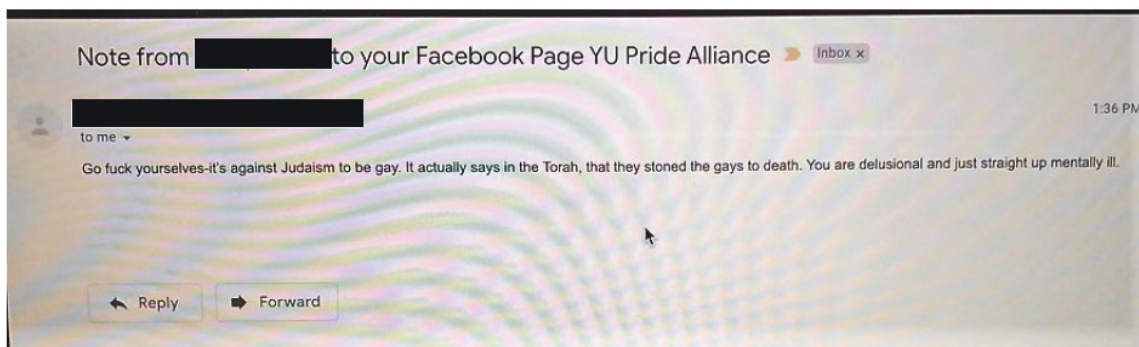
V. YU'S DISCRIMINATION HARMS LGBTQ STUDENTS BY DENYING THEM EQUAL RESOURCES AND OPPORTUNITIES AND BY STIGMATIZING THEM

On a tangible level, YU's conduct hinders LGBTQ students "in their academic and professional pursuits, which has broad-reaching implications for college choice, matriculation, and student success." Ex. 32 at 9.

But the NYCHRL's purpose is not just to remedy such exclusion from the market and professional, employment, and economic sectors, but also to target segregation and subordination within public accommodations. "[P]rejudice, intolerance, bigotry, and discrimination . . . threaten the rights and proper privileges of [the City's] inhabitants." N.Y.C. Admin. Code § 8-101. Since the Civil Rights movement of the 1950-60s, courts have recognized that disfavored groups may be included but not fully accepted, subordinated rather than completely excluded, and the resultant harm to people's dignity and participation. YU's conduct towards its LGBTQ students is reminiscent of restaurants and other public accommodations earlier in America's history which served Black people, but only in certain departments in the store, or only for take-out not sit-down meals. *Bell v. Maryland*, 378 U.S. 226, 271-76 (1964) (Douglas, J., concurring) (compiling sit-in cases in which store managers testified that their establishments served Black people in all departments except lunch counters).

Right now, LGBTQ students at YU receive less than full and equal participation in public life. YU's repeated claim that it values LGBTQ students even while it engages in

blatant discrimination against them rings hollow. By denying Plaintiffs the same resources and benefits provided to all other students, YU sends the stigmatizing message to the entire YU community that LGBTQ people are unwelcome and unequal. As this hateful Facebook message sent recently to the YU Pride Alliance shows, YU's position may embolden others to reject and devalue Plaintiffs, LGBTQ people, and their allies. The NYCHRL protects students in all the City's universities from unequal treatment, including students at YU.



CONCLUSION

For the reasons stated above, the Court should deny summary judgment to Defendants.

Dated: December 17, 2021
New York, New York

EMERY CELLI BRINCKERHOFF
ABADY WARD & MAAZEL LLP

/s/ Katherine Rosenfeld
Katherine Rosenfeld
Marissa Benavides
Max Selver

600 Fifth Avenue, 10th Floor
New York, New York 10020
(212) 763-5000

Attorneys for Plaintiffs

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- X

YU PRIDE ALLIANCE, et al.,

Index No.: 154010/2021

Plaintiffs,

-against-

YESHIVA UNIVERSITY, et al.,

Defendants.

-----X

CERTIFICATION

Pursuant to Rule 202-8-b(c) of the Uniform Civil Rules for the Supreme Court, undersigned counsel hereby certifies that the above Plaintiffs' Memorandum of Law in Further Support of Preliminary Injunction has 6,915 words, exclusive of the caption, table of contents, table of authorities, and signature block, and thus complies with the word limit set forth in Civil Rule 202-8-b(a).

Date: December 17, 2021
New York, NY

Respectfully Submitted,

EMERY CELLI BRINCKERHOFF ABADY
WARD & MAAZEL LLP

/s/ Katherine Rosenfeld
Katherine Rosenfeld
Marissa Benavides
Max Selver

600 Fifth Avenue, 10th Floor
New York, New York 10020
Telephone: (212) 763-5000
Fax: (212) 763-5001

Attorneys for Plaintiffs

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 189

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 1

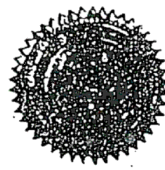


University of the
 State of New York
 Department of
 Education
 Amendment to Charter of
 Yeshiva University

[illegible]

Planted - December 15, 1967 by the Bureau of Reclamation
 on behalf of the State Reclamation Department
 and under the aid of said Department
 9552
James E. Smith, Jr.
 Reclamation Engineer

Chapin W.
Chancellor



Adopted December 15, 1967

YESHIVA UNIVERSITY. An application having been made by and on behalf of the trustees of Yeshiva University, New York, for an amendment of its charter in its entirety, it was

Voted, That the charter (certificate of incorporation) of Yeshiva University, New York, which was duly incorporated as a membership corporation under the laws of the State of New York on March 20, 1897, under the name of The Rabbi Isaac Elchanan Theological Seminary Association, such charter having been amended from time to time by the Board of Regents, in various respects, be and the same hereby is amended, in its entirety, to read as follows:

1. This corporation, incorporated as The Rabbi Isaac Elchanan Theological Seminary Association under the Membership Corporations Law of the State of New York on March 20, 1897, the name of which was subsequently changed by the Regents of the University of the State of New York to Yeshiva University, is hereby continued as an educational corporation under the Education Law of the State of New York, and with all of its previous powers and privileges, as herein restated or modified.

2. The property and estate of Yeshiva University are vested in, and all of its rights, powers and privileges shall be exercised by its board of trustees, consisting of not less than 5 nor more than 25 trustees, elected from time to time by the board of trustees. The number of trustees, their qualifications and divisions into classes, shall be fixed from time to time by bylaws of the corporation adopted and amended from time to time by the board of trustees. Trustees shall be elected for such terms of office as will result in the terms of

PL000010

- 2 -

one-third of their number expiring annually. Trustees whose terms expire shall be eligible for re-election, if qualified.

3. Members of the board of trustees of Yeshiva University who are in office at the time this amended charter takes effect shall continue in office as trustees under the provisions hereof until the expiration of the terms of office for which they were originally elected, and the officers of said University shall continue in office under the provisions hereof until the expiration of the terms of office for which they were originally elected.

4. The bylaws of the corporation may provide for the appointment of honorary trustees with such powers, except the right to vote, as may be designated.

5. The principal office and location of Yeshiva University shall be the city, county and State of New York.

6. The bylaws of the corporation may provide for the election of an executive committee of the board of trustees to transact, in intervals between meetings of the Board, such business as the bylaws may authorize, pursuant to law.

7. At least one-third of the trustees then in office shall be present at a meeting to constitute a quorum for the transaction of business.

8. Persons of every religious denomination shall be equally eligible to offices and appointments.

PL000011

- 3 -

9. Yeshiva University is and continues to be organized and operated exclusively for educational purposes, and no part of the net earnings of the corporation shall inure to the benefit of any individual; and no officer, member or employee of the corporation shall receive or be entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services.

10. Yeshiva University shall confer such degrees and honors authorized by the Regents of the University of the State of New York at the time this amended charter takes effect, and in testimony thereof give suitable certificates and diplomas under its seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar certificates and diplomas of corresponding grade granted by any institution of learning. The degrees and honors so authorized by the Regents in the order of their grant to Yeshiva University and which the corporation is authorized to confer under this amended charter, are as follows:

Degree of Doctor of Hebrew Literature (D.H.L.);

Degrees of Bachelor of Arts (A.B. or B.A.) and Bachelor of Science (B.S.);

Degrees of Doctor of Humane Letters (L.H.D.) and Doctor of Laws (LL.D.), honoris causa;

Degree of Doctor of Divinity (D.D.), honoris causa;

Degrees of Bachelor of Hebrew Literature (B.H.L.), Master of Hebrew Literature (M.H.L.), Bachelor of Religious Education (B.R.E.), Master of Religious Education (M.R.E.), Master of Science (M.S.) and Doctor of Philosophy (Ph.D.);

Degrees of Doctor of Medicine (M.D.) and Doctor of Dental Surgery (D.D.S.);

PL000012

- 4 -

Degrees of Master of Art (A.M. or M.A.) and
Doctor of Education (Ed.D.)

Degree of Master of Social Work (M.S.W.);

Degrees of Associate in Arts (A.A.), Doctor of
Religious Education (D.R.E.) and the honorary degrees
of Doctor of Hebrew Letters (D.H.Litt.), Doctor of
Science (Sc.D.) and Doctor of Pedagogy (Pd.D.).

The foregoing degrees and honors shall be conferred by Yeshiva
University in conformity with the Rules of the Board of Regents of the
University of the State of New York and the Regulations of the Commissioner
of Education of the State of New York for the registration of institutions
of higher learning. Yeshiva University may also grant to its students
and to its graduates diplomas or honorary testimonials in such form as
it may designate.

11. The board of trustees shall have power to appoint its own
officers and all the officers of the corporation, to establish bylaws not
contravening the laws or Constitution of this State or of the United
States, and to expel any of its members for a violation thereof. The
bylaws of the corporation in effect at the time of the adoption of this
amended charter shall thereafter continue to be effective as the bylaws
of the corporation until amended or rescinded by action of the board of
trustees.

12. All the real and personal estate, and all interest in any real
or personal property or estate of every name and nature whatsoever and
wheresoever the same may be, which is now vested in Yeshiva University,
as now constituted and organized, is hereby confirmed to and vested

PL000013

- 5 -

forever in Yeshiva University, for the sole use and benefit of said University, and it shall be lawful to and for the said University, to buy, grant, bargain, sell, lease or demise, mortgage, improve, use and dispose of any or all of its real and personal property in such manner as to the board of trustees shall deem advisable for the best interests of the institution. It shall also be lawful for the said University, without limitation, to take and hold by gift, grant, devise or bequest, in its own right, or in trust for the purpose specified, any and all real and personal property.

13. The corporation may acquire, establish and operate such hospitals, dispensaries and clinics as may be necessary or desirable in connection with the operation of the corporation's college of medicine, and may render thereat and elsewhere such medical and dental services as may be lawful.

14. The board of trustees of Yeshiva University may, from time to time, whenever it may deem it advisable, and in the best interests of the corporation, to set up separate administrative units for any one or more of the colleges, schools, institutes, hospitals, dispensaries and clinics, or other divisions of Yeshiva University, and may designate such administrative units by appropriate names. Each such administrative unit so designated shall have a board of overseers or other managing board, which shall execute with respect thereto such authority and policies as shall be delegated to it from time to time by the board of trustees of said University, in a manner consistent with law and in

PL000014

- 6 -

conformity with the powers and authorization granted to the University by the Board of Regents for and on behalf of the State Education Department.

15. In addition to the rights, powers and privileges granted in this charter, Yeshiva University shall have all the rights, powers and privileges of corporations created by the Regents of the State of New York, and its trustees shall have all the rights, powers and privileges of trustees of such corporation.

16. The Commissioner of Education is designated as the representative of the corporation upon whom process in any action or proceeding against it may be served.

PL000015

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 190

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 2



DOUBLE SIDED

YESHIVA UNIVERSITY
BY-LAWS
OF THE BOARD OF TRUSTEES

As adopted by the Board of Trustees of Yeshiva University
On December 14, 2015

ARTICLE I.

The Board of Trustees

1. **BOARD OF TRUSTEES:** The property and estate of Yeshiva University (the "University") are vested in, and all of its rights, powers and privileges shall be exercised by, its board of directors (the "Board of Trustees" or "Board").

2. **AUTHORITY:** The Board of Trustees shall be the governing body of the University and shall have the power to take such actions as are permitted by applicable law and the University's Charter.

3. **TRUSTEES:** The Board of Trustees shall consist of no fewer than twenty-five (25) or more than fifty (50) voting members (including *ex officio* Trustees and Chairmen Emeriti), the number to be fixed from time to time by resolution of the Board of Trustees. Trustees shall be elected to terms of up to four (4) years. The total number of Trustees shall be divided into four classes, as nearly equal in number as possible, such that the terms of one-fourth of their number shall expire annually. The term "entire Board of Trustees," as used in these By-Laws, shall mean the total number of Trustees that were elected as of the most recently-held election of Trustees.

The respective chairs of the boards of Rabbi Isaac Elchanan Theological Seminary and the Benjamin N. Cardozo School of Law shall serve as *ex officio* voting members of the Board of Trustees as long as they are the chairs of their respective boards. Should they decide not to accept election to the Board of Trustees for any reason, they may recommend for consideration a former chair who is an active current member of their respective boards to the Governance Committee for nomination and election. Upon election to the Board of Trustees, such designees shall remain Trustees as long as the current chair of the respective board remains as chair of his or her respective board.

4. **ELECTION OF TRUSTEES:** Trustees shall be nominated by the Governance Committee for election by the Board of Trustees at the Board's Annual Meeting. At any meeting of the Board of Trustees an existing or anticipated vacancy on the Board of Trustees may be filled, effective immediately or as of a date fixed by the Board of Trustees, by vote of a majority of Trustees then in office.

A vacancy in the Board of Trustees shall occur upon receipt of a Trustee's written resignation, a Trustee's death, or removal from office by two-thirds vote of the Trustees present at a meeting at which a quorum is present for cause upon recommendation of the Governance Committee.

5. **TRUSTEES EMERITI:** Any Trustee who has served with distinction during his or her service as a Trustee shall be eligible for nomination by the Governance Committee to Trustee Emeritus. Trustees Emeriti shall not be entitled to vote and shall be relieved of their fiduciary responsibilities and obligations to faithfully participate in meetings of the Board of Trustees.

The Board has previously elected Honorary Trustees. Each of the current non-voting Honorary Trustees shall continue as Honorary Trustees until their death, resignation or removal by the Board of Trustees. After the adoption of these By-Laws, no additional Honorary Trustees shall be elected.

6. **CHAIRMEN EMERITI:** Any individual who has served as Chairman of the Board of Trustees shall be eligible for nomination by the Governance Committee for election by the Board as Chairman Emeritus. Chairmen Emeriti shall have the right to attend all meetings of the Board of Trustees, shall have the right to vote, shall be counted as part of all quorum requirements and as part of the percentage requirements under Article V of these By-Laws and shall for all other purposes be Trustees.

7. **ACTION WITHOUT MEETING:** Any action required or permitted to be taken by the Board of Trustees may be taken without a meeting, if all the Trustees consent to the adoption of a resolution authorizing the action. Consent may be provided in writing or electronically. If written, the waiver must be executed by the Trustee signing such waiver or causing his or her signature to be affixed to such waiver by any reasonable means including but not limited to facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the Trustee. The resolution and the consents thereto shall be filed with the minutes of the Board of Trustees.

ARTICLE II.

Board Meetings

1. **REGULAR MEETINGS:** The Board of Trustees shall meet at least four times annually. All Board meetings shall be held on such date, time, and place designated by the Board of Trustees. The dates of all regular Board meetings shall be set at the beginning of each academic year of the University. Unless otherwise determined by the Board of Trustees, the Annual Meeting of the Board of Trustees shall be the last meeting of each academic year of the University.

2. **SPECIAL MEETINGS:** A special meeting may be called, and the date, time and place of the meeting shall be set, by the Chair of the Board of Trustees, the President, or any five (5) Trustees.

3. **NOTICE OF MEETINGS:** Notice need not be given of regular meetings of the Board of the Trustees if the time and place of such meetings are fixed by the Board of Trustees. Notice of each special meeting of the Board of Trustees must be given to each Trustee not less than two days before such meeting. Notice may be sent in writing, by facsimile,

electronic mail or hand delivery. Notice of a meeting need not be given to any Trustee who submits a waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her. Such waiver of notice may be written or electronic. If written, the waiver must be executed by the Trustee signing such waiver or causing his or her signature to be affixed to such waiver by any reasonable means including but not limited to facsimile signature. If electronic, the transmission of the consent must be sent by electronic mail and set forth, or be submitted with, information from which it can reasonably be determined that the transmission was authorized by the Trustee.

4. **QUORUM AND VOTING:** A majority of the entire Board of Trustees shall constitute a quorum for the transaction of business at any regular or special meeting of the Board of Trustees. In the absence of a quorum at the time and place set for a meeting of the Board of Trustees, the Trustees present may adjourn the meeting from time to time until a quorum is present. Except as otherwise provided in these By-Laws or required by applicable law, all matters shall be decided by a majority vote of the Trustees present.

5. **TRUSTEE PARTICIPATION BY TELEPHONE CONFERENCE CALL, VIDEOCONFERENCE OR OTHER ELECTRONIC MEANS:** Trustees may participate in Board or committee meetings by teleconference, videoconference or other similar electronic means provided that all participants can hear one another and be heard at the same time, and each Trustee can participate in all matters before the Board, including the ability to propose, object to, and vote on matters. Such means of participation shall constitute Trustee presence in person at the meeting.

ARTICLE III.

Board Officers

1. **OFFICERS AND OFFICER TERMS:** The Board may elect from its members a Chair, up to four (4) Vice Chairs, and a Treasurer. Each Board officer shall serve for one year terms. Trustees shall be eligible for reelection as Board officers. All Board officers shall be nominated by the Governance Committee and voted upon by the Board of Trustees at its Annual Meeting. No employee of the University shall serve as Board Chair or Vice Chair.

2. **BOARD CHAIR:** The Board Chair shall also serve as Chair of the Executive Committee and preside at all meetings of the Board of Trustees and the Executive Committee.

3. **BOARD VICE CHAIR(S):** In event the Board Chair is unable to preside for any reason at any meeting of the Board of Trustees or Executive Committee, any Vice Chair may preside at such meeting. The Board Chair may assign other responsibilities to the Vice Chair(s) as he or she shall decide.

4. **TREASURER:** Each quarter, the Treasurer shall coordinate with the Chief Financial Officer to provide all Trustees with comprehensive balance sheets of the University's assets and liabilities including endowment and other investments, and other financial statements that include comparisons to the same time period for the preceding fiscal

year and with the approved annual consolidated University budget. The Treasurer may consult as necessary directly with the University's Chief Financial Officer, the Board-approved auditor, and the Investment Oversight and Audit Committees of the Board.

ARTICLE IV.

Committees

1. COMMITTEES OF THE BOARD: The Board of Trustees, by resolution adopted by a majority of the entire Board of Trustees, may establish such committees of the Board as it deems appropriate to discharge its responsibilities. Upon adoption of these By-Laws, and subject to change in subsequent years, the committees of the Board shall include an Executive Committee, including a Presidential Performance Review and Compensation Sub-Committee; a Governance Committee; an Audit Committee; a Finance Committee; an Investment Oversight Committee; and a Compensation Committee. Each committee of the Board shall consist of at least three members, comprised solely of Trustees, and shall meet as often as it determines appropriate. Each committee shall have a written statement of purpose or charter, which shall be approved by the Board. The members of each committee of the Board shall be nominated by the Chair of the Board of Trustees, in consultation with the President and approved by the Board of Trustees. Committee members shall be elected at the annual meeting and shall serve a term of one year, other than the members of the Investment Oversight Committee, who shall serve a term of three years. The members of each committee and each committee chair shall serve at the pleasure of the Board. Any vacancy in any committee may be filled by the Board at any meeting. Except as otherwise provided in these By-Laws or by the Board, any committee member elected to fill a vacancy shall serve for the remainder of the unexpired term.

2. EXECUTIVE COMMITTEE: At each Annual Meeting of the Board of Trustees, the Board shall appoint an Executive Committee, comprised solely of Trustees, which shall consist of: (A) the Chair and Vice Chairs of the Board of Trustees; the Treasurer, President, and Chancellor of the University; the chair of the respective boards of the Rabbi Isaac Elchanan Theological Seminary and Benjamin N. Cardozo School of Law; the chairs of the Governance Committee, Finance Committee, Investment Oversight Committee, Audit Committee, Compensation Committee of the Board; and the chairs of the University's Real Estate Committee, Academic Affairs Committee, and Institutional Advancement Committee, in each case serving in an ex officio capacity with voting rights; and (B) up to two additional Trustees, if determined, from time to time, by the Board to be in the best interests of the University, who shall be nominated by the Board Chair in consultation with the President. Should any person described in (A) above decide not to accept nomination to the Executive Committee, the Board may appoint, upon nomination of the Board Chair, another Trustee to serve in his or her place provided such person chairs a Board committee or a committee of the corporation.

Except for such powers as may be reserved for the Board of Trustees pursuant to a resolution of the Board of Trustees or pursuant to applicable law, the Executive Committee shall be empowered to act on behalf of the Board of Trustees between regular meetings of the

Board of Trustees, in emergencies and to handle routine matters to enable the Board of Trustees to be efficient in the use of its meeting time.

3. COMMITTEES OF THE CORPORATION: From time to time the Board of Trustees may establish committees, other than committees of the Board, to advise and make recommendations to the Board, which shall be committees of the corporation. A committee of the corporation shall carry out such functions as the Board of Trustees may specify and as permitted by law but they shall not have the authority to bind the Board. Committees of the corporation may have members who are not Trustees.

As of the date hereof, the committees of the corporation are as follows: Institutional Advancement Committee, Real Estate Committee, Academic Affairs Committee, University Investment Committee, Recruitment and Admissions Committee, Board of Overseers of Benjamin N. Cardozo School of Law, Board of Overseers of Yeshiva College, Board of Overseers of Bernard Revel Graduate School of Jewish Studies, Board of Overseers of Sy Syms School of Business, Board of Overseers of Azrieli Graduate School of Jewish Education and Administration, Board of Overseers of Ferkauf Graduate School of Psychology, Board of Overseers of Stern College for Women, Board of Overseers of Wurzweiler School of Social Work and Board of Directors of Yeshiva University Museum.

The members of each committee of the corporation shall be nominated by the Chair of the Board of Trustees, in consultation with the President, and approved by the Board of Trustees. Each committee shall have a written statement of purpose or charter, approved by the Board of Trustees or the Chair of the Board.

ARTICLE V.

University Officers

1. THE PRESIDENT: The President shall be elected upon the affirmative vote of at least eighty (80%) percent of the entire Board of Trustees and shall be the University's chief executive officer. The President shall be an *ex officio* member of the Board of Trustees with voting rights and shall be an *ex-officio* member of all committees of the Board and committees of the Corporation with voting rights, unless otherwise specified by these By-Laws, by resolution of the Board of Trustees or in a committee charter adopted by the Board of Trustees. The President shall not serve as member of the Audit Committee, the Governance Committee, or the Executive Committee's sub-committee on Presidential Performance Review and Compensation.

The President may be removed only upon the affirmative vote of at least eighty (80%) percent of the entire Board of Trustees, but notice of a motion for removal shall be given at least three (3) months before it is acted upon.

The President shall exercise supervision and direction of all University affiliated entities and activities and be accountable to the Board of Trustees for the administration and operation of the University and implementation of University policies including those concerning appointment, tenure, and promotion of individual faculty members within the University's schools, colleges,

and divisions. He or she shall be the University's official spokesperson and representative and work earnestly to keep the Board of Trustees informed about the University's condition, plans, needs, and priorities. He or she shall have the duties and authority customary for chief executives of other independent universities.

2. **OTHER UNIVERSITY OFFICERS:** There may be additional officers appointed by the President, with approval of the Board of Trustees, whose individual duties are for one or more assigned administrative, management or academic functions. They shall serve at the pleasure of the President with precise title and authority defined at the time of appointment. All officers of the University may hold other University positions and titles and shall have such other duties as the President may assign.

3. **THE CHANCELLOR:** At the discretion of the Board of Trustees, it may elect a Chancellor of the University according to such terms and conditions as it shall decide upon the affirmative vote of at least eighty (80%) percent of the entire Board of Trustees. The Chancellor of the University, if any, elected by the Board of Trustees from time to time shall be an ex officio member of the Board of Trustees.

4. **THE SECRETARY:** The title and duties of the Secretary of the University shall ordinarily be assigned to the Vice President for Legal Affairs and General Counsel of the University. He or she shall serve at the pleasure of the President in consultation with and approval of the Board of Trustees. The Secretary shall:

- (a) record and keep the minutes of all meetings of the Board of Trustees in books to be kept for that purpose;
- (b) see that all notices and reports are duly given or filed pursuant to these By-Laws or as required by law;
- (c) be custodian of the records (other than financial) and have charge of the seal of the University and see that it is used upon all papers or documents whose execution on behalf of the University under its seal is required by law or duly authorized pursuant to these By-Laws; and
- (d) in general, perform all duties incident to the office of Secretary and such other duties as the Board of Trustees may from time to time assign to the Secretary.

ARTICLE VI.

Conflict of Interest Policy

The Board of Trustees shall adopt and periodically review a conflict of interest policy that conforms to the requirements of Section 715-a of the New York Not-for-Profit Corporation Law. This policy, maintained separately from these By-Laws, shall include the requirement for all Trustees, members of committees of the corporation and University officers to complete, reaffirm, or update an annual disclosure form prior to the Annual Meeting of the Board of Trustees and prior to their initial election or appointment.

ARTICLE VII.**Indemnification**

The University shall indemnify and hold harmless each trustee, officer, member of a committee of the corporation (whether or not a Trustee) and employee of the University and its subsidiaries and affiliated institutions to the extent that he or she has been made, or threatened to be made, a party to or involved in (including as a witness) any threatened, pending or completed action, suit, inquiry or proceeding, whether formal or informal, by reason of the fact that such individual is or was a trustee, officer, committee member or employee, or at the request of the University served any other corporation or enterprise in any capacity, in each case, against judgments, fines, amounts paid in settlement and reasonable expenses including attorneys' fees, incurred as a result of such action, suit, inquiry or proceeding, to the maximum extent permitted by law, and shall advance expenses therefor upon receipt of an undertaking to repay to the University all amounts so advanced to the extent it is ultimately determined that he or she is not entitled to be indemnified for such amounts under applicable law.

ARTICLE VIII.**Amendments**

These By-Laws may be amended by a vote of two-thirds of the Trustees who are present at a meeting at which a quorum is present, provided that at least ten (10) days' prior notice of the proposed amendment has been given to all members of the Board of Trustees.

* * *

Upon approval of these By-Laws, all prior by-laws of the University shall be repealed.

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 190

INDEX NO. 154010/2021

RECEIVED NYSCEF: 12/17/2021

COPY OF WITHIN PAPER
RECEIVED

FEB 20 2018

NYS OFFICE OF THE ATTORNEY GENERAL
CHARITIES BUREAU

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 191

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 3



Yeshiva University

DEPARTMENT OF PUBLIC RELATIONS

500 WEST 185TH STREET, NEW YORK, NEW YORK 10033-3201 • (212) 960-5285 FAX (212) 960-0043

September 5, 1995

Dear Colleague:

I attach for your information a fact sheet that has been prepared to answer some of the questions that are most commonly asked about the gay student clubs at several of the University's graduate schools. Please feel free to share it with other colleagues and friends as you deem appropriate.

Very truly yours,

David M. Rosen
Director

FACTS ABOUT GAY STUDENT ORGANIZATIONS AT YESHIVA UNIVERSITY

1. I've read that there are "gay student clubs" at some of Yeshiva University's graduate schools. Is this true?

Yes. A handful of students at two graduate schools have formed organizations -- sometimes referred to as "clubs" -- to discuss issues of concern to the gay community.

2. Which schools have these clubs? How many students are involved? What do they do?

Gay student clubs exist at Benjamin N. Cardozo School of Law and Albert Einstein College of Medicine. Informal groups with similar interests have met sporadically at Wurzweiler School of Social Work and Ferkauf Graduate School of Psychology. The student bodies of these graduate-level, professional schools are co-educational and diverse ethnically, religiously, and racially. Altogether about three dozen out of YU's 5,000 students are involved. Their activities generally involve informational and educational meetings. They do not proselytize. These groups have existed for years but went largely unnoticed prior to the recent spate of distorted media reports.

3. Do gay clubs exist at any of YU's undergraduate colleges and Jewish studies schools? Are the students in these programs affected by the gay clubs?

There are no gay clubs at any of YU's undergraduate schools, at its graduate schools in Jewish studies and Jewish education, or at its affiliated Rabbi Isaac Elchanan Theological Seminary. Students at these schools are not affected in any way by the gay clubs.

4. Given the strong prohibition against homosexual behavior in Jewish law, why does YU permit gay groups on campus?

Yeshiva University is subject to the human rights ordinance of the City of New York, which provides protected status to homosexuals. Under this law, YU cannot ban gay student clubs. It must make facilities available to them in the same manner as it does for other student groups. (See questions 9, 10, and 11 for further discussion of ordinance.) In addition, the accreditation rules that apply to certain graduate schools prohibit discrimination based on sexual preference.

5. Does the fact that gay student clubs exist on the YU campus mean that the University endorses homosexual behavior or gay clubs?

No. The New York City ordinance states explicitly that institutions acting in compliance with the law are not thereby endorsing homosexual behavior or organizations involved with gay issues; Yeshiva University emphatically does not do either. Also, strictly speaking, the University administration does not officially recognize or approve any student club; this is done by elected student governments.

6. Has President Lamm expressed his views on homosexuality and gay student clubs?

Yes, on a number of occasions. In an article in the 1974 Encyclopedia Judaica Yearbook titled "Judaism and the Modern Attitude to Homosexuality," Dr. Lamm said, in part: "Judaism does not accept the kind of thoroughgoing relativism used to justify the gay life as merely an alternative life-style...Under no circumstances can Judaism suffer homosexuality to become respectable. Clearly, while Judaism needs no defense or apology in regard to its esteem for

neighborly love and compassion for the individual sufferer, it cannot possibly abide a wholesale dismissal of its most basic moral principles on the grounds that those subject to its judgments find them repressive..." The article, the full text of which is available upon request, expresses Dr. Lamm's considered repudiation of homosexual conduct as utterly immoral and his belief that as individuals, homosexuals should be treated with dignity and compassion. He has reaffirmed these views on a number of recent occasions.

In addition, during this past year, Dr. Lamm has released to several newspapers a statement saying: "As an Orthodox Jew, I cannot and do not condone homosexual behavior, which is expressly prohibited by Jewish law. But as president of a nondenominational institution that must accommodate people who reflect a wide range of backgrounds and beliefs, it is my duty to assure that the policies and procedures of Yeshiva University conform to the applicable provisions of secular law, even in the rare instances in which these may offend my own religious beliefs and personal convictions."

7. Does Yeshiva University provide any direct financial support for the gay clubs?

No. As required by law, YU provides access to facilities such as meeting rooms. It does not appropriate a single penny of University funds to support gay clubs. The clubs may be eligible to receive small appropriations from the student governments of their respective schools, which generally amount to several hundred dollars per year. The money for such appropriations comes from student activity fees that appear as discrete items on student term bills. Once collected by the University on behalf of student governments, student activity fees are turned over in a lump sum to duly constituted student government groups. These groups, and not the University, determine how to spend the money. Thus, these are student funds and not University funds.

8. Isn't the distinction between student activity fees and University funds just a matter of semantics?

*No. Courts have recognized the distinction a number of times, most recently in the 1995 U.S. Supreme Court decision in *Rosenberger v. Rectors and Visitors of University of Virginia*.*

9. I am told that the New York City Human Rights Law may exempt religious and religiously-controlled institutions from the requirement that homosexuals be afforded equal treatment. If this is true, why doesn't YU seek such an exemption and ban the gay clubs?

The statute provides a religious exemption that may apply under certain circumstances. YU's General Counsel and Weil Gotshal & Manges, special counsel engaged to review this issue, have conducted an exhaustive review of the ordinance and applicable case law. They have concluded that the University could not use this provision to ban the clubs, and no credible legal argument to the contrary has been presented. The attorneys firmly believe that YU would not qualify for a religious exemption, based on its charter and its actions over the course of decades, including representations that have been made concerning the University's legal status as a nondenominational institution. In addition, the ordinance states that in order to receive an exemption permitting discrimination against members of a protected group, the discrimination or preference asserted must be "calculated to promote the religious principles" for which a particular organization is established or maintained. In an analogous case in Washington, D.C., the U.S. Court of Appeals determined that Georgetown University (which, unlike YU, is legally

organized as a religious institution) must permit gay clubs despite the Catholic Church's opposition to homosexuality. Merely permitting the clubs to exist does not constitute an endorsement of homosexual behavior, the Court found, and therefore does not undermine the Church's religious beliefs. Thus, even if YU was a religious or religiously-controlled institution under the law, it is highly improbable that it could ban gay clubs.

10. Even if the chances of obtaining a religious exemption are remote, why not request one anyway? What do you have to lose?

A. There is no simple way to obtain an exemption or even an advisory opinion concerning eligibility for an exemption. If the University were to assert an exemption and ban gay clubs, this would almost certainly result in protracted litigation and ugly demonstrations involving supporters and opponents of gay rights from the New York City area and possibly the nation at large. The normal day-to-day activities of the University would be disrupted, and regardless of the outcome, the confrontation would be harmful and destabilizing to the institution. Seeking an exemption on religious grounds could also trigger action by government agencies and other organizations, including possible suspension of state funding, as well as inquiries from accrediting bodies. Given these risks, and the remote possibility of success, seeking an exemption would be imprudent and destructive.

11. Some critics have alleged that by retaining nondenominational university status rather than claiming status as a religious institution, and seeking to ban gay clubs, YU has "sold out" its moral principles for money. Is this true?

No, the allegation is false. YU has not, by virtue of any of its actions, abandoned moral principles on the issue of homosexuality. As noted previously, YU does not approve of homosexual conduct and does not endorse or directly fund gay clubs. Its policy in regard to the gay clubs is to do what the law requires -- no more and no less. And there is no Halakhic imperative that requires the University to violate the city law.

12. What is the relationship between Yeshiva University and Rabbi Isaac Elchanan Theological Seminary, and how do they contribute to the Jewish and general communities?

RIETS is the religious, Torah affiliate of YU. Each entity has its own charter. The relationship forged between YU and RIETS over the years has been mutually advantageous. Each side of the house has grown and flourished. The many thousand alumni of YU and RIETS have made and continue to make invaluable contributions to the rabbinate, Jewish education, and Jewish scholarship, as well as to the arts, sciences, and professions. Torah learning today is at an all time high in terms of the number and quality of students and the level of faculty scholarship. And the work and standing of the graduate schools continue to grow, placing YU in the front ranks of American higher education.

Together, YU and RIETS make a unique and vital contribution to the Jewish community and society at large. It is absurd to demand that YU risk destroying all that it has created -- and thereby endanger the interests of its students, its faculty, and their families -- by disobeying a law that bars it from interfering with the activities of a handful of gay students whose presence on campus is hardly noticed.

13. I read in the *New York Times* that Notre Dame has banned gay student clubs? How come they can do this and YU cannot?

Notre Dame is located in South Bend, Indiana, which does not have a gay rights law. YU is located in New York City, which has such a law.

14. If YU is legally not a religious entity, how come it is permitted to serve only kosher food, close libraries and other facilities on Shabbat, and not schedule classes on Jewish holidays. A great many of YU's students, faculty, and staff are observant Jews. Under applicable law, the University makes every effort to meet the needs of this constituency and remain true to the history and traditions of the institution. The law permits University to serve any kind of food it wishes (as long as the same food is available to all students) and to establish whatever operating hours it chooses for its facilities (as long as the hours are the same for all students). The law does not permit the University to deny gay groups access to meeting rooms when other students groups are allowed use of these facilities.

9/1/95

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 192

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 4

CERTIFICATE OF INCORPORATION

STATE OF NEW YORK

City and County of New York

WE, the undersigned, desiring to form a corporation but
 subject to the provisions of the membership corporations laws and
 being of full age and two-thirds being citizens of the United
 States and at least one a resident of the State of New York, do
 hereby certify and state:

First. The particular objects for which the corporation
 is to be formed are to promote the study of Talmud and to assist
 in educating and preparing students of the Hebrew Faith for the
 Rabbinic Orthodox ministry.

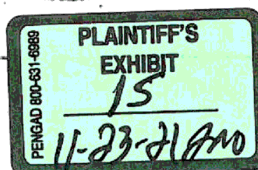
Second. The name of the proposed corporation is
 The Rabbi Isaac Elchanan Theological Seminary Association

Third. The territory in which its operations are to be
 principally conducted is the city, County and State of New York.

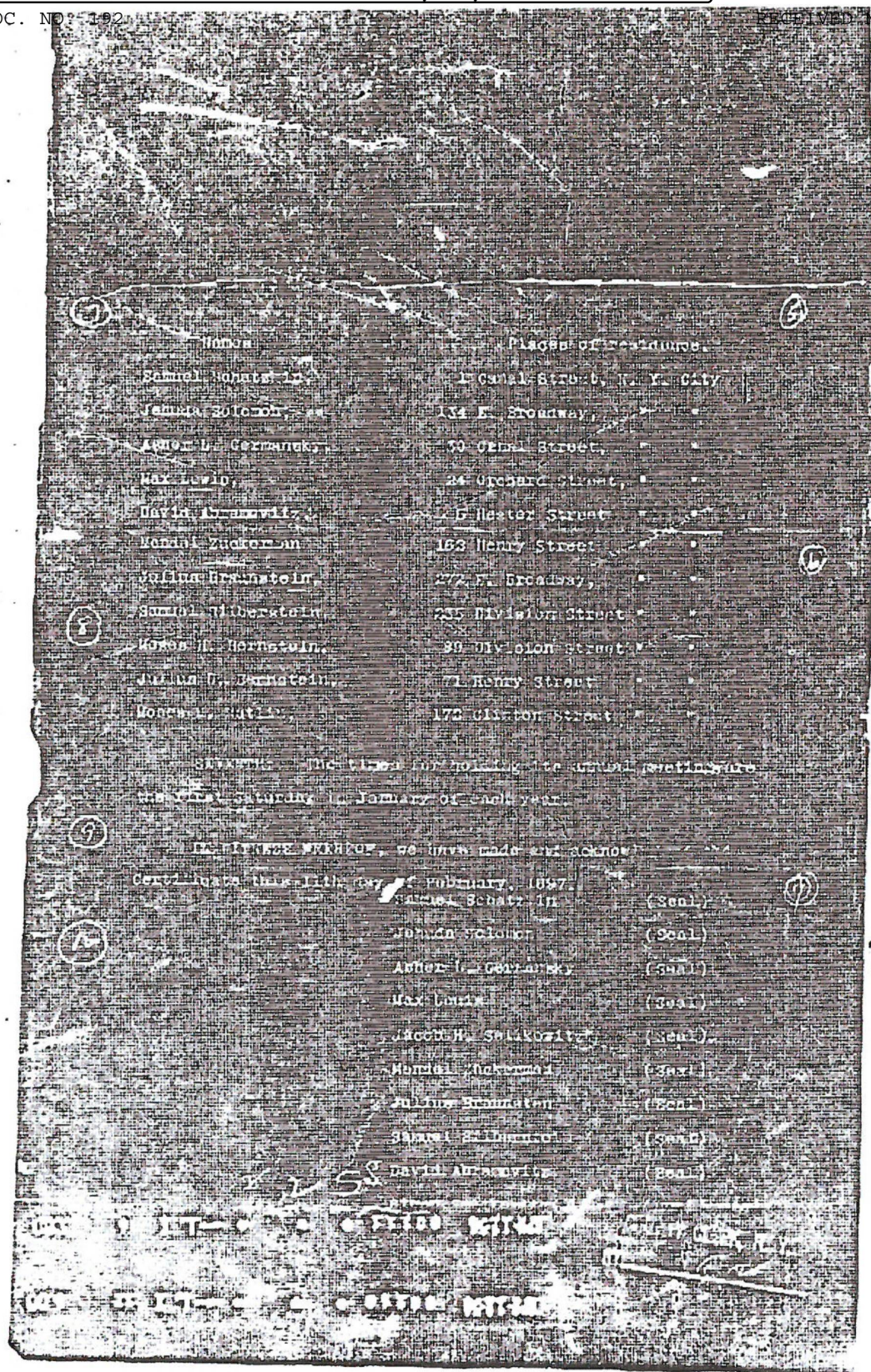
Fourth. The town, village or city in which its principal
 office is to be located is the city of New York, in the County
 of New York and State of New York.

Fifth. The number of its directors is eleven.

Sixth. The names and places of residence of the persons
 who are to be its first directors are: David Samuelson, New York;



YU02981



YU02982

State of New York
City of New York

SS.

On this 25th day of February, 1937, before me personally
came under signature, John J. [illegible], [illegible],
Max Louis, Jacob H. Solikowitz, Mendel [illegible], [illegible] Bern-
stein, Samuel Silberstein, David Abramowitz, Simon Solikowitz,
[illegible] H. Bernstein, Morris H. Martin, Joseph Goldenson, Julius D.
[illegible], to be personally known to be the individuals described
in and who executed the foregoing Certificate, and they sever-
ally duly acknowledged to me that they executed the same.

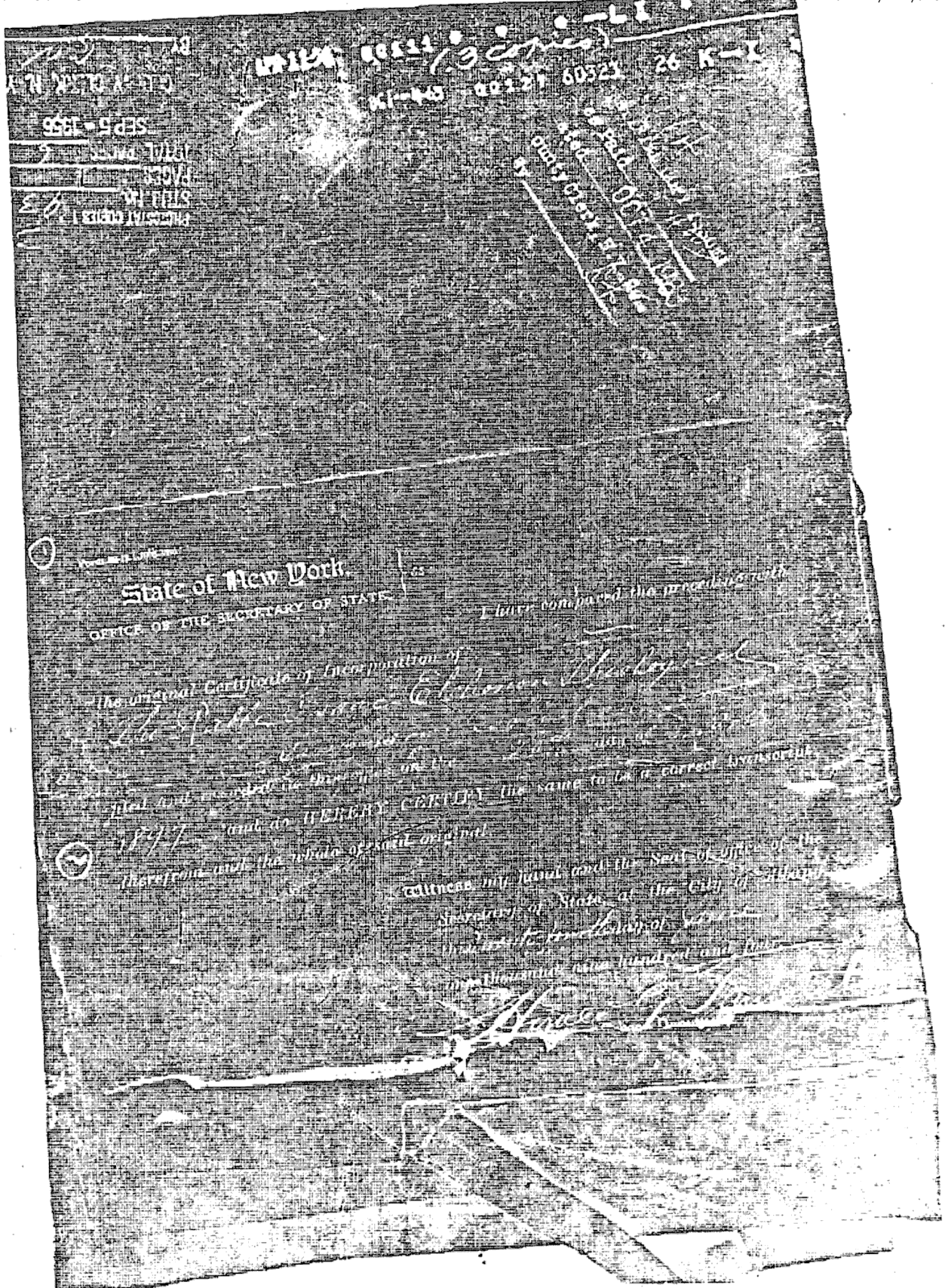
Abraham Rosenberg.

Commissioner of Books,

N. Y. County

FILE NO. 8381
PAGE 1
TOTAL PAGES 1
SERIAL 155

YU02983



YU02984

YU02985

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 192

INDEX NO. 154010/2021

RECEIVED NYSCEF: 12/17/2021

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 193

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 5

University of the Education

State of New York Department

Absolute Charter of

Rabbi Isaac Elchanan Theological Seminary

This instrument witnesseseth That the Board of Regents for and on behalf of the Education

Department of the State of New York has granted this absolute charter

1. Incorporating Olan G. Efra, Lubwig Jesselson, Norman Lamm, Joseph M. Laskerstein, Israel Orlitzky, Emanuel Rackman, and May Stern and their associates and successors as an educational corporation under the corporate name of Rabbi Isaac Elchanan Theological Seminary, to be located in the City, County and State of New York.

2. The purposes for which such corporation is being formed are to continue, maintain and conduct as an educational corporation this seminary which for many years has been an institutional branch of Yeshiva University. The purposes are to prepare students for the rabbinate and to issue the traditional Certificate of Ordination in connection therewith. The corporation shall be authorized to confer the degree of master of Hebrew literature (M.H.L.), Doctor of Hebrew Literature (D.H.L.), master of religious education (M.R.E.) and doctor of religious education (D.R.E.), in conformity with Rules of the Board of Regents of the State of New York and the Regulations of the Commissioner of Education of the State of New York for the registration of institutions of higher Education.

3. The persons named above shall constitute the first board of trustees. The board shall have power to adopt bylaws, including therein provisions fixing the method of election and the term of office of trustees, and shall have power also, by vote of two-thirds of all the members of the board of trustees, to be not more than 25 nor less than 5.

4. The corporation hereby created shall be a nonstock corporation organized and operated exclusively for educational purposes, and no part of its earnings or net income shall inure to the benefit of any individual, and no officer, member, or employee of the corporation shall receive or be entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services.

5. The principal office of the corporation is to be located in the City, County and State of New York.

6. The Commissioner of Education is designated as the representative of the corporation upon whom power in any action or proceeding against it may be served.



Granted February 28, 1940 by the Board of Regents
for and on behalf of the State Education Department
executed under the seal of said Department
and recorded therein, in Book AG 460

Joseph L. Wylton

[Signature]

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 194

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 6

November 20, 1945

Dr Jacob I. Hartstein
Director, Graduate School
Rabbi Isaac Elchanan Theological
Seminary and Yeshiva College
Washington Heights
New York 33, N.Y.

Dear Doctor Hartstein:

I am sending you herewith copy of the vote adopted by the Board of Regents at its meeting November 16, 1945, amending the charter of Rabbi Isaac Elchanan Theological Seminary and Yeshiva College with respect to the degree-conferring powers of the corporation and by changing its name to "Yeshiva University."

The formal certificate of amendment will be engrossed and forwarded to you in regular course. It will, however, be four or five weeks before it is ready for mailing.

Sincerely yours

Charles A. Brind, Jr.

Incl.
D

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 195

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 7



BEFORE THE UNIVERSITY OF THE
STATE OF NEW YORK

-----X
In the Matter of the Petition of
YESHIVA UNIVERSITY

to amend its charter in relation
to its degree conferring powers.
-----X

TO THE BOARD OF REGENTS OF THE
UNIVERSITY OF THE STATE OF NEW YORK:

The petitioner of YESHIVA UNIVERSITY, the petitioner
above named, respectfully shows:

FIRST:- That it is a corporation duly incorporated,
organized and existing under and by virtue of the laws of
the State of New York.

SECOND:- That annexed hereto and marked Exhibit "A"
is a copy of the amended and restated Certificate of Incorporation of said corporation which was duly granted on
December 15, 1967 by the Board of Regents for and on behalf
of the State Education Department and recorded therein under
number 9582. That the said Certificate of Incorporation
was thereafter amended by the Board of Regents on June 27,
1969 authorizing the University to confer the additional
degree of Doctor of Social Welfare (D.S.W.), a copy of said
amendment is annexed hereto and marked Exhibit "B".

THIRD:- That your petitioner now maintains and conducts a University in the City and State of New York offering undergraduate and graduate programs and courses leading to the respective degrees hereinafter set forth as authorized by said Certificate of Incorporation. The schools and divisions of the University offering such degrees constitute the total institution in accordance with the respective grants from the Board of Regents and the institution confers the respective degrees in pursuance thereof and in conformity with the Rules of the Regents of the University and the Regulations of the Commissioner of Education for the registration of institutions of higher education.

FOURTH:- That pursuant to the provisions of the aforementioned Certificate of Incorporation and the amendment thereto, the degrees and honors authorized by the Board of Regents in the order of their grant to your petitioner and which it is authorized to confer are as follows:

Degree of Doctor of Hebrew Literature (D.H.L.);

Degree of Bachelor of Arts (A.B. or B.A.) and Bachelor of Science (B.S.);

Degrees of Doctor of Humane Letters (L.H.D.) and Doctor of Laws (LL.D.), honoris causa;

Degree of Doctor of Divinity (D.D.) honoris causa;

Degree of Bachelor of Hebrew Literature (B.H.L.); Master of Hebrew Literature (M.H.L.); Bachelor of Religious Education (B.R.E.); Master of Religious Education (M.R.E.); Master of Science (M.S.); and Doctor of Philosophy (Ph.D.);

Degree of Doctor of Medicine (M.D.); and
Doctor of Dental Surgery (D.D.S.);

Degree of Master of Art (A.M. or M.A.) and
Doctor of Education (Ed.D.);

Degree of Master of Social Work (M.S.W.);

Degrees of Associate in Arts (A.A.);
Doctor of Religious Education (D.R.E.); and
the honorary degrees of Doctor of Hebrew
Letters (D.H.Litt); Doctor of Science (Sc.D.)
and Doctor of Pedagogy (Pd.D.);

Degree of Doctor of Social Welfare (D.S.W.).

FIFTH:- That your petitioner does show it wishes to
amend its Certificate of Incorporation in relation to its
degree conferring powers by authorizing it to confer in
addition to the degrees which it has been authorized to
confer, the degree of Bachelor of Education (B.Ed.) and the
degree of Bachelor of Science in Education (B.S. in Ed.).

SIXTH:- That your petitioner does show that it wishes
in addition to the foregoing, to amend the said Certificate
of Incorporation by eliminating therefrom the degrees of
Bachelor of Hebrew Literature (B.H.L.); Master of Hebrew
Literature (M.H.L.); Doctor of Hebrew Literature (D.H.L.);
Bachelor of Religious Education (B.R.E.); Master of Religious
Education (M.R.E.); and the degree of Doctor of Religious
Education (D.R.E.), presently authorized under the aforemen-
tioned Certificate of Incorporation.

SEVENTH:- That your petitioner desires to effectuate
the foregoing amendment to its Charter consistent with its

present corporate organization and operations. In its petition dated November 6, 1967 to the Board of Regents to amend and restate its Charter as an educational corporation, the following statement was contained therein:

"Singularly, the original purpose of the corporation as stated in the certificate of incorporation filed with the Department of State under the Membership Corporations Law in 1897, is no longer applicable or appropriate in the light of the degree granting schools and divisions comprising the University and its present corporate activities in connection therewith. The membership association which was originally formed under the designation of Rabbi Isaac Elchanan Theological Seminary Association, has long since ceased to function as an association or as part of the University. In 1945 when granted university status by the Board of Regents, your petitioner limited its corporate activities to those schools and divisions granting the various degrees in higher education authorized by the Board of Regents."

That subsequent to the granting of university status by the Board of Regents and to the amendment and re-statement of its Charter, the Rabbi Isaac Elchanan Theological Seminary continued as an affiliate of the University conducting programs leading to the Hebrew certificate of Ordination but without authorization to offer or to confer any academic degrees. The University continued its academic activities limited to those schools and divisions granting the degrees in higher education authorized by the Board of Regents. It also continued its areas of specialization in Hebrew language, literature and culture and in Near Eastern studies, and in connection with such studies was authorized to award the degrees of Bachelor of Hebrew Literature (B.H.L.)

Master of Hebrew Literature (M.H.L.), Doctor of Hebrew Literature (D.H.L.), Bachelor of Religious Education (B.R.E.), Master of Religious Education (M.R.E.), Doctor of Religious Education (D.R.E.). The award of these degrees was limited and the degree of Doctor of Religious Education (D.R.E.) was never offered or awarded. Although classified by the Board of Regents under the heading of "Religious Education" the ^{religious} aforementioned were not related to religion or to education but were awarded where deemed appropriate to the areas of specialization aforementioned.

It is deemed advisable to eliminate these degrees inasmuch as the course of study does not relate to or conform with the classification by the Board of Regents of these degrees as "Religious Education" and the other degrees offered by the University are more appropriate for the courses of study involved.

It is also desired to eliminate such degrees from the Charter of your petitioner since the Rabbi Isaac Elchanan Theological Seminary is by separate petition seeking incorporation as an education corporation and in addition to the award of a Hebrew Certificate of Ordination is desirous of awarding to its students the graduate degrees to be eliminated from the Charter of your petitioner, to wit: the degrees of Master of Hebrew Literature (M.H.L.), Bachelor of Hebrew Literature (B.H.L.), Master of Religious Education (M.R.E.) and Doctor of Religious Education (D.R.E.).

It is also desired to effectuate the foregoing change to clarify the corporate status of the University

as a non-denominational institution of higher education.

Your petitioner further states that it deems it advisable to amend its Charter to authorize the corporation to award the degrees of Bachelor of Education (B.Ed.) and Bachelor of Science in Education (B.S. in Ed.). Your petitioner now has the power to grant the degrees of Master of Education (Ed.M.) and Doctor of Education (Ed.D.) and courses leading to the undergraduate degree in education are presently being given. It is intended by such amendment to strengthen the undergraduate degrees in education.

It is therefore respectfully requested that the Certificate of Incorporation of your petitioner be amended by authorizing the corporation to confer in addition to the degrees which it has heretofore been authorized to confer, the degrees of Bachelor of Education (B.Ed.) and Bachelor of Science in Education (B.S. in Ed.), and to further amend such Certificate of Incorporation by eliminating therefrom the authorization to grant the degrees of Bachelor of Hebrew Literature (B.H.L.), Master of Hebrew Literature (M.H.L.), Doctor of Hebrew Literature (D.H.L.), Bachelor of Religious Education (B.R.E.), Master of Religious Education (M.R.E.) and Doctor of Religious Education (D.R.E.)

EIGHTH:- That your petitioner does further show that at a regular meeting of this Board held on September 15, 1969, the proposed amendment to its Charter, in the form set forth in the preceding paragraph, was duly authorized by

resolution of the Board of Trustees of the corporation, as more fully set forth in a certain resolution unanimously confirmed and adopted. The President of the University, Dr. Samuel Belkin, was authorized and directed to take such necessary action including the execution of the petition to the Board of Regents of the State of New York, to effectuate the foregoing resolution, and to do all other things proper and necessary in order to effectuate the proposed amendment to the Charter of the corporation. A certified copy of the said resolution executed by Mr. Joshua E. Matz, the Secretary-Treasurer of the corporation, together with the names and addresses of all of the members of the Board of Trustees of your petitioner, and the names of the officers thereof, the names of those who attended such meeting and the vote of each such member is attached hereto and marked Exhibit "C". Petitioner does further states that at such meeting as appears from the said certificate more than three-quarters of the members of the Board were present, voted thereon, and gave their consent thereto.

WHEREFORE, your petitioner prays for an order or grant, amending its Certificate of Incorporation in the manner mentioned and as set forth at length in Paragraph SIXTH hereof.

Dated: New York, New York,
October 9th 1969.

YESHIVA UNIVERSITY

ATTEST:

Joshua E. Matz
Secretary-Treasurer

By Samuel Belkin
President

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

SAMUEL BELKIN, being duly sworn, deposes and says:

That he is the President of YESHIVA UNIVERSITY, the corporation named in, and which executed the foregoing petition; that he has read the foregoing petition by him subscribed and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated upon information and belief; that the seal affixed to such petition is the corporate seal of the said Institution, and was affixed thereto by authority of the Board of Trustees of said Institution; that he signed his name to this petition on behalf of said Institution by like authority.

That this verification cannot be made by the petitioner in person because the same is a domestic corporation; that the deponent is the President of YESHIVA UNIVERSITY and makes this verification from his personal knowledge and the supervision of affairs and business of said Institution.

Sworn to before me this
9th day of October, 1969.

Norma Stern
Notary Public

NORMA STERN
Notary Public, State of New York
No. 24-0183175
Qualified in Kings County
Commission Expires March 30, 1970

Samuel Belkin
Samuel Belkin

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 196

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 8

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
ALBANY, NEW YORK 12224

ASSOCIATE COMMISSIONER
FOR HIGHER AND PROFESSIONAL EDUCATION

December 11, 1967

PETITION FOR ACTION BY THE BOARD OF REGENTS

To the Commissioner of Education:

Name of Institution: Yeshiva University

Purpose of Petition: (1) To change its corporate existence as a Membership Corporation to incorporation under the Board of Regents, and (2) to replace its original charter and its eleven amendments with a single amended and restated charter.

Institutional Data: The petitioner was originally incorporated under the Membership Corporations Law of the State of New York in 1897 as the Rabbi Isaac Elchanan Theological Seminary Association. This charter has been amended from time to time for and on behalf of the Education Department to reflect the expansion of this institution into a complex university. Under its current corporate name Yeshiva University, the petition is authorized to confer a broad range of degrees through the doctorate, earned and honorary, consonant with the operation of a comprehensive university.

The request of the petitioner for incorporation under the Board of Regents is patently reasonable and long overdue. Yeshiva University has no corporate purpose today common to a membership corporation. It could not presently incorporate as an institution of higher education under the Membership Corporations Law. By and large, those educational institutions of higher learning in New York State which at one time or another incorporated under the Membership Corporations Law, or other law, have long since properly restated their respective charters under the Education Law.

The decision to clarify and simplify existing charter actions in a single up-dated statement is so eminently reasonable as to require no detailed justification. The new charter has been reviewed with care and contains no provisions contrary to Education Law. No additional degree powers are requested.

Recommendation: In view of the foregoing considerations, I recommend that Yeshiva University be granted an absolute charter by the

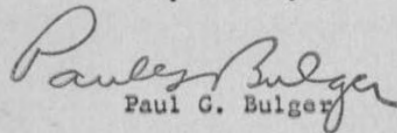
-more-

PL000168

-2-

Board of Regents and that the restatement of charter submitted be accepted to replace all previous documents of incorporation and amendments thereto.

Respectfully submitted,


Paul G. Bulger

PL000169

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 197

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 9

December 15, 1967

Sidney Schutz, Esq.
55 Fifth Avenue
New York, New York 10003

Dear Mr. Schutz:

This is to advise you that the Board of Regents, at its meeting today, formally voted to amend the charter of Yeshiva University in accordance with the petition of the trustees. A copy of the vote adopted is enclosed.

The formal certificate of amendment, restating the charter in its entirety, will be engrossed and forwarded to you. It will, however, be a few months before it is ready for mailing.

Very truly yours,

John P. Jehu

enc.

PL000173

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 198

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 10

Page 1

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

YU PRIDE ALLIANCE, et al.,
Plaintiffs,
-against- Index No.
154010/2010

YESHIVA UNIVERSITY, et al.,
Defendants.

-----X

November 23, 2021
9:10 a.m.

Deposition of RABBI DR. YOSEF KALINSKY,
taken by Plaintiffs, pursuant to Notice, held
at the offices of Emery Celli Brinckerhoff
Abady Ward & Maazel LLP, 600 Fifth Avenue,
New York, New York, before Joseph R. Danyo,
a Shorthand Reporter and Notary Public within
and for the State of New York.

HUDSON COURT REPORTING & VIDEO (212) 273-9911

Page 2

1
2 APPEARANCES:

3
4 EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL LLP
Attorneys for Plaintiffs
5 600 Fifth Avenue, 10th Floor
New York, New York 10020
6 (212)763-5000
7 By: KATHERINE ROSENFELD, ESQ.
MAX SELVER, ESQ.

8
9
10 THE BECKET FUND FOR RELIGIOUS LIBERTY
Attorneys for Defendants
1919 Pennsylvania Avenue N.W., Suite 400
11 Washington, D.C. 20006
(202)955-0095

12 By: ERIC S. BAXTER, ESQ.
ABIGAIL E. MAJANE SMITH, ESQ.

13 Also Present:
14 ANDREW J. LAUER, ESQ.,
15 Yeshiva University

16 ~oOo~

17
18
19
20
21
22
23
24
25

Page 3

1 KALINSKY
2 RABBI DR. YOSEF KALINSKY, having been first duly
3 affirmed by Joseph R. Danyo, a Notary Public, was
4 examined and testified as follows:
5 EXAMINATION BY MS. ROSENFELD:
6 Q. Good morning, Rabbi Dr. Kalinsky. We
7 met off the record. My name is Katie Rosenfeld.
8 I am one of the lawyers representing the plaintiffs
9 in this lawsuit. Thank you for being here today.
10 Have you ever had your deposition taken before?
11 A. No.
12 Q. Very briefly I will explain how we
13 proceed. I will ask you a series of questions, and
14 you will respond to my questions the best you can.
15 I ask that we try not to speak over each other
16 because the court reporter is taking down my
17 questions and your answers. Does that make sense?
18 A. Sure.
19 Q. We also have to answer all questions
20 verbally out loud because the court reporter can't
21 take it down when we shake our heads or we say
22 um-hum or things like that, so I may remind you
23 from time to time because it is a little bit
24 unnatural.
25 If at any point you would like to take a

Page 4

1 KALINSKY
2 break, please let me know. The only thing I ask
3 is that we not break while there is a question
4 pending, so, if I ask a question, I ask that you
5 answer it, and if you need to take a break, let me
6 know, and then we will take a break. Does that
7 make sense?
8 A. Sure.
9 Q. If at any point you want to take a break
10 to use the restroom, to stretch your legs,
11 anything, let me know. I know we have agreed to
12 take a lunch break between 12:30 and 1:30.
13 A. Correct.
14 Q. And I think those are all the basic
15 instructions. Your attorney from time to time may
16 make objections. Unless your attorney instructs
17 you not to answer, that's an objection that's being
18 noted for the court record, and you can still
19 answer the question. Do you understand that?
20 A. Can you say that one more time.
21 Q. So, from time to time, I will ask you a
22 question and your attorney, Mr. Baxter, may object
23 to my question. If he simply says objection and he
24 doesn't instruct you not to answer the question,
25 you can still answer the question.

Pages 1 to 4

Page 5

1 KALINSKY
 2 A. Okay.
 3 Q. He's making an objection for the record
 4 to preserve it for a later evidentiary ruling.
 5 A. Okay.
 6 Q. So, unless he instructs you not to
 7 answer, don't be thrown off by these objections.
 8 They're really for the record. Do you understand?
 9 A. Yes, I understand.
 10 Q. You are currently the Dean of
 11 undergraduate Torah studies at Yeshiva University,
 12 is that correct?
 13 A. That is correct.
 14 Q. And you graduated from Yeshiva College
 15 in 2000, is that right?
 16 A. Yes.
 17 Q. And you attended RIETS and became an
 18 ordained rabbi from that institution?
 19 A. Yes, I have ordination. Yes.
 20 Q. And you received a master's degree?
 21 A. This might take a little while.
 22 Q. I'm aware. You have many degrees.
 23 We're going to work through it. You have a
 24 master's degree from the Azireli Graduate School of
 25 Jewish Education and Administration?

Page 7

1 KALINSKY
 2 the Dean of undergraduate Torah studies, please?
 3 A. Sure. My purview is to oversee
 4 primarily a few aspects of the undergraduate men.
 5 There are about a thousand men on campus, and, as
 6 the Dean, all undergraduate students are registered
 7 in one of four Torah studies programs. We have
 8 the Isaac Breuer College. We have the James Striar
 9 School. We have the Stone Beit Midrash program,
 10 and we have the Mazer Yeshiva program. I am the
 11 Dean of all four of those units. Every
 12 undergraduate has to register for at least one of
 13 those programs.
 14 The programs are a little bit different,
 15 ranging on different types of studies. A little
 16 bit about the hours. That at the very least, at
 17 least three hours a day a student is registered in
 18 one of those programs studying Torah studies and
 19 religious studies.
 20 So I oversee the academic component of
 21 that program. All the faculty are hired by me
 22 underneath me. That's number one. The academics.
 23 All the Talmud study, Jewish philosophy studies,
 24 religious studies, Jewish law, Jewish customs, all
 25 that curriculum, I also oversee the curriculum. I

Page 6

1 KALINSKY
 2 A. Azireli, yes. I graduated from Azireli.
 3 Q. And you have an MSW and a Ph.D. from the
 4 Wurzweiler School of Social Work, is that correct?
 5 A. That is correct.
 6 Q. And you started working in the Dean's
 7 Office of undergraduate Torah studies in 2007,
 8 correct?
 9 A. Yes.
 10 Q. And in 2008 you were promoted to
 11 Assistant Dean, is that right?
 12 A. Hopefully. I don't remember exactly
 13 the years. Yeah. It sounds right.
 14 Q. Okay, and were you then at a certain
 15 point promoted to Associate Dean?
 16 A. I went from Assistant Dean to Associate
 17 Dean and then Dean two years ago. Yes.
 18 Q. And you became Dean of undergraduate
 19 Torah studies in 2019. Does that sound right?
 20 A. Yes. That is correct. 2019.
 21 Q. And you're currently employed by Yeshiva
 22 University. Is that correct?
 23 A. Yes.
 24 Q. And could you just give me a brief
 25 description of your duties and responsibilities as

Page 8

1 KALINSKY
 2 work with the faculty in terms of that, and we also
 3 have another, two other aspects.
 4 One aspect is we have the Mashgichim.
 5 The Mashgiach is a spiritual advisor. We have ten
 6 spiritual advisors on campus working with each of
 7 the students on a regular basis to guide them
 8 through their spiritual journey, their religious
 9 journey, and we employ them to do that. Some of
 10 them are part-time. Some of them are full-time.
 11 Some of them are also faculty. So that's my
 12 second purview. Academics, spiritual guidance, and
 13 then we also have programming.
 14 We have religious and spiritual
 15 programming for our students. Next week over
 16 Chanukah, I got an e-mail I think we're doing 45
 17 programs with the students over the week of
 18 Chanukah. Things, having time together with the
 19 faculty and the students getting to really create
 20 relationships.
 21 One of our tag lines that I kind of put
 22 forth in terms of our recruitment is we are an
 23 education based upon relationships for life.
 24 So our faculty, one of the things that
 25 we talk about all the time in our faculty meetings

Pages 5 to 8

Page 9

1 KALINSKY
 2 is that, yes, we're here to impart information.
 3 We're here to impart information. We're here to
 4 impart tradition and the values and Jewish law and
 5 Jewish religion and text of Talmud and chumash and
 6 everything else, but also to spend time to forge
 7 relationships, and we really hope that our students
 8 will be the ones who will turn to our faculty, 5,
 9 10, 15, however many years after they graduate, and
 10 they have that faculty member as their mentor.
 11 So I oversee all those aspects in terms
 12 of being the Dean of undergraduate Torah studies.
 13 Q. Did you receive a notice to appear for
 14 today's deposition to testify on certain topics?
 15 A. I did see it. Yes.
 16 (Plaintiffs' Exhibit 1, Notice of
 17 deposition, was so marked for
 18 identification, as of this date.)
 19 Q. The court reporter has handed you what
 20 has been marked as Plaintiffs' Exhibit 1. This is
 21 the notice of deposition that was served for the
 22 deposition of Yeshiva University, and if you would
 23 please turn to the second page of the exhibit, you
 24 will see that there is a list of topics of
 25 examination. Do you see that?

Page 11

1 KALINSKY
 2 notice of deposition?
 3 A. I have knowledge in terms of preparing
 4 for this deposition. Some things might not be in
 5 my day-to-day business at Yeshiva, because some of
 6 these are not about 2021.
 7 Q. Understood. That's actually precisely
 8 what I am asking. So some of these topics did you
 9 have to prepare and educate yourself to be able to
 10 testify on behalf of the university today?
 11 A. Yes.
 12 Q. And some of them may relate to things
 13 that you know personally just because of your long
 14 affiliation with the university. Is that correct?
 15 A. Exactly correct. Yes.
 16 Q. What did you do to prepare for your
 17 deposition today. Did you meet with your counsel
 18 to prepare?
 19 MR. BAXTER: I'm going to counsel you
 20 not to share anything that you spoke about
 21 with your attorneys, but you can answer the
 22 question.
 23 A. I met with a number of individuals to
 24 understand more to prepare for these things. I'll
 25 probably go in order of what I'm seeing over here.

Page 10

1 KALINSKY
 2 A. I do.
 3 Q. Do you understand that you're here to
 4 testify today on these topics as the representative
 5 of Yeshiva University?
 6 A. As the corporate representative of
 7 Yeshiva University, I believe that is my task to be
 8 here today. Yes.
 9 Q. I'm going to be asking a series of
 10 questions regarding each topic, and your testimony
 11 here is going to be given on behalf of Yeshiva
 12 University as its representative. Do you
 13 understand that?
 14 A. Yes.
 15 Q. Are you prepared to testify on each of
 16 these topics today?
 17 A. I am prepared.
 18 MR. BAXTER: I will note for the record
 19 that we've objected to the second half of
 20 the examination question number 5, and
 21 there's a court ruling pending on that
 22 objection.
 23 Q. As the Dean of undergraduate Torah
 24 studies at Yeshiva University, did you have
 25 personal knowledge of some of the topics in this

Page 12

1 KALINSKY
 2 MR. BAXTER: Let her ask you a question
 3 and answer the question.
 4 A. That's probably a better way of doing
 5 that. Yes.
 6 Q. So who did you meet with to gather
 7 information to prepare to give testimony today?
 8 A. I met with Mr. John Greenfield.
 9 Q. Is that the public affairs director?
 10 A. I think he has a different title than
 11 public affairs. I think it's government affairs.
 12 Government relations and affairs. We could
 13 probably look it up afterwards, but he's the one
 14 who is most aware in terms of our relationships in
 15 terms of state funding and city officials. He has
 16 all those relationships with all those entities,
 17 and I look to him in terms of that.
 18 Q. Who else did you meet with?
 19 A. I met with again I'm not sure exactly
 20 what his title is officially, but the person who is
 21 the head of tax. His name is Alan Kluger.
 22 Q. Anyone else?
 23 A. I met with Rabbi David Palmer, who also
 24 works for the provost office of institutional
 25 research, just to understand he's the one who

Pages 9 to 12

Page 13

1 KALINSKY
 2 churns out a lot of the data coming from the
 3 university.
 4 Obviously a lot of these things, as you
 5 say, are personal knowledge that I have. Anything
 6 related to Rabbi Isaac Elchanan Theological
 7 Seminary I think I know firsthand as much as I can
 8 know.
 9 Q. Just to make sure that our record is
 10 clean, I'm just going to stay focused on the
 11 question of who you met with so we can exhaust that
 12 topic.
 13 So you talked about Mr. Greenfield, Mr.
 14 Kluger, Rabbi David Palmer. Anyone else?
 15 A. Yes. Mr. Doron Stern, who is the vice
 16 president communications and also oversees
 17 admissions.
 18 Q. Did you meet with anyone else to prepare
 19 to testify today?
 20 A. Maybe I'll be reminded of it later, but
 21 a lot of information trying to prepare. Yeah. I
 22 don't know.
 23 Q. If at any point during the deposition
 24 you want to go back and add something to an answer
 25 because you remember it later but you didn't

Page 14

1 KALINSKY
 2 remember when I asked you, that's fine. Just tell
 3 me and we can put it on the record. Okay?
 4 A. Great. That's helpful.
 5 Q. In terms of your lawyers, did you meet
 6 with Mr. Baxter to prepare for today's deposition?
 7 MR. BAXTER: You can answer, but you
 8 shouldn't share anything that we talked
 9 about.
 10 A. Yes, I did meet with Mr. Baxter.
 11 Q. And did you meet with Mr. Lauer to
 12 prepare for today's deposition?
 13 A. Yes, I met with Mr. Lauer.
 14 Q. Any other lawyers that you met with to
 15 prepare for today's deposition?
 16 A. No one from any other counsel. I met
 17 with Mr. Baxter, Ms. Smith, who is here, and Mr.
 18 Haun.
 19 Q. And did you meet with President Berman
 20 to prepare for your deposition today?
 21 A. No.
 22 Q. Did you meet with Dean Nissel to prepare
 23 for your deposition today?
 24 A. I did not meet with him about this.
 25 Directly about this, no, I did not.

Page 15

1 KALINSKY
 2 Q. Did you review documents to prepare for
 3 your deposition today?
 4 A. Yes.
 5 Q. Which documents did you review?
 6 A. Again, depending on which question, I'll
 7 remember documents, but.
 8 Q. So let me ask it more narrowly then.
 9 For topic 1, which we're going to start with in a
 10 moment, the facts forming the basis of Yeshiva
 11 University's assertion that it is a religious
 12 education corporation, which documents did you
 13 review to prepare for topic 1?
 14 MR. BAXTER: Objection for lack of
 15 foundation. He reviewed a lot of
 16 documents. So I think, if you want to ask
 17 him about specific documents, that would
 18 make sense, but he's not going to recall in
 19 his mind what --
 20 Q. If it's not a complete list, that's
 21 okay, but I would like to know the documents as you
 22 sit here that you recall the important documents
 23 that you reviewed to answer question 1.
 24 A. In answering the question in terms of
 25 documents related to charters of the university.

Page 16

1 KALINSKY
 2 That would probably be the answer to the first one,
 3 but here, again, that would be one thing, but
 4 there's really a very exhaustive list of things
 5 that could be used or could be reviewed to talk
 6 about the religious entity that is Yeshiva
 7 University. Some of these things don't have to be
 8 found in documents.
 9 Q. I understand. I'm just asking you to
 10 narrowly to prepare for today's deposition on topic
 11 1 what documents do you remember as being of
 12 importance that you reviewed?
 13 A. Right. So those would be things
 14 related to the charter. Things related to
 15 handbooks would probably be helpful to that,
 16 student associations and student guides and student
 17 constitutions, thinking about how we express
 18 ourselves with our admissions and our recruitment
 19 materials as a religious education corporation.
 20 Things that I produce I don't have to review them.
 21 I'm trying to say like things that show -- facts
 22 showing they're a religious education corporation.
 23 There's literally an endless amount of things that
 24 I thought about in terms of preparing for that.
 25 Q. So Yeshiva University is a university

Pages 13 to 16

Page 17

1 KALINSKY
 2 comprised of a number of different colleges and
 3 schools, is that correct?
 4 A. Colleges and schools, right. Graduate
 5 schools. You would call them just schools.
 6 Q. And, for the undergraduate programs,
 7 there's Yeshiva College, the Syms School of
 8 Business, the Stern College for Women and the
 9 Katzman School of Science and Health?
 10 A. Can I just make two corrections?
 11 Q. Sure.
 12 A. I'm told that the donor prefers the Sy
 13 Syms School of Business for any records, not just
 14 Syms.
 15 Q. Okay.
 16 A. That came up in a meeting I had
 17 recently, and I think it's called the Katz School.
 18 Not Katzman. Mordecai Katz is the one who gave the
 19 money for the Katz School.
 20 Q. So there are those four --
 21 A. -- undergraduates.
 22 Q. Undergraduates.
 23 A. An undergrad would be able to enroll in
 24 one of those four schools.
 25 MR. BAXTER: Let me ask you to wait

Page 18

1 KALINSKY
 2 until she has fully stated her question.
 3 You can wait for a pause to know she's done,
 4 and then you can answer the question.
 5 Q. It's a bit unnatural, but it's actually
 6 very important, because, otherwise, our transcript
 7 will be very messy.
 8 A. We don't want that.
 9 Q. We'll just do our best and remind you.
 10 In addition to the four undergraduate colleges
 11 would you call them?
 12 A. I don't know.
 13 Q. Okay. In addition to those four
 14 undergraduate programs, there are a number of
 15 graduate programs inside within Yeshiva University,
 16 correct?
 17 A. Yes. Correct.
 18 Q. So two that you attended, the Wurzweiler
 19 School and the Azireli School?
 20 A. Azireli, yes.
 21 Q. And then the Revel Graduate School of
 22 Jewish Studies, and is that a third graduate
 23 program?
 24 A. I didn't attend that one but --
 25 Q. I understand.

Page 19

1 KALINSKY
 2 A. Yes.
 3 Q. So there is Revel. Is Albert Einstein
 4 College of Medicine still part of Yeshiva
 5 University?
 6 A. Officially, there is some lines, but I
 7 don't think that, I don't think officially, but I'm
 8 not exactly sure where we are in all those
 9 negotiations that transpired years ago, and today I
 10 know there's some connection still.
 11 Q. And the Ferkauf Graduate School of
 12 Psychology is another graduate school within
 13 Yeshiva University. Is that correct?
 14 A. That's correct.
 15 Q. And the Cardozo School of Law is another
 16 graduate program within Yeshiva University,
 17 correct?
 18 A. Correct.
 19 Q. The Katz School of Science and Health
 20 has a graduate school too, correct?
 21 A. Right, and it has a number of programs.
 22 Q. And the Sy Syms School of Business
 23 Graduate Studies, is that another graduate program
 24 within Yeshiva University?
 25 A. Yes, it's another program. Yes, and

Page 20

1 KALINSKY
 2 each of those have different certificates and
 3 different programs within them. Like cyber
 4 security is an example of a part of the Katz School
 5 of Health and Science.
 6 Q. Are there any graduate schools that are
 7 part of Yeshiva University that I didn't just
 8 mention?
 9 A. You didn't mention the Rabbi Isaac
 10 Elchanan Theological Seminary. That's a part of
 11 Yeshiva University, a very big part of Yeshiva
 12 University.
 13 Q. So I'm glad that you raised that. So
 14 right now I'm focused on the component parts of
 15 Yeshiva University as opposed to what I understand
 16 to be affiliates such as the two high schools. Is
 17 that a distinction that you understand?
 18 A. It's a distinction probably on legal
 19 terms, which is probably where you're coming from,
 20 but in terms of my understanding and my living
 21 Yeshiva University for more than 20 years I would
 22 definitely list the Rabbi Isaac Elchanan
 23 Theological Seminary as a very key part to Yeshiva
 24 University.
 25 Q. Sure, and right now, as you correctly

Pages 17 to 20

Page 21

1 KALINSKY
 2 noted, I'm asking you about Yeshiva University as
 3 it's constituted as a corporation.
 4 So, for purposes of the corporation, the
 5 schools that I just mentioned, are those the
 6 graduate schools that are part of Yeshiva
 7 University?
 8 MR. BAXTER: Objection to the extent it
 9 calls for a legal conclusion.
 10 But you can answer the question.
 11 A. And you're asking, are you missing any
 12 other schools?
 13 Q. Correct.
 14 A. Other than the Elchanan affiliate, which
 15 is the high schools.
 16 Q. Let me ask a different question. So
 17 there's Yeshiva University which has component
 18 schools and colleges. Would you agree?
 19 A. Define component.
 20 Q. Part of Yeshiva University. It has
 21 schools and colleges that are part of Yeshiva
 22 University that make up the university, would you
 23 agree?
 24 A. Correct. Yes.
 25 Q. And then there is entities that are

Page 22

1 KALINSKY
 2 affiliates of Yeshiva University which are the
 3 RIETS, which you mentioned, and the two high
 4 schools, one for girls and one for boys, is that
 5 correct?
 6 A. Correct.
 7 Q. Okay. So right now I'm asking you with
 8 respect to the component schools and colleges that
 9 are part of Yeshiva University, I've mentioned
 10 Revel, Albert Einstein, Wurzweiler, Ferkauf,
 11 Cardozo, Azireli, Katz, Sy Syms. Am I missing any
 12 of the graduate schools?
 13 MR. BAXTER: I object just to the extent
 14 it misstates the evidence on the medical
 15 school.
 16 MS. ROSENFELD: Eric, let's not have
 17 speaking objections. Let's just limit our
 18 objections to form, please.
 19 A. I don't think there's any other schools
 20 and part of the graduate schools that you did not
 21 list.
 22 Q. Thank you, and do each of those schools
 23 have its own governance documents? Do you know?
 24 A. In terms of how the Deans run the
 25 school?

Page 23

1 KALINSKY
 2 Q. That could be one source, I'm sure. Do
 3 you know if there's governing documents in terms of
 4 how the Deans run each of the schools?
 5 A. I wouldn't know firsthand. The
 6 Wurzweiler School of Social Work has a different
 7 governing from the Katz School of Health, if that's
 8 what you're asking.
 9 Q. Are there boards of overseers that
 10 oversee each of those schools independently from
 11 the board of trustees for Yeshiva University as a
 12 whole?
 13 MR. BAXTER: Objection. Calls for a
 14 legal conclusion.
 15 Go ahead.
 16 A. My understanding is there is the Yeshiva
 17 University board of trustees. My understanding is
 18 that individual schools and maybe even programs,
 19 there are many programs which you didn't mention
 20 also which aren't schools, but part of the honors
 21 program among other things, may have their own
 22 board of overseers.
 23 (Plaintiffs' Exhibit 2, Document from
 24 New York State Education Department showing
 25 Yeshiva University's enrollment for 2019 to

Page 24

1 KALINSKY
 2 2020, was so marked for identification, as
 3 of this date.)
 4 Q. The court reporter has marked Exhibit 2,
 5 which is a document from the New York State
 6 Education Department, which shows Yeshiva
 7 University's enrollment for 2019 to 2020.
 8 Does the number of total full-time
 9 students of approximately 4,248, does that sound
 10 correct to you, based on your knowledge of the
 11 university?
 12 A. I just want to read the top paragraph
 13 also.
 14 Q. Take your time.
 15 A. You want me to verify whether that is
 16 correct in terms of our total enrollment? That's
 17 including our undergraduates.
 18 Q. Right. Actually I think I asked the
 19 wrong question. So it looks like there's a total.
 20 A. Am I allowed to write on these?
 21 Q. I would prefer that you not. Would you
 22 like a piece of paper?
 23 MR. BAXTER: Don't take any notes.
 24 A. Okay. Sorry. Go ahead.
 25 Q. It looks like on this document there is

Pages 21 to 24

Page 25

1 KALINSKY
 2 4,685 total full-time students is the way I read
 3 this document.
 4 My question is whether that accords with
 5 your sense of the general number of full-time
 6 enrolled students at Yeshiva University?
 7 MR. BAXTER: Objection to the lack of
 8 foundation.
 9 But go ahead and answer.
 10 A. Give me one more second.
 11 Q. Take as much time as you need with any
 12 document.
 13 A. Thank you. I've never seen this
 14 document before, so the layout does look a little
 15 bit, I'm not sure. We're saying there is a
 16 thousand students in all of Yeshiva University's
 17 graduate schools? Is that what this is saying?
 18 That number doesn't sounds right to me.
 19 Q. Okay. So maybe the document is not
 20 helpful for us, and you can set it aside. What is
 21 your understanding approximately of how many
 22 students are enrolled let's say as undergraduates
 23 at Yeshiva University, and it doesn't have to be a
 24 precise number. I'm just looking for general
 25 round numbers.

Page 26

1 KALINSKY
 2 A. If I would have known, last night I got
 3 the president's report, which had all this data.
 4 It probably had the number in there. I think
 5 around 5,000 does sound ballpark to what I'm
 6 accustomed to hearing.
 7 Q. And is that for both undergraduate and
 8 graduate students?
 9 A. I think when we say Yeshiva University.
 10 Q. Approximately 5,000?
 11 A. Approximately I think so. That number
 12 might include, and I don't know what this number
 13 includes, and we have students studying abroad in
 14 Israel. 80 percent of our undergraduates spend a
 15 year in Israel before coming, so you have to think
 16 about all of our campuses in New York, our campus
 17 in Israel and think about all our graduate schools.
 18 Now we have many students studying
 19 remotely, so it is hard for me to give, but you
 20 know, thankfully many of our graduate school
 21 numbers are on the way up. So it's hard for me to
 22 remember, estimate exactly.
 23 Q. Why are the graduate school numbers on
 24 the way up?
 25 A. We're doing a good job.

Page 27

1 KALINSKY
 2 Q. Are there certain schools that are
 3 seeing higher levels of enrollment than other
 4 graduate schools?
 5 A. So my impression is all of our graduate
 6 schools from being at Deans meetings are healthy.
 7 I think particularly the School of Social Work.
 8 Those numbers, the current Dean has done a lot of
 9 work there. The Katz School is a new school, it's
 10 growing, and they're opening up new programs all
 11 the time. The Syms School of Business, I'm aware
 12 recently that they're bringing in new students.
 13 So I think Yeshiva is in a good place.
 14 Having more students is part of our mission. So
 15 thankfully those numbers are doing well.
 16 Q. I'm now going to turn to the first topic
 17 in the notice, topic 1, which is "The facts forming
 18 the basis of Yeshiva University's assertion that it
 19 is a religious education corporation."
 20 Yeshiva University has a mission
 21 statement. Is that correct?
 22 A. Yes. We do have a mission statement.
 23 (Plaintiffs' Exhibit 3, Vision page of
 24 website, was so marked for identification,
 25 as of this date.)

Page 28

1 KALINSKY
 2 Q. You have in front of you Exhibit 3. Is
 3 this the mission statement of Yeshiva University?
 4 A. The document says "Vision."
 5 Q. Does the sentence below that, do you
 6 recognize that as the mission of Yeshiva
 7 University?
 8 A. Just give me one second to familiarize
 9 myself, please. This does look like one
 10 iteration.
 11 (Plaintiffs' Exhibit 4, President
 12 Berman's statement to board of trustees, was
 13 so marked for identification, as of this
 14 date.)
 15 Q. You also now have in front of you what
 16 has been marked as Exhibit 4.
 17 A. Um-hum.
 18 Q. If you could please just read that, and
 19 let me know when you have had a chance.
 20 A. Sure.
 21 Q. Have you had a chance to look at Exhibit
 22 4?
 23 A. Yes.
 24 Q. Are the two exhibits in front of you,
 25 Exhibit 3 and Exhibit 4, are those Yeshiva

Pages 25 to 28

Page 29

1 KALINSKY
 2 University's mission?
 3 A. Well, they both don't say the same thing
 4 I would say to begin with. They're not identical.
 5 Q. Understanding that there are differences
 6 in the words of those two documents, are these the
 7 general mission statement of Yeshiva University in
 8 Exhibits 3 and 4 in front of you?
 9 MR. BAXTER: Objection as to form.
 10 But go ahead and answer.
 11 A. I'm not sure how to -- I'm not sure.
 12 Q. Do you know where one would look to find
 13 the mission statement of Yeshiva University?
 14 A. It should be on the website.
 15 Q. And do you believe that there is a
 16 different mission statement for Yeshiva University
 17 that's on the website that's not in front of you?
 18 A. I believe that there have been
 19 iterations of the mission statement that I've read
 20 on the website that have a broader definition and
 21 also breaks down undergraduate separate from
 22 graduate.
 23 Q. So, looking at Exhibit 4, this document
 24 says that President Berman reviewed the
 25 university's mission and then follows with a

Page 30

1 KALINSKY
 2 sentence. Is that the university's mission?
 3 MR. BAXTER: Objection to the extent it
 4 mischaracterizes.
 5 But go ahead and answer.
 6 A. I think the document speaks for itself.
 7 Q. Okay. If somebody asked you where can
 8 I go to find Yeshiva University's mission
 9 statement, what would you tell them?
 10 A. Look at the website.
 11 Q. And if you go to the website and you
 12 click "mission," you come to that document that is
 13 Exhibit --
 14 A. 3.
 15 Q. -- 3. Is that the mission?
 16 A. Is there a page or paragraph before that
 17 says mission and this is vision?
 18 Q. I now understand what you're talking
 19 about. We can go back to that. You said that
 20 there are several iterations I believe of Yeshiva
 21 University's mission. Do you mean over time the
 22 mission statement has evolved, or do you mean
 23 currently today there are different mission
 24 statements?
 25 A. I'll try to answer your question in the

Page 31

1 KALINSKY
 2 following way. The mission of Yeshiva University
 3 has not changed. Maybe certain -- there may be
 4 different formulations, meaning this -- Berman --
 5 did not exist five years ago clearly. He wasn't
 6 here five years ago.
 7 Q. Just for the record, you are pointing to
 8 Exhibits 3 and 4?
 9 A. Both of these. President Berman used
 10 the word "ecosystem," and ecosystem of educational
 11 institutions is something that I think that's a
 12 word that he put in. That doesn't mean that he
 13 changed, for example, right, he didn't change the
 14 mission of Yeshiva University by rephrasing and
 15 putting in a word "ecosystem."
 16 This is how he has been expressing his
 17 understanding when he speaks, but the mission of
 18 Yeshiva University it's very hard to put in a
 19 sentence or two, and the mission of Yeshiva
 20 University runs a lot deeper in terms of the
 21 undergraduate school's mission might be different
 22 than -- my -- I'm a school, undergraduate of Torah
 23 studies. Our mission is not the same as the
 24 Ferkauf Graduate School.
 25 Q. I appreciate that. What I'm really

Page 32

1 KALINSKY
 2 asking you about is, as a corporate entity that has
 3 a mission statement, which is committed to writing
 4 and exists to guide the work of the entity, I'm
 5 trying to then decide what that mission statement
 6 is as opposed to what you're describing, which may
 7 be different people's mission.
 8 A. Right.
 9 Q. So right now I'm just focused on trying
 10 to understand for the entity which has a mission
 11 statement that is, you know, on paper and
 12 necessarily limited what is that mission statement,
 13 and you suggested that there's a longer one than
 14 the ones in 3 or 4, which I'm going to provide to
 15 you.
 16 A. Great.
 17 (Plaintiffs' Exhibit 5, Yeshiva
 18 University employee handbook, was so marked
 19 for identification, as of this date.)
 20 Q. So you have in front of you the Yeshiva
 21 University employee handbook.
 22 A. From which year? Definitely not this
 23 year.
 24 Q. So, if you look on the bottom, it is
 25 marked Nissel Exhibit 1. So this is the employee

Pages 29 to 32

Page 33

1 KALINSKY
2 handbook that defendants submitted to the court in
3 June of 2021 as the employee handbook.
4 A. Okay.
5 Q. So, if you go to page, on the bottom,
6 you will see it says Nissel Exhibit 1-9. If you
7 could go to that page, please.
8 A. Yes.
9 Q. Do you see where it says mission
10 statement at the top?
11 A. Um-hum.
12 Q. You have to say yes or no.
13 A. Yes. It says mission statement at the
14 top.
15 Q. Is this the mission statement that you
16 were speaking of which has more component parts?
17 A. This is definitely another iteration
18 again, but, yes, as you can see here, this mission
19 statement in the employee handbook is broken down
20 for undergraduate students, blank, for graduate
21 students, blank, for faculty, blank.
22 Q. Is this the mission statement of Yeshiva
23 University as far as you know?
24 A. Can I review it?
25 Q. Of course.

Page 34

1 KALINSKY
2 A. No.
3 Q. This is not the mission statement of
4 Yeshiva University?
5 A. I don't know. A better answer I would
6 say is I don't know.
7 Q. Can you explain why there's a mission
8 statement in the employee handbook that you don't
9 recognize as the mission statement?
10 A. I think this wasn't written for
11 employees. If you read the first sentence, it's
12 just, why would human resources be -- why would the
13 mission statement talk about develop and retain
14 excellent employees? I hope that's not the
15 mission statement of Yeshiva University.
16 Q. Right. Below that, there are a number
17 of paragraphs that say, as you noted, for
18 undergraduate students, for graduate students, for
19 faculty. Is that the mission statement of Yeshiva
20 University?
21 MR. BAXTER: Objection as to form.
22 Go ahead.
23 A. This paragraph for undergraduate seems
24 more accurate to me of the mission for our
25 undergraduate students.

Page 35

1 KALINSKY
2 Q. So we looked at Exhibit 3, 4 and 5, and
3 none of these are the mission statement of Yeshiva
4 University as you recognize it? Am I
5 understanding your testimony correctly?
6 A. It would be helpful for me to see what's
7 on the website currently before I respond.
8 Q. That's fine. Are there different
9 mission statements of Yeshiva University depending
10 on the context of the mission statement? Is that
11 fair to say?
12 A. I would say there's a general mission
13 for the university, and the university has specific
14 missions for particular schools.
15 (Plaintiffs' Exhibit 6, Mission
16 statement of Yeshiva University, was so
17 marked for identification, as of this date.)
18 Q. Is this the mission statement? Now you
19 have Exhibit 6 in front of you from the website.
20 Is this the mission statement of Yeshiva
21 University?
22 A. Just so I understand, so this was on the
23 page before the Vision page on the website?
24 Q. So you have Exhibit 6 in front of you.
25 It's from the website. You have Exhibit 5, which

Page 36

1 KALINSKY
2 is from the employee handbook. You have Exhibit
3 4, which is President Berman's statement to the
4 board of trustees, and you have Exhibit 3, which is
5 from the Vision page of the website.
6 The pending question is whether Exhibit
7 6 is the mission statement of Yeshiva University?
8 MR. BAXTER: Objection as to form.
9 You can go ahead and answer.
10 A. This looks more in line with what I'm
11 familiar with.
12 Q. So is there still another mission
13 statement that I haven't shown you that you think
14 is the actual mission statement?
15 MR. BAXTER: Objection as to form.
16 Go ahead.
17 A. I don't have another document that I can
18 think of.
19 Q. But your answer seems to suggest that
20 you don't recognize this document or in some way
21 are hesitant to say it's the mission statement, so
22 I'm just trying to understand if I don't have the
23 right document in front of you.
24 A. I would feel comfortable going through
25 this document for questioning related to our

Pages 33 to 36

Page 37

1 KALINSKY
2 mission statement.
3 Q. Is there another document that contains
4 the mission statement that you're aware of that I
5 haven't shown you?
6 MR. BAXTER: Objection as to form.
7 Go ahead.
8 A. No.
9 Q. You can set that aside, please. Thank
10 you. Yeshiva University has a set of bylaws that
11 set forth how the university is supposed to
12 operate. Is that correct?
13 A. Yes.
14 Q. And Yeshiva University also has a
15 charter that contains its articles of
16 incorporation. Is that correct?
17 A. Yes.
18 (Plaintiffs' Exhibit 7, Bylaws of
19 Yeshiva University, was so marked for
20 identification, as of this date.)
21 (Plaintiffs' Exhibit 8, December 15,
22 1967 articles of incorporation amended
23 charter, was so marked for identification,
24 as of this date.)
25 Q. You have in front of you Exhibit 7,

Page 38

1 KALINSKY
2 which are the bylaws of Yeshiva University, and
3 Exhibit 8, which is the December 15, 1967 articles
4 of incorporation amended charter.
5 So let's start with some general
6 questions. Do the bylaws of Yeshiva University
7 require members of the board of trustees to be a
8 member of any particular religion?
9 MR. BAXTER: Objection. Calls for a
10 legal conclusion.
11 Go ahead. Take time to get familiar
12 with the document if you need.
13 A. Yeah, and also if you would ask the
14 question again. The bylaws?
15 Q. Sure. Well, I will ask it in a more
16 general way. Do the Yeshiva University corporate
17 documents require members of the board of trustees
18 to be a member of any particular religion?
19 MR. BAXTER: If you know, go ahead.
20 A. Okay. So you want to know, we're just
21 talking about 7 now? We're not talking about 8?
22 You're talking about the board of trustees.
23 Q. Well, I originally asked you about the
24 bylaws, and then I asked a more general question,
25 which was does the university's corporate documents

Page 39

1 KALINSKY
2 require members of the board of trustees to be a
3 member of any particular religion?
4 MR. BAXTER: Objection. The document
5 speaks for itself.
6 But if you know, you can go ahead and
7 answer.
8 Q. Well, as the corporate representative of
9 Yeshiva University here, does Yeshiva University
10 require members of the board of trustees to be
11 members of any particular religion?
12 A. Okay. So I'm referring to the document
13 in number 4, "Trustees shall be nominated by the
14 Governance Committee for election by the board of
15 trustees at the board's annual meeting."
16 So my understanding of how the board
17 works both from general knowledge and from what the
18 document here says is that you would need to be
19 nominated by the governance committee of the board.
20 So the board is made up of let's say I
21 don't know exactly, 20 individuals who are part of
22 the board. Those individuals are obviously
23 committed to the mission of Yeshiva University and
24 interested in its growth, interested in the Jewish
25 community, know what Yeshiva is about in terms of

Page 40

1 KALINSKY
2 its religious orientation in terms of understanding
3 the dual curriculum especially on the undergraduate
4 level. They would be wanting to look, as we said
5 in some of these previous documents, looking to
6 bring Jewish leadership and Jewish knowledge forth,
7 and anyone who would be interested in that would be
8 part of the possibility of joining the board. They
9 would have to be completely in line with that
10 mission statement for their friends to want to join
11 this membership of Yeshiva that makes up Yeshiva
12 University.
13 Q. That's actually not responsive to my
14 question, so I'm just going to ask you my question
15 again, because I appreciate that you're describing
16 your, Rabbi Dr. Kolinsky's, views on how board
17 selection would go, but my question is really
18 focused in your role here as corporate
19 representative. So I'm just going to ask the
20 question again.
21 As the corporate representative of
22 Yeshiva University here, does Yeshiva University
23 require members of the board of trustees to be
24 members of any particular religion?
25 MR. BAXTER: Objection. The document

Pages 37 to 40

Page 41

1 KALINSKY
2 speaks for itself.
3 But you can go ahead and answer.
4 A. Right. So, speaking as the corporate
5 representative here, the board is made up of
6 members who are invested in Yeshiva University's
7 future, invested in its mission, invested in all of
8 its components.
9 It would be strange to me to assume that
10 someone who isn't completely aligned with that
11 mission and the Jewish people and understanding of
12 what the Yeshiva represents in terms of its
13 religious focus, to be part of the board.
14 Q. Is it required?
15 MR. BAXTER: Objection. Same
16 objections.
17 A. Again, the answer is that you need to be
18 brought in, so it's a strange question to say
19 what's required. It's required that you need to
20 be brought in. In order to be brought in, if we
21 had a club, if we had a swimming club, in order to
22 be part of the swimming club, you say, well, do you
23 have to be X, Y or Z.
24 Well, if there's 20 members who decide
25 who join the swimming club, they're going to bring

Page 42

1 KALINSKY
2 in people who are as like them into the swimming
3 club.
4 So the Yeshiva board is made up of like
5 members. It's perpetuated by a tradition for
6 decades and decades and decades, and that's how
7 they operate.
8 Q. So, with respect to the rules that guide
9 the operation of the corporation, is there any rule
10 that requires members of Yeshiva University's board
11 of trustees to be members of a particular religion?
12 MR. BAXTER: Asked and answered.
13 A. The requirements are to be brought in by
14 other board of trustees. The board of trustees
15 would only want to bring in like-minded people who
16 are invested in Yeshiva's mission.
17 Q. Is that written in this document?
18 A. Yes. "Trustees shall be nominated by
19 the Governance Committee for election by the board
20 of trustees."
21 So you would look around the table. You
22 would see who are the ones who are invested in
23 Yeshiva's -- in line with its mission, and that's
24 how they would elect additional board members.
25 Q. Let's go to Exhibit 8, please. So

Page 43

1 KALINSKY
2 Exhibit 8 is the amendment to the charter of 1967.
3 The first page is the actual stamped charter, which
4 is a bit difficult to read, and the second page is
5 the typed version of that charter.
6 A. Of 9 and 10?
7 Q. Correct. So let's start with the top
8 page of Exhibit 8.
9 MR. BAXTER: Objection as to
10 characterization of the evidence.
11 But you go ahead and review it.
12 Q. So for the first page of Exhibit 8, it's
13 very small.
14 A. Yeah.
15 Q. But --
16 A. You don't have a larger font?
17 Q. I don't. If you go down, well, do you
18 see that there are very small numerical paragraphs,
19 1, 2, 3, 4, 5, 6, 7, 8?
20 A. Yeah.
21 Q. Okay. Then, if you look at Exhibit 8,
22 I'm sorry. If you look at paragraph 8, it says,
23 "Persons of any religious denomination shall be
24 equally eligible."
25 A. Yes. You skipped a word I think.

Page 44

1 KALINSKY
2 Q. "Persons of every religious denomination
3 shall be equally eligible to offices and
4 appointments."
5 Is that part of the charter of Yeshiva
6 University, that statement?
7 MR. BAXTER: Objection. Calling for a
8 legal conclusion.
9 But go ahead.
10 A. You're reading the words correctly.
11 Q. So does reading that statement in the
12 charter of Yeshiva University help you to answer
13 the question of whether there's any requirement
14 that members of the board of trustees are members
15 of any particular religious denomination?
16 A. The way -- the document speaks for
17 itself. The way the board functions is I think
18 how I understand the board functions. We are
19 members of the board. There are 20 members. If
20 someone wants to be brought on, they have to be
21 brought on.
22 Q. Rabbi Dr. Kolinsky, you understand here
23 that you're testifying as a corporate
24 representative of Yeshiva University today?
25 A. Yes.

Pages 41 to 44

Page 45

1 KALINSKY
 2 Q. So I am going to ask you when I'm asking
 3 questions about whether Yeshiva University has
 4 certain policies or procedures to -- you're
 5 answering on behalf of the university.
 6 A. Yes.
 7 Q. So what I'm asking you right now is
 8 whether in your role as someone who's testifying on
 9 behalf of the corporate entity, Yeshiva University,
 10 whether there is a written requirement that any
 11 members of the board of trustees belong to a
 12 particular religion? That is the pending question.
 13 A. Okay. So the board doesn't have other
 14 than what you have, you have the documents. You
 15 have Exhibit 7, and you have Exhibit 8. That is
 16 what is written. The way the board operates, just
 17 like many things in Judaism, there's a passing of
 18 the baton. There's a tradition. There's a father
 19 to son. There's a grandfather to grandson, and
 20 that is how the board officially operates.
 21 Q. What is how the board officially
 22 operates?
 23 A. You would need to be brought on.
 24 Q. Okay, but I'm asking about the rules.
 25 I'm asking about what are the rules? What are the

Page 46

1 KALINSKY
 2 legal requirements?
 3 MR. BAXTER: Asked and answered.
 4 Q. And I'm asking you is there a legal
 5 requirement that members of the board of trustees
 6 be a member of a certain religious denomination?
 7 MR. BAXTER: Objection, calls for a
 8 legal conclusion.
 9 A. You're asking a legal question. I'm
 10 telling you how it operates.
 11 Q. You're the corporate representative.
 12 A. Correct.
 13 Q. And the topic that we are seeking
 14 testimony on is the facts forming the basis of
 15 Yeshiva University's assertion that it's a
 16 religious education corporation.
 17 A. Sure.
 18 Q. And so one of the questions that we need
 19 to get a clear answer to is whether the governance
 20 documents of the university require as a matter of
 21 law that members of the board of trustees belong to
 22 a particular religious denomination?
 23 MR. BAXTER: The document speaks for
 24 itself. Same objections.
 25 Q. I'm not asking for what the document

Page 47

1 KALINSKY
 2 speaks. I'm asking for the testimony of the
 3 Yeshiva University corporate representative. So
 4 we need to have a clear answer to that question.
 5 Should I ask it one more time just so you know what
 6 the pending question is?
 7 A. Sure.
 8 Q. Okay. Do the governance documents of
 9 the university require as a matter of law that
 10 members of the board of trustees belong to a
 11 particular religious denomination?
 12 MR. BAXTER: Same objections.
 13 A. The governance documents -- we read the
 14 governance documents. I don't think there's
 15 anything more to say in terms of what they say.
 16 Q. So does Yeshiva University require as a
 17 matter of law that members of the board of trustees
 18 belong to a particular religious denomination?
 19 A. The governance of the board works
 20 through how I've explained it three times, I think.
 21 Q. That's not the answer to my question.
 22 We'll have to stick with this question.
 23 MR. BAXTER: He already answered the
 24 question.
 25 MS. ROSENFELD: He has not. That's why

Page 48

1 KALINSKY
 2 we're struggling here.
 3 Q. So the reason that I gave you the
 4 documents is so that you have them in front of you,
 5 but I'm not asking you about what the documents
 6 say. I'm asking you does Yeshiva University
 7 require, Yeshiva University that you're testifying
 8 here on behalf of, does Yeshiva University require
 9 that members of the board of trustees belong to a
 10 particular religious denomination as a matter of
 11 policy?
 12 A. I don't know. Other than what I've
 13 said, I don't know if there is anything else I can
 14 add to that in terms of requirements of how it
 15 works.
 16 Q. I'm not clear on what your answer is.
 17 Is it required, or is it not required as a matter
 18 of what the governance documents say?
 19 A. It's required that the members of the
 20 board would think that you are a right fit to be on
 21 the board of the university.
 22 Q. But it's not required that, as we just
 23 read in Exhibit 8, it's not required that you
 24 belong to any religious denomination to be eligible
 25 for offices or appointments as a matter of law?

Pages 45 to 48

Page 49

1 KALINSKY
 2 A. To be eligible, correct. To be
 3 eligible, right. It says eligible. It doesn't say
 4 to be appointed. It says to be eligible.
 5 Q. It says, "Persons of every religious
 6 denomination shall be equally eligible to offices
 7 and appointments."
 8 A. Right.
 9 Q. Is that an article of Yeshiva
 10 University's charter?
 11 A. So this is correct. They are eligible.
 12 They're eligible.
 13 Q. Thank you. So are there any positions
 14 within the administration of Yeshiva University
 15 that are required to be filled as a matter of
 16 written policy by members of any particular
 17 religious denomination?
 18 MR. BAXTER: Objection as to form.
 19 Go ahead.
 20 A. Can you give me an example?
 21 Q. Sure. For example, the president of
 22 the university. Is there a written requirement
 23 anywhere that the president of the university be a
 24 member of any particular religious denomination?
 25 A. I'm not aware of a particular document.

Page 51

1 KALINSKY
 2 Q. So, again, I appreciate that that's your
 3 perspective, given your history, but what I'm
 4 asking for, as the corporate representative of
 5 Yeshiva University, are you aware of any written
 6 requirements that any positions in the
 7 administration of Yeshiva University be filled by
 8 persons of a certain religious denomination?
 9 MR. BAXTER: Asked and answered.
 10 A. Sure. Okay. Yeah. Again, I think
 11 this is another example. There's a tradition.
 12 There's how we do things, and then you're asking
 13 for where does it say a specific thing.
 14 So my answer is, being the corporate
 15 representative, not being Rabbi Yosef Kalinsky,
 16 being the corporate representative to understand
 17 that there is a rich history of over 100 years of
 18 the university that is taken into account when we
 19 make any of these decisions, so it might not be
 20 written on a document, but there is a clear
 21 understanding of what should be done and what
 22 shouldn't be done.
 23 Q. I appreciate that, but my question is
 24 limited to whether there is a written document that
 25 states that there's a requirement that positions in

Page 50

1 KALINSKY
 2 I haven't seen one, but the tradition of Yeshiva
 3 has always been that the president is at the very
 4 least a very strong-standing orthodox member of the
 5 Jewish tradition. The majority of our presidents
 6 have been rabbis.
 7 Some of them Rabbi doctors, but it would
 8 be, I think it would be absurd to think that
 9 someone who is not completely in line with our
 10 tradition to be the president of the university.
 11 Q. And is that requirement reduced to
 12 writing anywhere that you're aware of?
 13 A. I don't know where that would even be.
 14 No. I don't know where that is, but again the
 15 president is appointed by the board. The board are
 16 made up of members of people who are completely
 17 invested in Yeshiva's mission, and they would be
 18 the ones who would hire the university president.
 19 The president of the university is also
 20 the president of Rabbi Isaac Elchanan Theological
 21 Seminary. So that would play a role in terms of
 22 who is being hired as the president of the
 23 university. You would have to take that into
 24 account. He is also the president of the Rabbi
 25 Isaac Elchanan Theological Seminary.

Page 52

1 KALINSKY
 2 the administration of Yeshiva University be filled
 3 by persons of a certain religious denomination?
 4 A. I don't know.
 5 Q. So the same question with respect to
 6 written requirements. Are there any written
 7 requirements for students that they are required to
 8 participate in religious services?
 9 A. Are there any written requirements that
 10 students -- is "required" is the word?
 11 Q. Yes.
 12 A. We don't run the school or the Yeshiva
 13 in that way, not for undergraduates, not for
 14 students in the seminary. We don't have a
 15 document saying you are required. There are
 16 expectations. There is an understanding.
 17 Students when they apply to Yeshiva University they
 18 realize they're applying to Yeshiva University with
 19 a dual curriculum and the campus environment. We
 20 have services in every single academic and
 21 non-academic building throughout the day generally,
 22 but we don't force students. They're not
 23 five-years-old.
 24 Q. So there's no written requirement that
 25 students are required to participate in religious

Pages 49 to 52

Page 53

1 KALINSKY
 2 services. Is that correct?
 3 A. We do not have a written requirement.
 4 We have an environment that puts one -- you're
 5 self-selective.
 6 When you come to Yeshiva University,
 7 you're saying I want to be, I mean they're
 8 students, and you ask them at open house why do you
 9 want to come to this university? Because I want to
 10 be in this religious environment. I don't want to
 11 be forced to be religious. I want to feel I want
 12 to be religious. I want to be encouraged to be
 13 part of this religion. That's not the philosophy
 14 to force someone to come to services. It doesn't
 15 really do anything for them.
 16 Q. So are there any religious service,
 17 mandatory religious service requirement for
 18 faculty?
 19 A. It's the same answer. We don't. Out
 20 of maybe other religions or other schools have that
 21 practice. I'm not familiar of any higher level
 22 Yeshiva -- the highest Yeshivas in the world don't
 23 force their students to come to prayers or their
 24 faculty to come to prayers. They come to prayers,
 25 because that's why they're there. Otherwise, they

Page 54

1 KALINSKY
 2 would be on Wall Street.
 3 Q. So are there any written policies
 4 requiring mandating religious service attendance
 5 for any student, faculty or staff at Yeshiva
 6 University?
 7 A. Is that different from the previous
 8 question?
 9 Q. Well, I appreciate that you are trying
 10 to give full answers, but they are not actually
 11 responsive to my questions, and I'm looking at the
 12 transcript as you're testifying, so I do need to
 13 ask the question so that, in addition to the
 14 context that you want to give, we also have a
 15 specific answer to my question.
 16 A. Okay.
 17 Q. So my question is, are there any written
 18 policies mandating religious service attendance for
 19 any student, faculty or staff at Yeshiva
 20 University?
 21 MR. BAXTER: Asked and answered.
 22 But go ahead.
 23 A. We don't mandate religion. We create a
 24 fostering environment. We don't force. We don't
 25 coerce people who self-select to come to the

Page 55

1 KALINSKY
 2 university.
 3 Q. Does Yeshiva University ask its faculty
 4 to sign a statement affirming their religious
 5 beliefs?
 6 A. One more time.
 7 Q. Sure. Does Yeshiva University ask its
 8 faculty to sign a statement affirming their
 9 religious beliefs?
 10 A. They're faculty as a whole. No.
 11 Q. What about students? Are students
 12 required to sign any statement of religious belief
 13 by Yeshiva University?
 14 A. We recruit, and our feeder schools are
 15 coming from generally Jewish religious background.
 16 Again, we want the right fit for our students to be
 17 here, to be in the right environment.
 18 Q. Are students required to sign a
 19 statement of their religious beliefs by Yeshiva
 20 University?
 21 A. Not that I'm aware of.
 22 Q. Does Yeshiva University receive --
 23 withdrawn. Let's start somewhere else. What's
 24 the largest source of revenue to Yeshiva
 25 University?

Page 56

1 KALINSKY
 2 MR. BAXTER: Objection. Outside the
 3 scope.
 4 Go ahead and answer.
 5 A. I'm not sure whether it's tuition or
 6 donations.
 7 Q. Does Yeshiva University receive
 8 significant financial support from any religious
 9 entity?
 10 A. I'm not aware of major donations from
 11 outside individuals. That's typically where our
 12 donations would come from, from philanthropy.
 13 Q. Does Yeshiva University track -- well,
 14 withdrawn. Is there any requirement at Yeshiva
 15 University that funds raised must come from
 16 Jewish-affiliated sources?
 17 A. Is there a particular school you're
 18 asking?
 19 Q. No, just for the whole university. Is
 20 there any requirement that funds raised for Yeshiva
 21 University must come from Jewish-affiliated
 22 sources?
 23 A. We're a Jewish university. We're
 24 unabashedly Jewish. People who'd want to give
 25 money to us would most probably be Jewish, so I'm

Pages 53 to 56

Page 57

1 KALINSKY
 2 not sure.
 3 Q. Is there a requirement that the funds
 4 that Yeshiva raises come from Jewish-affiliated
 5 sources?
 6 A. You're asking if we would reject money
 7 from someone who's not Jewish who gave a donation
 8 to Yeshiva?
 9 Q. I'm not just talking about individuals.
 10 I'm talking about any funds. I'm saying is there
 11 any requirement that, when Yeshiva University
 12 brings in revenue, that that revenue must come from
 13 a Jewish-affiliated source?
 14 A. Only?
 15 Q. Correct.
 16 A. I don't think so.
 17 Q. Yeshiva University receives money from
 18 federal, state and city government, for example,
 19 correct?
 20 A. Correct.
 21 Q. And Yeshiva University receives money
 22 from private foundations, is that correct?
 23 A. Yeah. I assume so.
 24 Q. And Yeshiva doesn't track whether the
 25 source of its funds come from a Jewish or

Page 58

1 KALINSKY
 2 non-Jewish source, does it?
 3 A. I don't know.
 4 Q. Are you aware as you sit here today of
 5 whether Yeshiva University tracks whether the funds
 6 that it receives come from a Jewish or non-Jewish
 7 origin?
 8 A. I'm assuming there is an excel sheet
 9 somewhere of every single donation, whether it's a
 10 dollar to \$100 million. So I don't know. You
 11 could sort excel sheets and do lots of things. I'm
 12 not sure.
 13 Q. Of course, there's many excel sheets in
 14 the world, and my question is a little bit more
 15 limited. Does Yeshiva University track whether the
 16 funds that it receives come from a Jewish or
 17 non-Jewish origin?
 18 MR. BAXTER: Asked and answered.
 19 Go ahead.
 20 A. I don't know, but -- I don't know.
 21 Q. Is Yeshiva University controlled by a
 22 religious entity?
 23 MR. BAXTER: Objection to the extent it
 24 calls for a legal conclusion.
 25 But go ahead.

Page 59

1 KALINSKY
 2 A. Can you explain control.
 3 Q. Well, is there a religious entity that
 4 makes decisions, final decisions, about the
 5 operation of Yeshiva University?
 6 A. There are -- there is religious
 7 guidance. There is religious guidance. Of
 8 course. Yeah. The Yeshiva part of Yeshiva
 9 University is a very, very vibrant part of the
 10 university and that is definitely going to lead any
 11 decision made by the university.
 12 Q. So, just to go back to your question
 13 about when I asked is there -- is Yeshiva
 14 University controlled by a religious entity.
 15 So, when I say control, I mean is there
 16 a religious entity that has the final
 17 decision-making authority about how the university
 18 operates?
 19 MR. BAXTER: Objection to form.
 20 Go ahead.
 21 A. Okay. So you wouldn't use the word
 22 "influence"? You want to use the word "control"?
 23 Q. Well, I can ask you both questions.
 24 I'll ask you influence first, and then I will ask
 25 you control.

Page 60

1 KALINSKY
 2 A. Okay.
 3 Q. Do you think is there a religious entity
 4 that influences Yeshiva University, and if so,
 5 which one is it?
 6 A. Okay. So influence is I think a very
 7 good way to describe the decision-making. The
 8 decisions that are made by the university, again
 9 every university is making millions of decisions
 10 every day, but every decision that Yeshiva
 11 University makes is in the context of a Yeshiva
 12 University. Yeshiva has an undergraduate program
 13 of a dual program. Yeshiva that sits on the same
 14 campus as Rabbi Isaac Elchanan Theological
 15 Seminary. All of our campuses have kosher food.
 16 All of those things are taken into account when you
 17 ask about religion in terms of decision.
 18 So someone wouldn't just make a decision
 19 over to put non-kosher food in the vending machine.
 20 Right? So why is that there? Because we have a
 21 long history and tradition of how Yeshiva
 22 University operates, and the Roshei Yeshiva are
 23 very much connected to guiding the university's
 24 religious and spiritual direction, and, more than
 25 that guiding, holding onto their tradition of the

Pages 57 to 60

Page 61

1 KALINSKY
 2 university, and they are very large influencers on
 3 campus. Many of them have hundreds of students.
 4 Obviously a student wouldn't make a
 5 decision that would create a lot of stir amongst
 6 students. That's not something a university would
 7 like to do.
 8 So they're very heavily influencers on
 9 campus for our students. So, in other words, I'm
 10 trying to answer your question.
 11 Q. I appreciate that. I just want to stop
 12 for you one second, because I want to make sure I
 13 understand the phrase that you're using. So the
 14 Roshei Yeshiva, R-o-s-h-e-i, Yeshiva?
 15 A. Yes.
 16 Q. Are those the senior rabbis at RIETS?
 17 A. We have about 20 Roshei Yeshiva.
 18 There's no single -- the last Rosh High Yeshiva was
 19 Rabbi Lamm. We don't have a Rosh High Yeshiva.
 20 So it's more of a conglomerate of the
 21 senior Rosh Yeshiva, but there are junior Roshei
 22 Yeshiva as well, and they also have influence.
 23 Q. Okay, but what that phrase means is a
 24 group of --
 25 A. Leading Torah scholars, faculty members

Page 62

1 KALINSKY
 2 at the Yeshiva.
 3 Q. Meaning at RIETS?
 4 A. Both, meaning Roshei Yeshiva are
 5 integrated into both the Rabbi Isaac Elchanan
 6 Theological Seminary and the undergrad of Torah
 7 studies. I oversee Roshei Yeshiva. The Dean of
 8 RIETS also oversees Roshei Yeshiva. We have
 9 classes that the Roshei High Yeshiva teach and
 10 sitting next to each other is undergraduate and
 11 graduate students. In the Stone Beit Midrash, we
 12 have graduates and undergraduate students. They
 13 don't really separate the two.
 14 Q. Who is their employer?
 15 MR. BAXTER: Objection to form.
 16 Q. Who is the employer of the Roshei
 17 Yeshiva?
 18 A. I have some on my faculty. Yeshiva
 19 University is the employer of some of the Roshei
 20 Yeshiva, and some of them it's RIETS.
 21 Q. So there's some employed by Yeshiva
 22 University, and there's some employed by RIETS?
 23 A. Yes.
 24 Q. Okay. So, with respect to the question
 25 of a religious entity that influences Yeshiva

Page 63

1 KALINSKY
 2 University, for purposes of this deposition, you've
 3 described the influence of the Roshei Yeshiva on
 4 the university.
 5 A. Um-hum.
 6 Q. Now I want to ask you about control of
 7 the university's decision-making.
 8 Is there a religious entity or
 9 individual who controls the university's
 10 decision-making?
 11 MR. BAXTER: Objection to the extent it
 12 calls for a legal conclusion.
 13 Go ahead.
 14 A. Right, so --
 15 Q. Well, this was a distinction that you
 16 offered, right, influence versus control.
 17 A. Yeah. Right.
 18 Q. And we talked about influence. I'm now
 19 asking --
 20 A. So it's easier for me to answer
 21 influence, because I understand what it means to
 22 influence a decision.
 23 Q. Okay. So control means who has the --
 24 is there a last word on the decisions of the
 25 university that is made by any religious entity

Page 64

1 KALINSKY
 2 that you can identify?
 3 A. So the way control works is through
 4 influence, right? That's just the reality. The
 5 reality is the control works through influence,
 6 meaning let's just say the head of the PR
 7 department, Mr. Doron Stern, let's say he would
 8 want to run an ad that is antithetical to Torah and
 9 Torah values.
 10 Could he do that? He could. Would he
 11 get all -- would all the Roshei Yeshiva call him
 12 the next day and say how could you have done that,
 13 and they'll be on his throat and say you're not
 14 representing us, you're not representing the
 15 university? Yes.
 16 Therefore, will he not do it? Yes.
 17 Do they control him? It depends how you define the
 18 word "control." They definitely are very large
 19 influencers on all the decisions.
 20 Q. And is the influence of the Roshei
 21 Yeshiva documented in writing in terms of how that
 22 relationship over the corporate entity works?
 23 A. This is similar to I think the previous
 24 question. The influence is the reality. Yeah.
 25 Q. Okay. We have a long outline, and you

Pages 61 to 64

Page 65

1 KALINSKY
 2 can answer as much and as long as you want, but for
 3 some of these questions I think the question of
 4 whether something is documented in writing is
 5 really all I'm trying to get at, and the question
 6 is, is the influence of the Roshei Yeshiva that you
 7 just described set forth in writing anywhere in
 8 terms of how they --
 9 A. -- exert their control?
 10 Q. -- exert control over the corporate
 11 entity?
 12 A. I don't know. I don't know if there
 13 is. The facts are the reality in terms of how the
 14 university operates. The university operates with
 15 an understanding of our values. Our values come
 16 from the Torah. Our Torah is taught to us by
 17 Roshei Yeshiva. Therefore, Rosh Yeshiva have a
 18 great influence on the campus life.
 19 Q. But you don't know if there is any
 20 document that sets forth whether that relationship
 21 is a matter of governance, is that correct?
 22 A. Correct.
 23 Q. If that did exist, do you think you
 24 would be aware of it?
 25 A. Probably. I don't know.

Page 66

1 KALINSKY
 2 MR. BAXTER: We've been going about an
 3 hour and a half.
 4 MS. ROSENFELD: You want to take a
 5 break? Sure.
 6 (Recess taken)
 7 BY MS. ROSENFELD:
 8 Q. Did Yeshiva University recently dissolve
 9 its Jewish studies department?
 10 A. I don't have a direct answer to that
 11 question. I don't know if the right word is
 12 dissolve. That's why I'm -- was delaying my
 13 answer. There were some changes made with the
 14 Jewish studies department. I don't know if I would
 15 define them as dissolve. Maybe the newspaper said
 16 it, but I don't know if we would characterize that
 17 as dissolving. We still have --
 18 Let me answer correctly. We still have
 19 the same courses. We have Bible courses in the
 20 college. We have Jewish history courses. We have
 21 Talmud courses. We have Jewish philosophy courses.
 22 Those all exist.
 23 Q. So at one point Yeshiva University had a
 24 department called the Jewish studies department.
 25 Is that correct?

Page 67

1 KALINSKY
 2 A. There still exists the Beren Jewish
 3 studies department at the Beren campus. That is
 4 still a functioning department of Jewish studies.
 5 You're referring to the Wilf campus in your
 6 question?
 7 Q. Yes.
 8 A. So I don't -- I actually don't know
 9 exactly what it constitutes right now. All the
 10 faculty members are still there. All the courses
 11 are still taking place. I think it was some sort
 12 of an academic restructuring, but I don't know
 13 exactly. Facts on the ground I don't think the
 14 students have seen changes.
 15 Q. So, in the Yeshiva College Jewish
 16 studies department, the Jewish history class was
 17 moved into the history department. Are you aware
 18 of that?
 19 A. I'm not exactly sure. I deal with the
 20 Torah studies. I have relationships with the
 21 college. I do know that the Jewish history courses
 22 are still taking place. Whether they come out of
 23 the Jewish studies department or the history
 24 department I'm not exactly sure.
 25 Q. Are you aware that in -- Yeshiva College

Page 68

1 KALINSKY
 2 in lieu of the Jewish studies department created a
 3 Bible, Hebrew and Near Eastern studies department?
 4 A. That sounds correct. Again, I don't
 5 know exactly the terminology. Do you have
 6 documentation that would support that?
 7 Q. I'm just asking you what you know right
 8 now.
 9 A. I don't know for sure what happened.
 10 Q. Did Yeshiva College recently eliminate
 11 in-person Hebrew instruction?
 12 A. No.
 13 Q. There still is within --
 14 A. This morning there was face-to-face
 15 Hebrew instruction.
 16 Q. Okay, and can you tell me what does the
 17 phrase "academic Jewish studies" means?
 18 A. Academic Jewish studies refers to an
 19 approach to Jewish studies that includes the
 20 traditional approach to study of text, but also
 21 brings in other academic approaches, literary
 22 approaches that one would find in other subjects
 23 that would not be considered classical study of the
 24 text.
 25 Q. Does Yeshiva University offer academic

Pages 65 to 68

Page 69

1 KALINSKY
 2 Jewish studies?
 3 A. Of course. Yes.
 4 Q. And does Yeshiva University have a core
 5 curriculum?
 6 A. The curriculum is in the hands of the
 7 faculty. Curriculums are updated. They change
 8 from time to time from year to year. I believe
 9 currently for the academic year we have a core
 10 curriculum in Yeshiva College. I don't know if Sy
 11 Syms School of Business has a core curriculum.
 12 Q. What is your understanding of the
 13 components of the core curriculum for Yeshiva
 14 College?
 15 A. It's probably clearly stated in the
 16 catalogue and the website, so I'll try to give you
 17 the best of how I'm trying to reproduce what it
 18 says there.
 19 Q. Well, would you prefer that I give you a
 20 document to refer to?
 21 A. Sure.
 22 Q. Okay.
 23 (Plaintiffs' Exhibit 9, Document Bates
 24 stamped YU 02560 through 2589 and YU 02747
 25 through YU 02752, was so marked for

Page 70

1 KALINSKY
 2 identification, as of this date.)
 3 Q. For the record, this is Exhibit 9, and
 4 this is selected pages from the Self-Study dated
 5 March 5, 2012 prepared by Yeshiva University and
 6 submitted to the Middle States Association of
 7 Colleges and Schools. The Bates it contains are
 8 YU 02560 through 2589, and YU 02747 through
 9 YU 02752.
 10 A. This is a continuation, or it's a
 11 separate document?
 12 Q. It's a single exhibit.
 13 A. Okay.
 14 Q. So, if you would turn, please, to the
 15 document that has on the bottom of it, on the
 16 bottom right, YU 02749 towards the back of the
 17 exhibit.
 18 A. Okay.
 19 Q. My question is whether this list 1 to 8
 20 continues on to the next page. Are these still
 21 the elements of the general education core
 22 curriculum?
 23 A. Just give me a few minutes. Okay?
 24 Q. Please take all the time you want.
 25 A. Thank you.

Page 71

1 KALINSKY
 2 MR. BAXTER: Do you want to restate the
 3 question? I don't know if there was a
 4 question pending.
 5 Q. My question is whether these are still
 6 the elements of the general education core
 7 curriculum?
 8 A. I'm not aware that anything has changed
 9 in the core curriculum since 2012.
 10 Q. If you could please turn back one page
 11 to 2747.
 12 A. Okay.
 13 Q. I'm going to ask you a few questions
 14 about the middle paragraph about academic Jewish
 15 studies, but take your time.
 16 A. Yeah. Let me catch up here. Should I
 17 read the bottom paragraph?
 18 Q. I'll tell you my question, and then you
 19 can go back to the document as you decide is
 20 appropriate.
 21 There is a major at Yeshiva University
 22 called Jewish studies, correct?
 23 A. Correct.
 24 (Plaintiffs' Exhibit 10, Pages from
 25 Yeshiva University Career Center Class of

Page 72

1 KALINSKY
 2 2018 Post-Graduation Destination Survey, was
 3 so marked for identification, as of this
 4 date.)
 5 Q. And Jewish studies is one of more than
 6 10 or 15 or 20 majors that an undergraduate student
 7 could choose, is that correct?
 8 A. Yes. In Yeshiva College, it's one of
 9 the majors.
 10 Q. So, looking at what I just handed you
 11 which is marked Exhibit 10, which is a document
 12 that is from the Yeshiva University Career Center
 13 Class of 2018 Post-Graduation Destination Survey,
 14 please turn to the second page. Do you see there
 15 is a list of majors and concentrations?
 16 A. Yes.
 17 Q. Actually the third page, you see that
 18 there's a list of majors and concentrations?
 19 A. Yes.
 20 Q. And Jewish studies is one of those
 21 majors, is that correct?
 22 A. Yes.
 23 Q. So, on the first page of Exhibit 10, it
 24 states that there is a post-graduation survey of
 25 579 undergraduate students. Do you see that?

Pages 69 to 72

Page 73

1 KALINSKY
 2 A. Yeah, I do.
 3 Q. Are you familiar with this
 4 post-graduation destination survey?
 5 A. I may have seen it.
 6 Q. So it says 579 students were surveyed,
 7 and then it gives the breakdown by concentration of
 8 each student. Do you see that?
 9 A. So those numbers equal the 579?
 10 Q. I believe so.
 11 MR. BAXTER: I don't think that would
 12 add up.
 13 MS. ROSENFELD: Eric, these are majors
 14 concentrations reporting at least ten
 15 instances, and so it's 463 students I think
 16 is the denominator.
 17 MR. BAXTER: Say that one more time.
 18 MS. ROSENFELD: Sure. So, for Exhibit
 19 10, if you look on the front, they have 579
 20 surveyed, and then they included results for
 21 463 students, and then this page is a list
 22 of any major that had at least ten students
 23 in it. So I don't think we will be able to
 24 get an exact percentage, which is fine for
 25 purposes of my question.

Page 75

1 KALINSKY
 2 Q. And it does not require students to wear
 3 yarmulkes, correct?
 4 A. The dress code, the current dress code,
 5 I do not believe has a particular bullet point
 6 related to men wearing yarmulkes.
 7 Q. So, in other words, there's nothing in
 8 the current dress code that addresses yarmulkes.
 9 Is that correct?
 10 A. The current dress code does not speak
 11 directly to -- do you have it in front of you?
 12 That would be helpful.
 13 Q. Sure.
 14 A. I'm trying to remember exactly what I
 15 said there.
 16 (Plaintiffs' Exhibit 11, Yeshiva
 17 University Undergraduate Dress Code, was so
 18 marked for identification, as of this date.)
 19 Q. You have Exhibit 11 in front of you,
 20 Yeshiva University Undergraduate Dress Code.
 21 Would you agree there's nothing in the Yeshiva
 22 University undergraduate dress code that requires
 23 students to wear yarmulkes?
 24 MR. BAXTER: Objection as to the lack of
 25 foundation.

Page 74

1 KALINSKY
 2 Q. So, according to Exhibit 10, there was
 3 14 students in this class who majored in Jewish
 4 studies who responded to the survey. Is that
 5 right?
 6 MR. BAXTER: I'll just have a running
 7 objection as to the lack of foundation, but
 8 you can answer to the best you know.
 9 A. That's what it looks like from the
 10 document.
 11 Q. Okay. So is this consistent with your
 12 understanding that less than 5 percent of students
 13 have an academic major of Jewish studies?
 14 A. I can't speak to the percentage.
 15 Q. Well, you can set aside the document.
 16 Just in your experience as an administrator and
 17 Dean at Yeshiva University, does it sound correct
 18 to you that approximately 5 percent of students
 19 major in Jewish studies from the different academic
 20 majors available?
 21 A. So that wouldn't surprise me.
 22 Q. Yeshiva University has a -- you can set
 23 that aside. Yeshiva University has an
 24 undergraduate dress code, correct?
 25 A. Yes.

Page 76

1 KALINSKY
 2 But you can go ahead.
 3 A. I would answer the particular curtness
 4 of this document doesn't exemplify the
 5 institution's desire and expectations for students
 6 in terms of their full dress code.
 7 Q. This is the written Yeshiva University
 8 undergraduate dress code, correct?
 9 A. This is what it -- I believe that's
 10 correct. I don't know of another iteration of
 11 this dress code.
 12 Q. Okay. You can set that aside, please.
 13 Are there any requirements that undergraduate
 14 students at Yeshiva University keep kosher?
 15 A. Everything on campus that is served by
 16 the university is super kosher. Everyone should
 17 be able to feel comfortable to eat at the
 18 university. Anywhere where there is any public
 19 areas are expected to be kosher. We do have
 20 employees on campus. We do not tell employees that
 21 they cannot bring any nonkosher item. There needs
 22 to be a sensitivity to the campus environment and
 23 understanding that everything on campus has to be
 24 kosher in terms of the majority of those that are
 25 on campus do eat kosher.

Pages 73 to 76

Page 77

1 KALINSKY
2 Q. Is there any requirement that
3 undergraduate students at Yeshiva University keep
4 kosher?
5 A. The students that come to Yeshiva
6 University are screened to be part of the
7 community. So we enforce our policies in terms of
8 having an inviting religious environment that
9 encourages students to eat kosher. That is
10 definitely what we would want them to do, but we do
11 not force our students in a certain -- in terms of
12 what they would be eating or not.
13 Q. Is there any written requirement that
14 says that students must keep kosher?
15 A. Students need to keep kosher when
16 they're in the public dining areas. There are
17 signs. There is signage if you're walking into a
18 dining room, before walking into any of the food
19 courts I believe on both campuses, only kosher food
20 can be brought in, and we encourage all of our
21 students to keep kosher at all times. That is our
22 policy.
23 Q. So it's encouraged, but it's not
24 required. Is that correct?
25 A. Even more than encouraged. It's

Page 78

1 KALINSKY
2 expected. It's expected is probably a better word
3 than encourage. It's encouraged and expected that
4 a student coming to Yeshiva University would be
5 keeping kosher.
6 Q. Is there a document that sets out that
7 expectation for undergraduate students?
8 MR. BAXTER: Asked and answered.
9 But go ahead.
10 MS. ROSENFELD: I didn't ask that, and I
11 certainly didn't get an answer to it.
12 A. The kosher aspect of a campus is run
13 through how our religious comport and our religious
14 expectations are for students in terms of how
15 everything that is served is kosher on campus.
16 That's how the rule is expected and is laid out in
17 terms of the university.
18 Q. So there is not a written document that
19 sets out the expectation for undergraduate students
20 about keeping kosher?
21 A. I don't know if there's a document.
22 Again, what I do know is, in terms of recruitment,
23 we would talk to students, hey, if you're coming to
24 Yeshiva, remember, this is a kosher campus. We
25 keep shabbat on campus. We're expecting you to be

Page 79

1 KALINSKY
2 part of this environment. We want you to grow in
3 your religiosity on campus. That's where it would
4 be explained I think to a student in terms of the
5 interview process that you know when you're coming
6 here we're assuming you are going to be keeping
7 kosher.
8 Q. And are those messages as part of the
9 recruitment to undergraduate students in writing
10 anywhere?
11 A. I don't know.
12 Q. What about graduate students? Are
13 graduate students required or expected to keep
14 kosher?
15 A. Our graduate students are a little bit
16 different in nature. There are students that don't
17 keep kosher in the graduate schools. We would --
18 most -- none of them -- not none of them I
19 shouldn't say. Most of them don't live on campus,
20 but, if they would be walking into campus or they
21 would be eating in a food court or whatever it is,
22 they would -- it would be expected that they would
23 be eating kosher there.
24 Q. But are graduate students expected to
25 keep kosher in the same way that you just described

Page 80

1 KALINSKY
2 the expectations for undergraduates?
3 A. No.
4 Q. What about religious services? Are
5 graduate students expected to attend religious
6 services?
7 A. Our graduate schools are very different.
8 If they were in the Rabbi -- yes, even going back
9 on your previous question, I should probably
10 restate. If there was a student in the Rabbi Isaac
11 Elchanan Theological Seminary, I think we would
12 expect them to keep kosher. I don't know for
13 sure, but perhaps even in the Azireli School of
14 Jewish Education in the Bernard Revel School of
15 Judaic Studies I think those expectations would be
16 different than someone who was in the Ferkauf
17 Graduate School in terms of what they're studying
18 and the environment that they're in. Each school
19 has a little bit different environment.
20 Q. Okay. Are there any written
21 requirements that you are aware of that Yeshiva
22 University promulgates for graduate students about
23 religious observance?
24 A. The observance is done through the
25 environment and the sensitivity for the

Pages 77 to 80

Page 81

1 KALINSKY
 2 environment. I don't know. I'm not sure if every
 3 single document that every single graduate school
 4 would be sending out. I don't know.
 5 Q. Well, are you aware of any documents
 6 from any graduate school of Yeshiva University that
 7 address requirements or expectations for their
 8 students to attend religious services other than
 9 RIETS, the affiliate?
 10 A. I don't know if RIETS has a document.
 11 That's not how it works.
 12 Q. Okay. That's my question. Are you
 13 aware of any documents from any graduate school
 14 that conveys the requirements?
 15 A. I believe the expectations are on the
 16 way in when we express to our students what the
 17 school is about. Once they're in, I don't think
 18 there is a -- I'm not aware that there is a
 19 further, oh, you're in the Ferkauf Graduate School.
 20 Make sure you are eating kosher in your dormitory
 21 room.
 22 Q. Does Yeshiva University require its
 23 faculty to keep kosher?
 24 A. Not all of the faculty is Jewish. So
 25 we wouldn't expect them to be in kosher

Page 82

1 KALINSKY
 2 necessarily, but, again, if they're in the
 3 cafeteria, if they're in a public space, if they
 4 were meeting with a student, we would expect them
 5 to be eating kosher and definitely to be sensitive.
 6 The faculty and the staff should all be
 7 understanding and sensitive and aware of -- the
 8 human resource department has -- they do have
 9 resources about what kashrut is, what Shabbos is.
 10 They have information about that for faculty and
 11 staff, what is a shared kitchenette, how that's
 12 supposed to be understood, the sensitivity for
 13 those.
 14 Q. We were, before we took a short break,
 15 you were testifying about the Roshei Yeshiva.
 16 A. Um-hum.
 17 Q. Are any of the Roshei Yeshiva members of
 18 the board of trustees?
 19 A. Not that I'm aware of. Members of the
 20 Roshei Yeshiva. In the past, I would probably say
 21 that Rabbi Lamm was a Roshei Yeshiva, and he was a
 22 member of the board of trustees. I think that
 23 would be correct.
 24 Q. Any members of the board of trustees
 25 today that are also Roshei Yeshiva?

Page 83

1 KALINSKY
 2 A. With that title, I don't know.
 3 (Plaintiffs' Exhibit 12, List of current
 4 board of trustees from Yeshiva University
 5 website, was so marked for identification,
 6 as of this date.)
 7 Q. So we handed you what has been marked as
 8 Exhibit 12.
 9 A. Okay.
 10 Q. Which is a list of the current board of
 11 trustees from the Yeshiva University website. Are
 12 any of the current board of trustees members Roshei
 13 Yeshiva?
 14 A. Give me a second, please. This was
 15 just updated. I think there was some voting that
 16 went on recently. None of these names are
 17 employed as a Rosh High Yeshiva.
 18 Q. You can set that aside. Thank you. Is
 19 there a dress code in the graduate schools?
 20 A. I don't know. There's definitely an
 21 understanding of being sensitive to the campus and
 22 to the classmates and the environment. That I
 23 would assume for sure is the case.
 24 Q. So does Yeshiva College have a career
 25 center?

Page 84

1 KALINSKY
 2 A. The university has a career center. I
 3 don't know if Yeshiva College has their own career
 4 center. Maybe they have specific guidance
 5 counselors in the career center that focus on
 6 Yeshiva College students and graduates, but I don't
 7 think the entity is called Yeshiva College Career
 8 Center.
 9 Q. Do you know how many people, how many
 10 full-time staff members the career center has?
 11 A. It's growing. They just got an
 12 endowment for money, and they just hired like five
 13 people this year, so I would only know if you went
 14 to the website the exact number.
 15 Q. You don't have any general sense of the
 16 baseline number of people who work there?
 17 A. Ten.
 18 Q. And is one of the purposes of the career
 19 center to connect students to prospective
 20 employers?
 21 A. Sure.
 22 Q. Do employers come to campus to recruit
 23 students ever?
 24 A. Pre-COVID, definitely. We have nights
 25 for accountants. We've seen other corporate

Pages 81 to 84

Page 85

1 KALINSKY
 2 entities come to campus.
 3 Q. So we're going to go to topic 2, which
 4 is "The evolution of the Yeshiva University's
 5 corporate status over time."
 6 A. Um-hum.
 7 Q. And so we looked at the Yeshiva
 8 University amendment to its charter from 1967,
 9 correct? That was Exhibit --
 10 A. 8.
 11 Q. 8, and Yeshiva then amended its charter
 12 again in 1969. Are you aware of that?
 13 MR. BAXTER: Objection to the lack of
 14 foundation.
 15 A. If you had documentation, it would help
 16 refresh. There have been many amendments, so hard
 17 to know which one was the '69.
 18 Q. Sure. So the 1967 amendment that we
 19 looked at, would you agree that that was the
 20 amendment that separated RIETS from Yeshiva
 21 University and created RIETS as an affiliate and
 22 removed the seminary-related degrees from Yeshiva
 23 University and put them in the RIETS affiliate?
 24 MR. BAXTER: Objection as to the lack of
 25 foundation. The documents speak for

Page 86

1 KALINSKY
 2 themselves.
 3 If you remember, you can answer.
 4 A. I don't know if I can remember offhand
 5 to all the facets of the question.
 6 Q. Okay. I'll break it down a bit. There
 7 came a time when Yeshiva University separated
 8 formally from RIETS, and RIETS became an affiliate
 9 of the university. Would you agree?
 10 A. Yes.
 11 Q. And that occurred in 1967? Are you
 12 aware of that?
 13 MR. BAXTER: Objection as to the lack of
 14 foundation.
 15 But you can answer if you know.
 16 A. If you can point me to the line, that
 17 would be helpful.
 18 Q. Okay. If you go to the typewritten
 19 document, which is the second page of Exhibit 8.
 20 A. Okay. Yes.
 21 Q. Just so you know, if you look at the
 22 first page of Exhibit 8, you can see it says on the
 23 bottom right-hand corner "adopted December 15,
 24 1967."
 25 Do you see that?

Page 87

1 KALINSKY
 2 A. I do see that.
 3 Q. And then, if you flip to the next page,
 4 it says, "adopted December 15, 1967."
 5 A. I don't have that.
 6 MR. BAXTER: I'm not sure we have the
 7 same pages.
 8 A. This is my second page. Oh. There's
 9 another page.
 10 Q. Right. It is all double-sided.
 11 MR. BAXTER: We don't have -- our
 12 Exhibit 8 is not the same.
 13 THE WITNESS: Yes. Correct.
 14 MR. BAXTER: I have pages 1 and 2.
 15 MS. SMITH: I have 5 and 6.
 16 Q. We'll keep on while Max is doing that.
 17 Are you aware just without looking at documents
 18 that there came a time when there was a legal
 19 separation between Yeshiva University and RIETS?
 20 A. Yes.
 21 Q. Okay, and are you aware without looking
 22 at documents generally that as part of that
 23 separation the divinity degrees were awarded by
 24 RIETS, and the remaining degrees were awarded by
 25 Yeshiva University? Is that your understanding?

Page 88

1 KALINSKY
 2 A. Again, I would like to see the document,
 3 but there were some degrees that, because of the
 4 nature of the curriculum and those degrees, that
 5 they were being taught in the seminary, and they
 6 weren't being taught in the university part.
 7 Q. What's your understanding of why Yeshiva
 8 University separated legally in this manner that we
 9 just discussed from RIETS in 1967?
 10 MR. BAXTER: Objection to the extent it
 11 mischaracterizes the evidence. I don't
 12 think we have the dates right and to the
 13 extent it calls for a legal conclusion.
 14 But you go ahead and answer.
 15 A. I'm not sure.
 16 Q. You don't know?
 17 A. I'm not sure.
 18 Q. So one of our topics today is the
 19 evolution of Yeshiva University's corporate status
 20 over time from a membership corporation to an
 21 educational corporation to a "religious
 22 corporation."
 23 Are you able to explain as part of that
 24 your understanding of why the seminary portion of
 25 Yeshiva University was made into an affiliate of

Pages 85 to 88

Page 89

1 KALINSKY
2 the university at a certain point?
3 A. That component of that sentence, I'm not
4 sure. We can talk about evolution. We can talk
5 about religious corporation.
6 Q. Well, my question is more specific.
7 It's really why did Yeshiva University create RIETS
8 as a separate affiliate?
9 MR. BAXTER: Same objection.
10 Q. Can you answer that?
11 A. I don't know. I don't know. That
12 decision was made many decades ago.
13 Q. You're aware that Yeshiva University
14 amended its charter from being a membership
15 corporation to an educational corporation, correct?
16 A. Yes.
17 Q. And do you know why that decision was
18 made?
19 MR. BAXTER: Same objections.
20 MS. ROSENFELD: This is the core topic
21 of the notice, Eric. I'm not sure what the
22 objection is. I'm asking him why Yeshiva's
23 corporate status evolved from being a
24 membership corporation to an educational
25 corporation.

Page 90

1 KALINSKY
2 MR. BAXTER: And he says he doesn't know
3 why. The topic is about the evolution.
4 He's testified he knows the dates when it
5 changed. He may not know the reasons why.
6 MS. ROSENFELD: Okay. That's the only
7 thing we're here to discuss. So, if he
8 doesn't know that, that's going to be
9 difficult.
10 Q. But do you know why Yeshiva University
11 evolved from a membership corporation to an
12 educational corporation?
13 A. I think that was a legal decision. I
14 don't know. Which year is that are you referring
15 to? You want to go back to this and hold off on
16 what you're asking right now?
17 Q. There's no pending question for you
18 right now.
19 A. Okay. I'm going to run to the restroom
20 for about 60 seconds if that's okay.
21 MS. ROSENFELD: Sure. That's fine.
22 MR. BAXTER: Off the record.
23 (Recess taken)
24 BY MS. ROSENFELD:
25 Q. So the question that I was asking was

Page 91

1 KALINSKY
2 why Yeshiva University evolved from being a
3 membership corporation to an educational
4 corporation, and I believe you said before we took
5 a break that you think it was a legal decision.
6 Do you have any other information about why that
7 change was made?
8 MR. BAXTER: I instruct the witness not
9 to speculate.
10 If you've talked to someone or gained
11 knowledge or if you have personal knowledge
12 other than talking to your attorneys, you
13 may answer the question.
14 A. No. I don't know. I don't know the
15 difference between membership to an education -- I
16 know what an education corporation is. That we
17 are. It would make sense for a university to be an
18 educational corporation.
19 Q. Okay. So let's look at this 1967
20 document, which is Exhibit 8, which is the charter
21 amendment.
22 So just to direct your attention,
23 please, just to the page that is marked PL 000010.
24 A. Yeah.
25 MR. BAXTER: Let me just note for the

Page 92

1 KALINSKY
2 record, this appears to be the typed out
3 version of the original document, but we
4 haven't had a chance to compare word for
5 word, but we will, we understand the
6 premises under which you operate.
7 Q. Sure, and, just for the record, PL
8 000010 through 15 are documents that we obtained
9 via subpoena from the New York State Education
10 department and previously produced to defendants
11 with these Bates stamp marks, and it is our
12 understanding that PL 10 to 15 represent the
13 typed-out version of the charter that is page 1 of
14 Exhibit 8.
15 So, with respect to page 10 of this
16 Exhibit 8, paragraph 1 says, "This corporation
17 incorporated as the Rabbi Isaac Elchanan
18 Theological Seminary Association under the
19 membership corporation law of the State of New York
20 on March 20, 1897, the name of which was
21 subsequently changed by the Regents of the
22 University of the State of New York to Yeshiva
23 University is hereby continued as an educational
24 corporation under the education law of the State of
25 New York and with all of its previous powers and

Pages 89 to 92

Page 93

1 KALINSKY
2 privileges as herein restated or modified."
3 Do you see that?
4 A. Yes.
5 Q. So is it correct that Yeshiva University
6 changed its corporate status from a membership
7 corporation to an educational corporation under the
8 education law in 1967?
9 MR. BAXTER: Objection to the extent it
10 calls for a legal conclusion, and the
11 document speaks for itself.
12 But you can answer.
13 A. Yes. Correct. We continued as an
14 educational corporation, so we had a status. That
15 status continued to the educational corporation.
16 Q. Okay, and if you go to paragraph 9,
17 please, which is on page 12, it says that "Yeshiva
18 University is and continues to be organized and
19 operated exclusively for educational purposes" as
20 the first phrase of that sentence. Do you see
21 that?
22 A. I do.
23 MR. BAXTER: Go ahead and read the whole
24 paragraph.
25 THE WITNESS: Yeah.

Page 95

1 KALINSKY
2 go to the very last page, please.
3 A. Can you just -- what am I looking at?
4 Q. I'm orienting you to that by starting at
5 the last page to give you the date.
6 A. Great.
7 Q. So this document is signed by Samuel
8 Belkin. Is he the former president of Yeshiva
9 University?
10 A. Yes, he was.
11 Q. That document is dated October 9, 1969.
12 Do you see that?
13 A. Yes.
14 Q. Okay, and if you can go back to the
15 first page, so this is a petition of Yeshiva
16 University to amend its charter, and you'll see
17 that it refers to Exhibit 12 that we just looked
18 at, the 1967 charter amendment?
19 MR. BAXTER: Where is that?
20 MS. ROSENFELD: Paragraph second.
21 Q. It says, "That annexed hereto and marked
22 Exhibit A is a copy of the amended and restated
23 certificate of incorporation of said corporation,
24 which was duly granted on December 15, 1967 by the
25 Board of Regents."

Page 94

1 KALINSKY
2 MS. ROSENFELD: Well, I'm not asking you
3 any question about it, but you're welcome to
4 read it.
5 Q. And then it also describes in paragraph
6 10 which degrees that Yeshiva University is now
7 authorized to confer. Do you see that?
8 A. Give me a few seconds here. I'm sorry.
9 Am I answering a question?
10 Q. Yeah. The question is just do you see
11 where this document says that under the amended
12 charter, Yeshiva University is now authorized to
13 confer the degrees that are listed in the document?
14 A. Right. Including Yeshiva University
15 will be conferring a degree of doctor of divinity,
16 of religious education, a master of religious
17 education, those degrees as part of Yeshiva
18 University.
19 Q. Right. Do you see that?
20 A. I do see that.
21 (Plaintiffs' Exhibit 13, Petition dated
22 October 9, 1969 of Yeshiva University to
23 amend charter, was so marked for
24 identification, as of this date.)
25 Q. What we've marked as Exhibit 13 if you

Page 96

1 KALINSKY
2 So this document 1969 comes after the
3 1967 document that we just looked at that created
4 Yeshiva University as an educational corporation.
5 I'm just orienting you. There's no question.
6 A. Thank you.
7 Q. So let's read, if you turn to the second
8 page, please, you will see the paragraph that says
9 "Third."
10 A. Um-hum.
11 Q. So this is Third, Fourth and Fifth.
12 A. I don't know what Third said.
13 Q. So --
14 A. That's what I'm trying to read. I'm
15 not sure.
16 Q. You can read the whole document. I'll
17 summarize for you as you're reading it, just to
18 orient you that 3, 4 and 5 are explaining what
19 degrees the university is authorized to confer, and
20 then at the Sixth paragraph it says, "That your
21 petitioner does show that it wishes in addition to
22 the foregoing, to amend the said Certificate of
23 Incorporation by eliminating therefrom the
24 degrees," and then it lists certain degrees. Do
25 you see that?

Pages 93 to 96

Page 97

1 KALINSKY
 2 A. Um-hum. Yes.
 3 Q. So was the ability to confer the degrees
 4 listed in this paragraph eliminated from Yeshiva
 5 University's charter in 1969?
 6 MR. BAXTER: Objection to the extent it
 7 calls for a legal conclusion, and the
 8 document speaks for itself.
 9 You can answer if you know.
 10 A. I'm catching up, but that seems to be
 11 what number Sixth says.
 12 Q. Okay. Do you see then Seventh says
 13 "That your petitioner desires to effectuate the
 14 foregoing amendment to its charter consistent with
 15 its present corporate organization and operations.
 16 In its petition dated November 6, 1967 to the Board
 17 of Regents to amend and restate its charter as an
 18 educational corporation," and then actually, Rabbi
 19 Dr. Kalinsky, if you can just read pages 4 and 5 to
 20 yourself and let me know when you've had a chance.
 21 A. Can I ask a question on page 3?
 22 Q. Sure.
 23 A. Are we saying that these were eliminated
 24 and placed elsewhere, or they were completely
 25 eliminated?

Page 98

1 KALINSKY
 2 Q. You know, it's a funny device, but I
 3 can't answer your question, so, if you could just
 4 read the document, and if you want to take a break
 5 and talk to your attorney about it, I don't mind,
 6 but I can't really explain the document to you in
 7 that way.
 8 A. Okay.
 9 Q. And, actually, if you can just please
 10 read to the end of the top line of page 6, please.
 11 It ends with the words "higher education."
 12 Have you had a chance to read those two
 13 pages?
 14 A. Yes, I did.
 15 Q. So is it correct that in 1969 the
 16 ordination and other degrees related to Hebrew
 17 literature and religious education degrees were
 18 eliminated from Yeshiva University's charter and
 19 moved to the separate charter of RIETS?
 20 MR. BAXTER: Objection to lack of
 21 foundation and calls for a legal conclusion.
 22 The document speaks for itself.
 23 But if you know, you can answer.
 24 A. I believe that's what it says.
 25 Q. And do you know why the ordination and

Page 99

1 KALINSKY
 2 Hebrew literature and religious education degrees
 3 were eliminated from Yeshiva's charter and moved to
 4 RIETS in 1969?
 5 MR. BAXTER: Objection, and I counsel
 6 the witness not to speculate or to speak on
 7 anything you may have learned from counsel,
 8 but, if you have personal knowledge or have
 9 spoken to anyone else at Yeshiva University
 10 other than your counsel, you can testify to
 11 that knowledge.
 12 A. I don't know.
 13 Q. Today, RIETS issues -- RIETS has the
 14 authority to ordain rabbis, is that correct?
 15 A. Yes.
 16 Q. And the ordination degree is called
 17 what?
 18 A. Semikha. S-e-m-i-k-h-a would be one way
 19 of spelling it.
 20 Q. Thank you. Is that the title of the
 21 certificate of ordination that one gets to become a
 22 Rabbi?
 23 A. When one becomes a Rabbi from RIETS,
 24 you're awarded the Hebrew documents. It's called
 25 semikha. It's all in Hebrew. There is a way I

Page 100

1 KALINSKY
 2 believe of obtaining an English translation of
 3 that. Sometimes a student wants to show that he
 4 has another degree, he's ordained, and not everyone
 5 is able to read the Hebrew ordination.
 6 Q. And that degree is awarded by RIETS,
 7 correct?
 8 A. RIETS ordains its students. We had 150
 9 students ordained a few weeks ago.
 10 Q. Congratulations, and so in this document
 11 where the separation of the ordination degrees
 12 occurred in 1969, that's consistent with how the
 13 university operates today in the sense that Yeshiva
 14 University does not issue the semikha. It comes
 15 from RIETS. Is that correct?
 16 A. The semikha ordination is issued by the
 17 Rabbi Isaac Elchanan Theological Seminary. I
 18 believe that these --
 19 MR. BAXTER: I don't think there's a
 20 pending question.
 21 THE WITNESS: Okay. Fine.
 22 Q. Okay, and it also -- this document
 23 states that the changes described in the document
 24 are to clarify the corporate status of the
 25 university as a nondenominational institution of

Pages 97 to 100

Page 101

1 KALINSKY
 2 higher education. Do you see that?
 3 That's on the last two sentences of page
 4 5 and the first of page 6?
 5 A. I see that. Yes.
 6 Q. Okay. Is Yeshiva University a
 7 non-denominational institution of higher education?
 8 MR. BAXTER: Objection to the extent it
 9 calls for a legal conclusion.
 10 But you can answer the question.
 11 MS. ROSENFELD: Eric, I don't think
 12 that's a proper objection in this deposition
 13 where the topic is the evolution of Yeshiva
 14 University's corporate status over time from
 15 a membership corporation to an educational
 16 corporation to a religious corporation.
 17 If this was a lay or a fact witness, I
 18 understand your objection, but the
 19 university has designated this witness to
 20 testify about its corporate status.
 21 So the objection that it's a legal
 22 conclusion is not a proper objection for
 23 this corporate witness about corporate
 24 status questions.
 25 MR. BAXTER: I'm stating my objections

Page 102

1 KALINSKY
 2 for the record. He can answer the
 3 question.
 4 A. Okay. Can you --
 5 Q. Is Yeshiva University a
 6 non-denominational institution of higher education?
 7 A. Yeshiva University is a religious
 8 institution. It's incorporated under the
 9 education law. That is how we view ourselves as a
 10 corporation, a religious corporation incorporated
 11 as an education corporation, and that's what it
 12 was.
 13 If you want to just review some of what
 14 we've read here in the last ten minutes or half
 15 hour, we started as incorporated as a Yeshiva.
 16 If you want, the evolution was starting
 17 as Rabbi Isaac Elchanan Theological Seminary, which
 18 was obviously a religious institution, and it
 19 evolved into Yeshiva University, maintaining,
 20 continuing, I think the document says, the
 21 religious institution status continuing as an
 22 educational institution, and that's who we are
 23 today.
 24 Q. Is Yeshiva University a
 25 non-denominational institution?

Page 103

1 KALINSKY
 2 MR. BAXTER: Same objection.
 3 Go ahead.
 4 A. That's what the document says.
 5 Q. Well, I'm not asking about the document.
 6 You can set it aside, please.
 7 In your designation as the corporate
 8 representative of Yeshiva University, is Yeshiva
 9 University a non-denominational institution?
 10 A. We do not perform any illegal
 11 discrimination.
 12 Q. I'm sorry. You don't perform any
 13 illegal?
 14 A. Any illegal discrimination. So --
 15 Q. Are you saying illegal or legal?
 16 A. Illegal discrimination.
 17 Q. Do you know what the term
 18 "non-denominational" means?
 19 A. I think so.
 20 Q. Okay. So consistent with this charter
 21 document that says that the university is a
 22 non-denominational institution, can you answer
 23 either yes or no whether Yeshiva University is a
 24 non-denominational institution?
 25 A. We're a religious institution. We are

Page 104

1 KALINSKY
 2 incorporated under the education corporation, and
 3 the charter speaks for itself in terms of our
 4 denomination.
 5 Q. That doesn't answer my question, because
 6 I understand what you're saying affirmatively that
 7 you are, but I'm asking about a different facet of
 8 the university's organization.
 9 I'm asking you whether the university is
 10 a non-denominational institution?
 11 MR. BAXTER: Objection as to form. I
 12 think the witness didn't understand what you
 13 mean by non-denominational perhaps.
 14 MS. ROSENFELD: Well, he said that he
 15 does understand what non-denominational
 16 means.
 17 A. If you could spell it out, that would be
 18 helpful for me.
 19 Q. So, just to clarify, sitting here today
 20 as the representative of Yeshiva University, you
 21 are not able to answer whether Yeshiva is a
 22 non-denominational institution or not, absent me
 23 providing you with a definition of that word? Is
 24 that correct?
 25 A. I'm trying to understand the question

Pages 101 to 104

Page 105

1 KALINSKY
 2 better to be able to answer the question.
 3 Q. So the definition in the dictionary of
 4 Merriam-Webster of non-denominational is "not
 5 restricted to a denomination."
 6 MR. BAXTER: You can go ahead and answer
 7 as best as you know how to answer that
 8 question.
 9 Q. So the question again is, looking at
 10 Exhibit 13, which is a petition related to the
 11 charter signed by Samuel Belkin affirming that the
 12 university is a non-denominational institution of
 13 higher education, is Yeshiva University today a
 14 non-denominational institution?
 15 A. I would say that this is true.
 16 Q. Okay. Let's look at Exhibit 11.
 17 Actually, you don't have Exhibit 11 yet. I will
 18 give it to you.
 19 (Plaintiffs' Exhibit 14, Schedule E, was
 20 so marked for identification, as of this
 21 date.)
 22 Q. Have you seen this document before
 23 that's Exhibit 14?
 24 A. Schedule E?
 25 Q. Correct.

Page 106

1 KALINSKY
 2 A. Yes.
 3 Q. When did you see this document?
 4 A. This week.
 5 Q. In 2018 Yeshiva University filed a
 6 request for registration exemption for charitable
 7 organizations with the New York State Office of the
 8 Attorney General according to this document. Is
 9 that correct?
 10 MR. BAXTER: Objection, based on it
 11 calls for a legal conclusion, lack of
 12 foundation.
 13 Go ahead.
 14 A. That seems to be what the document says.
 15 Q. And Yeshiva University in this document
 16 represented to the New York State Attorney General
 17 that it was exempt as an educational institution by
 18 checking box 6 and box 7 on page 2. Do you see
 19 that?
 20 A. Yes.
 21 Q. Why did Yeshiva University decide to
 22 represent itself this way to the New York State
 23 Attorney General's Office?
 24 MR. BAXTER: Objection.
 25 You can answer that question if you know

Page 107

1 KALINSKY
 2 from your personal knowledge or having
 3 spoken to people at the university other
 4 than your counsel.
 5 A. Okay. Can I take a look at the top
 6 paragraph just so I can familiarize what the
 7 instructions were so that we understood that when
 8 we were filling it out.
 9 Q. Please take all the time you want with
 10 any document.
 11 A. Okay.
 12 Q. So the question was why did Yeshiva
 13 University decide to represent itself this way to
 14 the New York State Attorney General's Office?
 15 MR. BAXTER: The same advice, but go
 16 ahead and answer.
 17 A. Yeah. Again, it's unclear to say 100 --
 18 well, just back it up. It is true that we checked
 19 the box which is true, number 1. Number 2, I was
 20 reading again the instructions, "an exemption
 21 request that is not accompanied by all required
 22 documentation as listed below will not be
 23 considered." On the right side, "Required
 24 additional documentation," there's none for number
 25 6. Number 6 is correct. We are an educational

Page 108

1 KALINSKY
 2 institution. We didn't have to provide any
 3 additional documentation. Any others in the top
 4 field require additional documentation that may not
 5 have been easily accessible or had. So we checked
 6 box number 6.
 7 Q. So, if you look at number 5, it says --
 8 there's an option in box 5, right?
 9 A. Yes.
 10 Q. So your point is that you would have had
 11 to submit additional documents in order to be able
 12 to check box 5 that may not have been easily
 13 accessible?
 14 A. Or had. Let's see what it says in
 15 number 5. Can I read it again?
 16 Q. Yes. I will ask you the question. So
 17 is there a copy of a listing of an official -- in
 18 an official denominational directory of Yeshiva
 19 University?
 20 MR. BAXTER: Are you pointing to
 21 something in the document?
 22 Q. Yes. Do you see that in box 5 in the
 23 second column, the top bullet point?
 24 A. "Attach a copy of listing in official
 25 denominational directory." Yeah. I don't know.

Pages 105 to 108

Page 109

1 KALINSKY
 2 Q. You don't know if Yeshiva University
 3 could produce that?
 4 A. Correct.
 5 Q. Okay, and then it says, if you are an
 6 organization "operated, supervised or controlled by
 7 or in connection with another organization that is
 8 exempt from registration as religious, attach a
 9 description of the relationship between your
 10 organization and that other organization."
 11 Is it your testimony that that is
 12 something that wasn't easily accessible or
 13 something that Yeshiva couldn't provide?
 14 A. I think it would be difficult to provide
 15 a documentation showing that there is control.
 16 Q. Okay. What about a copy of a letter
 17 from the Charities Bureau confirming the religious
 18 exemption of that other organization?
 19 Is that something that was not easily
 20 accessible to Yeshiva or something that it didn't
 21 possess?
 22 A. I think both could be correct.
 23 Q. Okay, and what about the other
 24 organization's bylaws, certificate of
 25 incorporation, et cetera? Could Yeshiva University

Page 110

1 KALINSKY
 2 have provided those?
 3 A. I don't think so.
 4 Q. Okay, and then, if you go to page --
 5 well, actually let's go back to paragraph 5,
 6 please.
 7 A. Um-hum.
 8 Q. Yeshiva University is not incorporated
 9 under the religious corporation law, correct?
 10 A. Yeshiva University is a religious
 11 corporation incorporated under education law.
 12 Q. Just please listen to my question. Is
 13 Yeshiva University incorporated legally under the
 14 New York religious corporation law?
 15 MR. BAXTER: Objection to the extent it
 16 calls for a legal conclusion.
 17 Q. It's a yes or no question.
 18 A. We are not incorporated under the
 19 religious corporation law. Correct.
 20 Q. Okay. Now let's go to the second page,
 21 please. Actually it's the same, so we don't need
 22 to go through that again.
 23 So, just to make sure I understand your
 24 testimony, Rabbi Dr. Kalinsky, the reason that you
 25 believe Yeshiva University checked the box that it

Page 111

1 KALINSKY
 2 did on this form is because, to check the other
 3 boxes, Yeshiva University would have been required
 4 to provide documentation that it either didn't have
 5 or was not accessible to it?
 6 A. The answer to the question is this
 7 document is a tax exemption form. It's not
 8 defining us as an institution. So we're a
 9 religious corporation. So, in order to check box
 10 number 5, we would have had to have had additional
 11 documents, which it either would have or would not
 12 have been able to provide them.
 13 So number 6 for someone filling out the
 14 form, and I did speak to the person who filled out
 15 the form, who said, yes.
 16 So number 6 it allows us to be exempted.
 17 Number 5 was much more complicated to be able to
 18 know for sure whether we would be able to attach
 19 all the additional documents in order for this to
 20 be submitted.
 21 Q. And you spoke to Mr. Melgar?
 22 A. No.
 23 Q. Who did you speak to that prepared this
 24 form?
 25 A. Who is Mr. Melgar?

Page 112

1 KALINSKY
 2 Q. He's the author of the cover letter on
 3 the first page of Exhibit 14. Who did you speak
 4 with?
 5 A. I spoke with --
 6 MR. BAXTER: You can say other than your
 7 counsel who you spoke to.
 8 A. Yeah. I spoke with Alan Kluger.
 9 Q. Did Alan Kluger prepare this form?
 10 A. I believe so.
 11 Q. And Alan Kluger, what did Alan Kluger
 12 tell you about why he couldn't provide the
 13 documentation requested in box 5?
 14 A. He didn't think it was easily accessible
 15 to be able to submit it.
 16 Q. And when you say accessible, do you mean
 17 it was hard to find because it was in a drawer
 18 somewhere or that it didn't exist, because it just
 19 simply did not exist?
 20 A. I'm not sure.
 21 Q. Well, how did you understand it?
 22 A. It could have been both.
 23 Q. So Alan Kluger's title is what?
 24 A. Tax something.
 25 Q. Director of tax and compliance? Is

Pages 109 to 112

Page 113

1 KALINSKY
2 that correct?
3 A. It sounds right.
4 Q. Alan Kluger is the director of tax and
5 compliance for Yeshiva University. Your testimony
6 is that Mr. Kluger told you that he checked certain
7 boxes on this form because certain documents were
8 not accessible to him?
9 A. If you're asking for the
10 characterization of the organization for religious
11 purpose, that's the documentation we have to bring.
12 Q. No, no. Let's just stick with my
13 question. Did Alan Kluger tell you that the
14 reason he checked certain boxes on this form,
15 whatever boxes he checked, was because certain
16 documents that he needed were not accessible to
17 him?
18 A. I believe so.
19 Q. Okay. Alan Kluger is the director of
20 tax and compliance for the whole university, right?
21 A. Um-hum.
22 Q. Alan Kluger presumably has access to any
23 documents that he needs to support Yeshiva
24 University's legal filings, correct?
25 A. Um-hum.

Page 115

1 KALINSKY
2 MR. BAXTER: Objection to form.
3 A. Yeah, I don't even --
4 Q. Okay. We'll go over it again then. So
5 there is no official -- there's no listing in an
6 official denominational directory, correct?
7 A. I don't know.
8 Q. Okay. There is no description of the
9 relationship for an organization operated,
10 supervised or controlled by or in connection with a
11 religious organization? You said that that
12 doesn't --
13 A. I think that would be a complicated
14 thing to provide documentation for.
15 Q. Does it exist?
16 A. I don't know. Again, the word
17 "control" in Judaism is a hard word to document.
18 That there's a control.
19 Q. Okay. Would Yeshiva University be able
20 to provide a copy of a letter confirming a
21 religious exemption of an organization that
22 operated, supervised or controlled Yeshiva
23 University?
24 A. I presume yes.
25 Q. Which organization would that be?

Page 114

1 KALINSKY
2 Q. Can you say yes?
3 A. Yes. Sorry.
4 Q. Okay. So Alan Kluger made a decision to
5 select a certain exemption category on this form,
6 correct?
7 A. No. He decided not to check an
8 additional box.
9 Q. Which additional box did he decide not
10 to check?
11 A. I think you're questioning number 5.
12 Q. And what's your understanding of why
13 Alan Kluger decided not to check box 5?
14 MR. BAXTER: Asked and answered.
15 A. Having to do with the top paragraph of
16 to be required to list all of the documentation to
17 accompany it with the request.
18 Q. And the documentation that would need to
19 accompany the request is the documentation that you
20 and I discussed a little bit earlier, right?
21 MR. BAXTER: Objection as to form.
22 A. I'm cannot --
23 Q. Some of the documents that Yeshiva
24 needed, if it wanted to check box 5, don't exist at
25 all, correct?

Page 116

1 KALINSKY
2 A. I presume it would be difficult to do.
3 I'm not following. Again, I don't fill out these
4 forms.
5 Q. No. This is, the question is would
6 Yeshiva University be able to provide a copy of a
7 letter confirming a religious exemption of an
8 organization that operated, supervised or
9 controlled Yeshiva University as this form would
10 require?
11 A. I don't know.
12 Q. Did Alan Kluger tell you that that was
13 possible or impossible?
14 A. I don't know. I don't remember
15 exactly.
16 Q. So, in order to understand how or why
17 this form was filled out, would I need to speak
18 with Alan Kluger?
19 MR. BAXTER: Objection. Calls for
20 speculation.
21 A. I don't think that would give you more
22 information.
23 Q. Well, he filled out the form, right?
24 A. He filled out the form.
25 Q. Have you seen any other versions of this

Pages 113 to 116

Page 117

1 KALINSKY
2 form other than this 2018 Schedule E one?
3 MR. BAXTER: Objection to form.
4 Go ahead.
5 A. I'm not sure.
6 Q. Okay. You're aware that the one that
7 we're looking at was filled out in 2018. Is that
8 correct?
9 A. Yes.
10 Q. Do you know if other versions of this
11 exist from other years?
12 A. I'm not sure.
13 Q. Did you see any versions dated a
14 different year?
15 A. If you have them, you can share them.
16 Q. I do not have them. I'm asking if you
17 have seen them.
18 A. No.
19 MS. ROSENFELD: Okay. It's about 12:23
20 p.m. We can go off the record.
21 (Lunch recess: 12:23 p.m.)
22
23
24
25

Page 119

1 KALINSKY
2 corporation. Would you agree?
3 MR. BAXTER: Objection, calls for a
4 legal conclusion.
5 A. I know that they're two different words.
6 They probably have two different legal contexts.
7 Q. Right, but that gets to my point. The
8 term "corporation" has a specific legal meaning.
9 Would you agree?
10 MR. BAXTER: Objection. Calls for a
11 legal conclusion.
12 A. I think it would. Yeah.
13 Q. And the meaning of something that is a
14 corporation is different than something that is an
15 institution or an organization, for example, right?
16 MR. BAXTER: Objection, calls for a
17 legal conclusion.
18 A. I don't know enough to answer that well.
19 I know that they're different terms.
20 Q. But they mean different things, right?
21 A corporation means something specific under the
22 law, is that right?
23 MR. BAXTER: Same objection.
24 Q. I'm not asking you at this point what it
25 means. I'm saying the term "corporation" is a

Page 118

1 KALINSKY
2 Afternoon Session
3 1:37 p.m.
4 RABBI DR. YOSEF KALINSKY, having been previously
5 duly affirmed, was examined and testified further
6 as follows:
7 EXAMINATION (Continued)
8 BY MS. ROSENFELD:
9 Q. Rabbi Dr. Kalinsky, before we took a
10 lunch break, you had given some testimony that
11 Yeshiva University is a religious corporation under
12 the education law.
13 A. Um-hum.
14 Q. And I want to ask you about that
15 testimony. You would agree that a corporation is a
16 different entity than an organization that is not
17 legally organized as such, right?
18 MR. BAXTER: Objection, calls for a
19 legal conclusion.
20 Go ahead.
21 A. If you could define the terms, that
22 would help me.
23 Q. Sure. So, for example, one could say
24 that something is a religious institution, and that
25 would be different than saying it's a religious

Page 120

1 KALINSKY
2 legal term. Would you agree?
3 A. "Corporation" I believe is a legal term.
4 I don't know why institution wouldn't be a legal
5 term either, though.
6 Q. Well, are you aware that in New York
7 there is a business corporation law, there's a
8 not-for-profit corporation law and that the law is
9 the entity that creates a corporation? Do you
10 understand that?
11 A. Okay.
12 Q. So, when you say that Yeshiva University
13 is a religious corporation, are you saying that as
14 a legally organized form of an organization it's a
15 corporation or something different?
16 MR. BAXTER: Calls for a legal
17 conclusion.
18 You can answer.
19 MS. ROSENFELD: This is the subject
20 matter of the deposition notice, Eric. The
21 deposition topic is the corporate entity's
22 testimony about its corporate legal status.
23 So I continue to object to your
24 objection, because I think it's misleading
25 to the witness to say it's a legal question.

Pages 117 to 120

Page 121

1 KALINSKY
 2 This is the question for which he has been
 3 designated to testify.
 4 Q. You can answer the question.
 5 A. My understanding is that we're a
 6 religious corporation incorporated as an education
 7 corporation.
 8 Q. So why do you use the term "religious
 9 corporation"? What makes Yeshiva University a
 10 corporation?
 11 MR. BAXTER: Objection. Calls for a
 12 legal conclusion.
 13 You can answer.
 14 A. The corporation means that we're a unit
 15 that's not -- my understanding of corporation is
 16 that we're a unit that you can't define it as one
 17 single person as owning the corporation. That's
 18 why you incorporate is my understanding.
 19 Q. Right, and is it your understanding also
 20 that you incorporate under the law?
 21 A. Yes.
 22 Q. Okay, and so what law is Yeshiva
 23 University incorporated under?
 24 A. The corporations law.
 25 Q. Okay. You have said it is a religious

Page 122

1 KALINSKY
 2 corporation under the education law, right?
 3 A. Right.
 4 Q. So do we agree that Yeshiva University
 5 is incorporated under the education law?
 6 A. It's a religious corporation
 7 incorporated under the education law.
 8 Q. Right, and this phrase where you say
 9 it's a religious corporation, well, let me ask you
 10 this way.
 11 Would you say that it's fair to describe
 12 Yeshiva University as a religious institution?
 13 A. Yeah. That would also be true.
 14 Q. And would you also say it's fair to
 15 describe Yeshiva as a religious organization?
 16 A. I don't think people refer to Yeshiva as
 17 an organization.
 18 Q. Okay. What about it's a religious
 19 university? Would that be correct to say?
 20 A. I could understand someone saying that.
 21 We are a Yeshiva University, and people think of
 22 the word Yeshiva as a religious corporation.
 23 Q. Okay.
 24 A. Sometimes we even have to explain to
 25 them why we're not a Yeshiva only, and we are also

Page 123

1 KALINSKY
 2 a university.
 3 Q. So my question is, when you say it's a
 4 religious corporation and corporation has a
 5 specific legal meaning, what are you referring to
 6 that makes it a religious corporation?
 7 A. So I'm referring to the fact that
 8 Yeshiva began as Rabbi Isaac Elchanan Theological
 9 Seminary as a membership corporation. Even as a
 10 membership corporation, it was clearly a religious
 11 corporation. It was a seminary. They were
 12 studying Torah all day long. There were no other
 13 studies than Torah.
 14 So, even when we were a membership
 15 corporation, it was a religious corporation at its
 16 core, and that was continued forever. That's where
 17 my understanding comes from.
 18 Q. And so, having looked together at those
 19 documents from 1967, which showed that in 1967
 20 Yeshiva University became an educational
 21 corporation and RIETS became an affiliate with a --
 22 a separate entity, in what way now is it a
 23 religious corporation?
 24 A. By its nature.
 25 Q. I see. So you're saying, are you using

Page 124

1 KALINSKY
 2 "religious" as an adjective like it's descriptive
 3 of the word "corporation"?
 4 A. As opposed to?
 5 Q. As opposed to it's incorporated legally
 6 as a religious corporation.
 7 MR. BAXTER: Asked and answered.
 8 Objection.
 9 Go ahead and answer it.
 10 A. I understand that the documents show
 11 that we are incorporated as an educational -- under
 12 the education law, but I also understand that we're
 13 a religious corporation.
 14 Q. And I appreciate that, but I'm really
 15 trying to understand what is the basis that you
 16 believe that makes it a religious corporation,
 17 because a corporation -- well, let me ask you this
 18 way.
 19 A. Um-hum.
 20 Q. Would you agree that a corporation is an
 21 entity -- something is a corporation because it's
 22 an entity that has been recognized by the law as
 23 such?
 24 MR. BAXTER: Objection, calls for a
 25 legal conclusion.

Pages 121 to 124

Page 125

1 KALINSKY
 2 But you can answer if you know.
 3 A. I would assume that's correct.
 4 Q. Okay, and there are different laws in
 5 New York that allow one to be a corporation.
 6 There's the religious corporations law. There is
 7 an educational corporation. There is a
 8 not-for-profit corporation. There's a business
 9 corporation.
 10 So what I'm asking you is, given that a
 11 corporation is a legal term, what makes Yeshiva
 12 University a religious corporation?
 13 MR. BAXTER: Objection.
 14 But go ahead.
 15 A. I think by the nature of who we are.
 16 Q. I see. So the nature of who you are
 17 meaning the beliefs, the practices, the activities
 18 of the organization?
 19 A. How we comport ourselves, how we
 20 introduce ourselves to our students, how our
 21 donors, how everyone recognizes us. I don't think
 22 there's a question when they say Yeshiva
 23 University, oh, that's just like Boston University.
 24 It's Yeshiva University.
 25 Q. Understood, so you said that it is by

Page 126

1 KALINSKY
 2 the nature of who we are that you are a religious
 3 corporation because of the character and identity
 4 of the institution makes it a religious
 5 corporation?
 6 A. More than that. That's part of it. I
 7 mean the fact that there are physical things in
 8 terms of the setup of the campus that makes it a
 9 religious corporation, our studies, the dual
 10 curriculum.
 11 Q. Right.
 12 A. Make it sound, more than sound like, we
 13 present as a religious studies corporation.
 14 Q. I understand that, and I guess the
 15 distinction that I'm trying to understand is, if we
 16 say that a religious corporation is organized under
 17 the law as that entity versus a religious
 18 corporation, because the activities of the
 19 organization, its beliefs, its identity, all the
 20 things you just mentioned are religious, you're
 21 referring to religious corporation in the latter.
 22 Is that right? Because you're not literally
 23 saying that Yeshiva is legally organized as a
 24 religious corporation, are you?
 25 MR. BAXTER: Objection, calls for a

Page 127

1 KALINSKY
 2 legal conclusion.
 3 But you may answer that question.
 4 A. My understanding is, as you've stated,
 5 if you look at the corporate legal document, the
 6 legal document would not have a capital R.
 7 Q. It's not a religious corporation under
 8 New York law, correct?
 9 MR. BAXTER: Objection. Calls for a
 10 legal conclusion.
 11 A. Right. I'm not sure how to answer that.
 12 Q. I mean we will have to get to an answer
 13 on that question, so I'll ask it in some different
 14 way.
 15 A. Okay.
 16 Q. I think we arrived at an understanding
 17 that the ways that you've described Yeshiva as
 18 being religious relate to how you introduce
 19 yourselves, how you think about yourselves, your
 20 practices, your identity, your character, your
 21 physical layout. Those things have a religious
 22 aspect or are religious, but what I'm asking you
 23 about is the legal organization as a religious
 24 corporation under New York law.
 25 Is Yeshiva a religious corporation under

Page 128

1 KALINSKY
 2 New York law?
 3 MR. BAXTER: Asked and answered.
 4 MS. ROSENFELD: It's not asked and
 5 answered. He said he's not sure how to
 6 answer that. That was his last answer.
 7 MR. BAXTER: We both know that the
 8 law --
 9 MS. ROSENFELD: Please no speaking
 10 objections.
 11 MR. BAXTER: It is a legal question.
 12 You can argue this to the court.
 13 Q. Can you answer that question, Rabbi Dr.
 14 Kalinsky? Under New York law, is it organized as
 15 a religious corporation?
 16 MR. BAXTER: Same objection.
 17 You can answer.
 18 A. I don't know for sure.
 19 Q. You don't know?
 20 A. We're an education corporation, but
 21 we're a religious corporation.
 22 Q. Well, we're going to go back to square 1
 23 with that. We talked about under New York law
 24 corporations are recognized as either educational
 25 corporations, religious corporations,

Pages 125 to 128

Page 129

1 KALINSKY
 2 not-for-profit corporations, business corporations.
 3 There's all these designations of how the law
 4 characterizes a corporation.
 5 Under that rubric, is Yeshiva University
 6 organized as a religious corporation?
 7 A. My understanding is that the identity
 8 does play a role in how a corporation is viewed.
 9 I think that it does play a role.
 10 Q. What's the basis of your understanding
 11 that the definition of a corporation is based on
 12 that?
 13 A. If you ask me what we are, I'll tell you
 14 a religious corporation.
 15 Q. But I'm not asking about your identity
 16 or affiliation or your belief about yourself. I'm
 17 asking about your legal organization.
 18 A. Right.
 19 Q. And, for purposes of your legal
 20 organization, is Yeshiva University organized as a
 21 religious corporation?
 22 A. I would say it's religious. It's run as
 23 a religious institution, if you want to use that
 24 word instead, but we're incorporated under the
 25 education law.

Page 130

1 KALINSKY
 2 Q. So you're not incorporated as a
 3 religious corporation, correct?
 4 A. With New York.
 5 MR. BAXTER: Objection. You mean under
 6 the religious corporations law?
 7 MS. ROSENFELD: Please don't prompt the
 8 witness.
 9 Q. You can answer my question.
 10 A. That's what I'm trying to understand,
 11 exactly where you're pegging this question.
 12 Q. My question was you're not incorporated
 13 as a religious corporation under New York law. Is
 14 that correct?
 15 A. It depends what aspect of New York law I
 16 think. That's part of the question.
 17 Q. Well --
 18 MR. BAXTER: He's already told you we're
 19 incorporated as an educational corporation.
 20 You know that.
 21 Q. So maybe we'll go at this a different
 22 way. Do you understand that institutions do have
 23 the ability to -- that an entity could register as
 24 a religious corporation under the religious
 25 corporations law?

Page 131

1 KALINSKY
 2 A. Yes.
 3 Q. Okay. Has Yeshiva University done that?
 4 A. I'm not aware that we've done that.
 5 Q. Okay, and are you aware that there is a
 6 legal status that is a religious corporation? Are
 7 you aware of that?
 8 A. Yes.
 9 Q. Is Yeshiva University in its legal
 10 status a religious corporation?
 11 MR. BAXTER: Objection, calls for a
 12 legal conclusion.
 13 A. I'm not aware of us filing.
 14 Q. Is there any document that you're aware
 15 of where Yeshiva has filed with any government
 16 entity representing that it's a religious
 17 corporation?
 18 MR. BAXTER: Objection.
 19 Q. Under the law?
 20 A. Again, this is where there's a bit of a
 21 question. In other words, do governments and
 22 states and city officials view us as a religious
 23 entity? Yes.
 24 Q. Right, and that's one piece of this
 25 inquiry, and I appreciate your answer on that piece

Page 132

1 KALINSKY
 2 of it.
 3 I'm focused only on the legal
 4 organization piece of whether you as Yeshiva has
 5 ever represented itself to be a religious
 6 corporation in the legal sense to any government
 7 entity?
 8 MR. BAXTER: Objection. Calls for a
 9 legal conclusion.
 10 A. I can't speak for every single instance,
 11 but again we present ourselves as a religious
 12 institution. I can't tell you what, if there's a
 13 line somewhere of a document somewhere.
 14 Q. Do you agree that there's a difference
 15 between being a religious institution and being a
 16 religious corporation under -- in the eyes of the
 17 law?
 18 A. I presume there is a difference. I'm
 19 not as well-versed as you are to know the
 20 differences though.
 21 Q. Right. I appreciate that. Because
 22 you've been designated by Yeshiva to be the witness
 23 on this question --
 24 MR. BAXTER: There's no topic that asks
 25 him to distinguish between what is the legal

Pages 129 to 132

Page 133

1 KALINSKY
 2 definition of a religious corporation. So
 3 I'm just going to ask you not to answer any
 4 more questions on this line.
 5 MS. ROSENFELD: Well, that's not true,
 6 because topic 2 says that the topic for
 7 discussion is the evolution of Yeshiva
 8 University's corporate status over time from
 9 a membership corporation to an educational
 10 corporation to a religious corporation.
 11 MR. BAXTER: And he has already
 12 testified --
 13 MS. ROSENFELD: This is directly within
 14 the notice's topics.
 15 MR. BAXTER: -- that they're
 16 incorporated as a religious corporation.
 17 MS. ROSENFELD: Eric, you can't testify
 18 for the witness because there's no question
 19 pending.
 20 Q. Rabbi Dr. Kalinsky, has Yeshiva
 21 University ever represented itself to be legally
 22 organized as a religious corporation in any filing
 23 with the federal government that you're aware of?
 24 A. I don't know. Legally filing. Give
 25 me an example of something where we would have done

Page 135

1 KALINSKY
 2 included in our -- so, when you say representation,
 3 that's how we would present ourselves.
 4 Q. Understood, and that goes to the sort of
 5 religious institution presentation, and thank you
 6 for that answer.
 7 Now I'm also asking you separately
 8 similarly to the 410 form that we looked at, are
 9 you aware of any filings where Yeshiva University
 10 has represented itself to be a religious
 11 corporation to the federal government, not a
 12 religious institution in the way you just
 13 described, but a religious corporation under the
 14 law? Are you aware of any filings?
 15 A. I don't know.
 16 Q. Okay. What about to New York State
 17 government? Are you aware of any filings where
 18 Yeshiva University has represented itself to be a
 19 religious corporation under the law to New York
 20 State?
 21 A. I don't know of for checking off a box
 22 saying, yes, we're religious?
 23 Q. Any representations. It doesn't just
 24 have to be a box.
 25 A. Well, that's what I'm saying. There is

Page 134

1 KALINSKY
 2 that.
 3 Q. Well, we looked at one document that was
 4 filed with the New York State Attorney General
 5 where Yeshiva University did not choose that it was
 6 a religious corporation. It chose that it was an
 7 educational institution, right?
 8 A. Yes.
 9 Q. Are you aware of any document that
 10 Yeshiva University has filed where it has
 11 represented itself to the federal government to be
 12 a religious corporation?
 13 A. So, when we do file, let's say for other
 14 grants as you have brought in that other documents,
 15 I believe, when we talk about the university is
 16 asking for a grant, say from the city or the state,
 17 we definitely present ourselves as a religion
 18 institution.
 19 We happen to have a curriculum for
 20 undergrads. We're very proud of our culture on
 21 campus.
 22 So those that would be seeing the
 23 document, that would be part of the pros, let's
 24 say, the explanation of who we are as a university
 25 institution that started in 1897, that would all be

Page 136

1 KALINSKY
 2 a representation I think in the documents saying,
 3 you know, knowing who we are and defining who we
 4 are and the institution that we are, but, in terms
 5 of saying we deserve this because we're religious,
 6 I'm not aware.
 7 Q. Right, and again I'm setting aside and
 8 accepting everything that you're saying about the
 9 presentation of the institution as being religious.
 10 I'm focused on the religious corporate legal
 11 status.
 12 A. Okay.
 13 Q. So I'm just really trying to hone in on
 14 are you aware of any documents where Yeshiva
 15 University has ever presented itself to state or
 16 city government as a corporation? Religious
 17 corporation?
 18 A. Under the law?
 19 Q. Yes.
 20 A. I'm not aware.
 21 Q. And is it the same for the federal
 22 government? You're not aware of any documents
 23 where Yeshiva has represented itself as a religious
 24 corporation under the law?
 25 A. I'm not aware.

Pages 133 to 136

Page 137

1 KALINSKY
2 Q. Does Yeshiva University's claim now to
3 be a religious corporation carry over into how it
4 files and reports itself to taxing authorities?
5 MR. BAXTER: Objection as outside the
6 scope, I guess.
7 But you can answer.
8 A. I don't know.
9 Q. Okay. Just to finish this line of
10 questioning, are you aware of any document that we
11 haven't looked at or discussed today that supports
12 Yeshiva University's claim to be legally organized
13 as a religious corporation?
14 A. By the law? Going back to that line of
15 questioning?
16 Q. Correct.
17 A. I'm just trying to think of things that
18 could be fitting this category. Not that come to
19 mind.
20 Q. Okay. Now I'm going to topic 3, which
21 is "Yeshiva University's policies and practices for
22 operating as 'non-denominational and nonsectarian
23 in admitting students from any Jewish or other
24 faith tradition' and Yeshiva University's policy
25 and practices regarding 'students of all faiths.'"

Page 139

1 KALINSKY
2 campus, prayer, kashrut, shabbos, in other words,
3 to understand what the campus life is really about.
4 That's how we recruit. That's how we present
5 ourselves.
6 Q. Do you recruit -- do you have students
7 who are different denominations of Jewish faith?
8 A. If denominations mean reform and
9 conservative?
10 Q. That's what I mean.
11 A. Yeah. We definitely have all. The
12 university represents the larger Jewish community.
13 Q. Do you know what it means to say that
14 Yeshiva University is nonsectarian?
15 MR. BAXTER: Objection to the extent it
16 calls for a legal conclusion.
17 A. It's a hard word to define. I don't
18 use it in my general vocabulary. So sectarian, if
19 sectarian means are we a religious school or a
20 religious school? Are all types of Jews eligible
21 to apply? All types of Jews are eligible to
22 apply.
23 Q. All, anyone of any faith is eligible to
24 apply, correct?
25 A. Eligible to apply, yeah.

Page 138

1 KALINSKY
2 Just to go back to this, you mentioned a
3 little bit earlier that not all of the professors
4 at Yeshiva University's graduate schools are
5 Jewish.
6 Does Stern College have faculty members
7 who are not Jewish?
8 A. I assume so. I don't know. I would
9 assume. I don't know about all the faculty.
10 Q. Why would you assume?
11 A. Meaning I don't know every single one of
12 them. I would not be surprised if some of them
13 are not Jewish. I can't tell you offhand, but I
14 don't know them intimately to say anything.
15 Q. Okay. What about Wilf? Are there
16 faculty members at Wilf who are not Jewish?
17 A. I think so.
18 Q. Do students have to be an orthodox
19 Jewish person to attend Yeshiva University?
20 A. Our recruiters go to our regular feeder
21 schools, and we express who we are to them.
22 Anyone is eligible to apply to Yeshiva University,
23 but, as long as they're willing and interested in
24 terms of being a student, they're told to do a
25 curriculum, it's a religious campus, orthodox on

Page 140

1 KALINSKY
2 Q. And what is your testimony with respect
3 to when Yeshiva University became a "religious
4 corporation" under New York law?
5 MR. BAXTER: Objection, calls for a
6 legal conclusion.
7 Go ahead.
8 A. You're asking for a date?
9 Q. Yes, if there is one that you know.
10 A. 1897 it started as a religious
11 corporation, and it has continued as such. So I
12 don't think we ever shook that off in terms of a
13 date of when did we define ourselves as a religious
14 corporation.
15 Q. You would agree that Yeshiva University
16 and RIETS have a different purpose clause in their
17 charters, would you not?
18 A. If you have documentation, it would help
19 me.
20 Q. Sure. Well, we looked at Yeshiva's
21 charter earlier, which says that it was
22 incorporated for an educational purpose. Would you
23 agree?
24 A. Education law?
25 Q. Let's look at it. If you can look at

Pages 137 to 140

Page 141

1 KALINSKY
 2 Exhibit 8, please.
 3 A. Do you mind if I look at it?
 4 Q. No, no. I think it's much better to
 5 look at it that way. So we're looking at
 6 paragraph 9 of this document which is PL 12 on the
 7 bottom.
 8 A. 9. Got it.
 9 Q. You see that? It says, "Yeshiva
 10 University is and continues to be organized and
 11 operated exclusively for educational purposes."
 12 Do you see that?
 13 A. Yes.
 14 Q. Okay. So that's the purpose clause of
 15 the charter document. Are you aware that RIETS has
 16 a different purpose clause in its corporate
 17 documents?
 18 A. I would love to see that actually.
 19 Q. Okay. So let's go to --
 20 (Plaintiffs' Exhibit 15, Document Bates
 21 stamped YU 02981 through 2985, was so marked
 22 for identification, as of this date.)
 23 Q. So Exhibit 15 was produced to us
 24 yesterday by your lawyers, and it's Bates stamped
 25 YU 02981 through 2985. We don't have a better

Page 143

1 KALINSKY
 2 objects for which the corporation is to be formed
 3 are to promote the study of Talmud and to assist in
 4 educating and preparing students of the Hebrew
 5 faith for the Hebrew Orthodox ministry."
 6 Do you see that?
 7 A. I do. Yes.
 8 Q. Now, when RIETS reconstituted itself as
 9 a separate affiliate in 1967, did the purpose of
 10 the organization change?
 11 A. Are you asking --
 12 Q. I'm asking if you know?
 13 A. -- did RIETS change, or did the
 14 university change?
 15 Q. We know that the university changed its
 16 purpose clause in 1967 because we just looked at it
 17 in Exhibit 8. What I'm asking now is if RIETS
 18 changed its purpose clause at any time since 1897
 19 that you're aware of?
 20 A. I believe -- is it here? Is it the same
 21 where RIETS changed its charter or its purpose or
 22 both?
 23 Q. I was just asking about its purpose.
 24 A. So RIETS, as an ordination school, its
 25 tradition hasn't changed since 1897. The faculty

Page 142

1 KALINSKY
 2 copy of this. So I will just ask you to bear with
 3 me. This is what we were provided.
 4 If you look at the top, and when it was
 5 provided to us, it was represented to us that this
 6 is the certificate of incorporation for RIETS.
 7 MR. BAXTER: I'm just going to object,
 8 because I think this document actually it
 9 says something this 26th day of February
 10 1897.
 11 THE WITNESS: I think something is 1957?
 12 MR. BAXTER: Yeah. I thought there was
 13 a 1957.
 14 MS. ROSENFELD: What's your objection?
 15 MR. BAXTER: Well, I'm just objecting to
 16 the representation of what the document is.
 17 MS. ROSENFELD: Well, this is certainly
 18 the original certificate of incorporation
 19 for RIETS. If there's a later one that
 20 we're going to talk about, that's fine, but
 21 for right now we're just talking about this
 22 one.
 23 Q. So this is the certificate of
 24 incorporation from 1897 for RIETS, and if you look
 25 in the first page, it says, "First, the particular

Page 144

1 KALINSKY
 2 has changed, but its purpose has not changed. Its
 3 direction hasn't changed. 1897, when they
 4 established, they called themselves a carryover of
 5 Volozhin actually, a European Yeshiva.
 6 So the rabbis today when issues come up
 7 sometimes, they'll say this is how they did it in
 8 Volozhin, clearly expressing that the character of
 9 RIETS, Rabbi Isaac Elchanan Theological Seminary,
 10 which started in 1897, continues today in 2021.
 11 Q. Okay. That answers part of my
 12 question. So what does RIETS offer today?
 13 MR. BAXTER: I object as to the -- I'm
 14 not sure, if it's a topic, I'll let him
 15 answer it.
 16 MS. ROSENFELD: I am sequeing into topic
 17 4, which is the highly integrated
 18 relationship between the two institutions
 19 and their differences.
 20 THE WITNESS: Yeah. I'm okay
 21 answering.
 22 A. So I'll just share the reason why I have
 23 information about RIETS is also firsthand. My
 24 office is situated next to the Dean of RIETS'
 25 office. We consult. The previous Dean of

Pages 141 to 144

Page 145

1 KALINSKY
 2 Undergraduate, before I was Dean of UTS, the
 3 previous Dean was Rabbi Penner, who was also the
 4 Dean of RIETS UTS, so there's a lot of overlap.
 5 Q. I understand.
 6 A. So the specific answer to your question
 7 is RIETS offers ordination. On the books, it also
 8 has additional degrees. We are able to give other
 9 degrees. I think the MRE is still there.
 10 Whatever is here is still on the books. There are
 11 master's and doctorate degrees that RIETS is able
 12 to offer its students. RIETS is actually in the
 13 process of exploring additional master's degrees.
 14 Q. So do you know what -- let me ask you
 15 this. When was the last time, to your knowledge,
 16 that RIETS awarded a doctoral degree?
 17 A. I don't know.
 18 Q. In the last 20 years?
 19 A. There's an advanced ordination, but
 20 that's not a doctoral degree I guess according to
 21 what the State would say. The Doctorate of
 22 Divinity, is that what you're asking?
 23 Q. Exactly.
 24 A. I don't know the last time they offered
 25 it.

Page 147

1 KALINSKY
 2 all degrees that RIETS offers are ordination
 3 degrees or advanced ordination degrees?
 4 MR. BAXTER: Objection to form.
 5 A. I think currently that is -- if you
 6 looked at 2021, that's probably the majority of
 7 what they would be giving, ordinations.
 8 Q. And is that fair to say for the last ten
 9 years since you've been there?
 10 A. Yeah.
 11 Q. Okay, and it's correct that Yeshiva
 12 University does not offer any ordination degrees?
 13 Is that correct?
 14 A. Separate from RIETS you're saying as a
 15 Yeshiva University offering degrees in ordination?
 16 Q. Yes.
 17 A. Not ordination. There is a GPATS
 18 program. That's the advanced study in Talmud at
 19 the Beren campus, and they offer something there.
 20 I think there's a certificate or a master's. I
 21 don't know exactly, but it's not ordination, and
 22 that's Yeshiva University.
 23 Q. If you want to be ordained as a Rabbi,
 24 can you get that ordination from Yeshiva University
 25 other than from its affiliate RIETS?

Page 146

1 KALINSKY
 2 Q. Okay. Has it been in the last --
 3 A. I couldn't speak for more than 20 years.
 4 Q. Okay. In the last 20 years, has it
 5 issued a Doctorate of Divinity?
 6 A. I'm not aware.
 7 Q. Does that mean likely not?
 8 A. I haven't seen anyone with that degree
 9 conferred on them in the last 20 years.
 10 Q. If somebody had earned a doctorate in
 11 divinity at RIETS in the last 20 years, do you
 12 think you would be aware of it?
 13 A. Maybe in the last ten I would, but not
 14 the last, not the ten to 20. I wouldn't
 15 necessarily know.
 16 Q. Okay, so in the last ten years is it
 17 fair to say that it is likely RIETS has not issued
 18 any Doctorates of Divinity?
 19 A. I'm not aware.
 20 Q. Okay, and what about master's in
 21 divinity? Do you know if RIETS has issued any of
 22 those in the last two decades?
 23 A. I'm not aware.
 24 Q. Okay. Is it fair to say that the main
 25 degrees that RIETS, the majority, vast majority,

Page 148

1 KALINSKY
 2 A. I don't think so.
 3 (Plaintiffs' Exhibit 16, Charter of
 4 RIETS dated February 27, 1970, was so marked
 5 for identification, as of this date.)
 6 Q. So we're back to difficult to read
 7 documents, but this is Exhibit 16, and this is the
 8 charter of RIETS that is dated February 27, 1970,
 9 and if you look at the second paragraph, it says,
 10 "The purpose for which such corporation is being
 11 formed" -- "The purposes for which such corporation
 12 is being formed are to continue, maintain and
 13 conduct as an educational corporation this
 14 seminary, which for many years has been an
 15 institutional branch of Yeshiva University. The
 16 purposes are to prepare students for the rabbinate
 17 and to issue the traditional certificate of
 18 ordination in connection therewith."
 19 Do you see that?
 20 A. Yes.
 21 Q. Okay.
 22 A. And there are additional degrees.
 23 Q. Right, and then it says there are
 24 additional degrees. So RIETS has a different
 25 purpose clause in its charter than Yeshiva

Pages 145 to 148

Page 149

1 KALINSKY
 2 University. Would you agree?
 3 A. Partially. Can I elaborate on why I say
 4 partially instead of fully?
 5 Q. I mean it really was a yes or no
 6 question. So, if there's something burning that
 7 you need to say, you can.
 8 A. We're both religious corporations, and
 9 we're both educational corporations.
 10 Q. Where do you see that RIETS is a
 11 religious corporation in this document?
 12 A. Not in this document.
 13 Q. Okay. Let's move on to topic 5. I'm
 14 sorry. Just a couple more questions. RIETS has a
 15 separate board of trustees from Yeshiva University,
 16 correct?
 17 A. Yes.
 18 Q. How many students attend RIETS right
 19 now?
 20 A. We have two campuses. One in Israel,
 21 and one in New York. Let's say 180.
 22 Q. Total.
 23 A. Maybe 200, but I don't know exactly.
 24 Q. Okay. You can set that exhibit aside,
 25 please, and mark this.

Page 150

1 KALINSKY
 2 (Plaintiffs' Exhibit 17, Document dated
 3 March 2019, was so marked for
 4 identification, as of this date.)
 5 (Plaintiffs' Exhibit 18, Document dated
 6 October 25, 2021, was so marked for
 7 identification, as of this date.)
 8 MS. ROSENFELD: So, with respect to
 9 topic 5, Eric, we're going to ask questions
 10 that are consistent with defendants'
 11 representations to the court that it does
 12 not object to testifying about how these
 13 policies are consistent with and support its
 14 religious identity or whether they have
 15 recently been amended to include the phrase
 16 "consistent with Torah values."
 17 MR. BAXTER: Okay.
 18 Q. Okay. So, first of all, if you could
 19 please turn to page 3 of Exhibit 17, not the page 3
 20 like counting pages, but literally on the bottom
 21 where it says page 3. Are you there?
 22 A. Yes.
 23 Q. Okay, and you'll see that there's a
 24 paragraph that's titled Policy Statement. Do you
 25 see that?

Page 151

1 KALINSKY
 2 A. Yes.
 3 Q. Okay, and then, if you could please open
 4 Exhibit 18 to this policy statement. Exhibit 17
 5 if you look on the front is dated March 2019, and
 6 Exhibit 18 if you look on the front is dated
 7 October 25, 2021.
 8 Do you see in the policy statement in
 9 Exhibit 18 that there's a new paragraph that
 10 appears that starts, "Yeshiva University is further
 11 guided by the timeless religious values," and you
 12 see that that second paragraph that appears in
 13 Exhibit 18 does not exist in Exhibit 17?
 14 A. Yes.
 15 Q. Do you know why paragraph -- the second
 16 paragraph of the policy statement was added to
 17 Exhibit 18?
 18 A. Can I just read it through one time?
 19 Q. Of course.
 20 A. I'm going to start from the beginning.
 21 I want to make sure I get the flow.
 22 Q. Sure. Take as much time as you want
 23 with these exhibits and spend whatever time you
 24 need to read them.
 25 A. Okay. I have read them.

Page 152

1 KALINSKY
 2 Q. Okay. Do you know why the additional
 3 paragraph was added to the October 2021 version of
 4 the anti-discrimination policy?
 5 A. No.
 6 Q. Were you part of any discussions about
 7 adding this language to the anti-discrimination
 8 policy?
 9 A. No.
 10 Q. Does the addition of the paragraph in
 11 the policy statement paragraph -- withdrawn.
 12 Does the addition of the second
 13 paragraph to the policy statement change the
 14 meaning of the non-discrimination policy?
 15 MR. BAXTER: Objection.
 16 A. The definition?
 17 Q. Does the additional language change
 18 Yeshiva University's non-discrimination and
 19 anti-harassment policy and complaint procedures?
 20 MR. BAXTER: Objection to the extent it
 21 calls for a legal conclusion.
 22 A. Yeah. It's hard for me to answer that
 23 question, because -- it's hard for me to answer
 24 that question. Change the policy? Is anything
 25 else in the document different?

Pages 149 to 152

Page 153

1 KALINSKY
 2 Q. Assume that nothing else in the document
 3 is different except this additional paragraph.
 4 A. The additional paragraph is further
 5 explaining why these are really important. It's
 6 explaining, it's further guiding the reason for the
 7 policy. Respecting individuals with dignity.
 8 Rejecting any misconduct is in consonance with
 9 Torah values. The university professes we should
 10 be moral. Yeshiva wants us to be moral. God
 11 wants us to be moral.
 12 Q. Okay. Does Yeshiva University's
 13 claimed status as a religious corporation impact
 14 its non-discrimination policies in any way?
 15 A. Say it one more time.
 16 Q. Does Yeshiva University's claimed status
 17 as a religious corporation impact its
 18 non-discrimination policies in any way?
 19 A. The university I think, in concert with
 20 this paragraph over here, the university based on
 21 Torah values would not want to engage in any
 22 illegal discrimination.
 23 Q. Is there any other way that its status
 24 as a religious corporation impacts its
 25 non-discrimination policies?

Page 154

1 KALINSKY
 2 A. In terms of this document?
 3 Q. Just in general in your role as the
 4 corporate designee. Like is there any way that
 5 Yeshiva's claim to function as a religious
 6 corporation impacts its non-discrimination
 7 policies?
 8 A. I think it underscores this document.
 9 That's how I would understand it. Our religious
 10 corporation and our religious faith would double
 11 down and double underline in bold because of that,
 12 this document. Harassment, sexual assault,
 13 stalking, domestic violence, sexual misconduct.
 14 Q. Do you understand that Yeshiva
 15 University is claiming to be excluded from certain
 16 anti-discrimination laws because it claims to be a
 17 religious corporation?
 18 A. As a religious corporation, yes.
 19 Q. You can set that aside. I'm going to
 20 move on to topic 6, which is "Yeshiva's policies
 21 and practices in obtaining Bundy Aid from New York
 22 State."
 23 MR. BAXTER: Do you mind if we take a
 24 break just to go to the bathroom?
 25 MS. ROSENFELD: Fine. Off the record.

Page 155

1 KALINSKY
 2 (Recess taken)
 3 BY MS. ROSENFELD:
 4 Q. Rabbi Dr. Kalinsky, I want to go back to
 5 an answer that you gave a little bit earlier and
 6 ask what you meant.
 7 You said that -- so I asked you, are you
 8 literally saying that Yeshiva is legally organized
 9 as a religious corporation, and your answer was
 10 that, "My understanding is, as you stated, if you
 11 look at the corporate legal documents, the legal
 12 document would not have a capital R."
 13 What did you mean by that, a capital R?
 14 A. Meaning we are a religious institution,
 15 so they would probably view us as a religious
 16 corporation, but there might not be that word there
 17 that you're asking me about.
 18 Q. I see. So, when you say a capital R,
 19 are you speaking to the formal legal name, the
 20 formal legal status that Yeshiva has as opposed to
 21 how it presents itself?
 22 A. Yes.
 23 Q. So, while it may feel itself to be a
 24 religious corporation because it's religious, it's
 25 not formally organized legally as a religious

Page 156

1 KALINSKY
 2 corporation. Is that the distinction you're
 3 making?
 4 A. It's a religious corporation filed as an
 5 education corporation.
 6 Q. Not filed as a capital R religious
 7 corporation, correct?
 8 A. Yes.
 9 Q. Okay. Let's talk about Bundy Aid. Did
 10 you prepare or were you already aware of the fact
 11 that the university receives funding from New York
 12 State called Bundy Aid?
 13 A. Yes.
 14 Q. And, for example, are you aware that
 15 Yeshiva University received about \$386,000 in Bundy
 16 Aid for the 2019-2020 academic year?
 17 A. Sounds about right. I don't remember
 18 the exact numbers. We file for a lot of places for
 19 aid as we should.
 20 Q. And Yeshiva University has received
 21 Bundy Aid for decades. Is that right?
 22 A. Sounds right.
 23 Q. What information do you have about the
 24 decision for Yeshiva University to separately
 25 incorporate as an educational institution and the

Pages 153 to 156

Page 157

1 KALINSKY
 2 receipt of Bundy Aid?
 3 A. I'm not sure I understand the question.
 4 Q. Sure. Do you have any information
 5 about the relationship between the decision in the
 6 late 60s for Yeshiva University to become an
 7 educational corporation and Yeshiva University's
 8 desire at that time to receive Bundy Aid?
 9 A. No.
 10 Q. Do you have any information about what
 11 requirements Yeshiva University has to meet in
 12 order to receive Bundy Aid with respect to its
 13 religious nature?
 14 A. There are many. You want specific --
 15 there are many applications that we put in to
 16 receive funding from state and city, whatever it
 17 might be, and Bundy is one of them. If you have a
 18 document that will help remind me of the specifics.
 19 Q. Sure. I'm happy to give you a
 20 document, but, before I do, I just want to find out
 21 what you personally or have prepared to testify
 22 about.
 23 A. Sure.
 24 Q. So do you have any information about
 25 what requirements New York State imposes to receive

Page 158

1 KALINSKY
 2 Bundy Aid with respect to the religious nature of
 3 the grantee?
 4 A. If I'm recalling correctly, it shouldn't
 5 be used for a religious purpose.
 6 Q. And how has Yeshiva University been able
 7 to receive Bundy Aid if that aid cannot be used for
 8 a religious purpose?
 9 MR. BAXTER: I'm going to object to the
 10 extent it calls for a legal conclusion.
 11 Calls for a legal characterization.
 12 THE WITNESS: Should I try to answer?
 13 MR. BAXTER: If you know what she's
 14 talking about and you can answer, go ahead.
 15 If you need more information.
 16 A. In the broadest sense, because again I'm
 17 not the one who would be laying out exactly how
 18 it's being used, but whatever we would say it's
 19 being used, it should be used for, that's what we
 20 use it for.
 21 Whatever we're told it should not be
 22 used for, we're careful not to use it for that.
 23 Q. So, just for the record, topic 6 is
 24 "Yeshiva University's policies and practices in
 25 obtaining Bundy Aid from New York State and how

Page 159

1 KALINSKY
 2 Yeshiva University characterizes and has
 3 characterized its status as a religious corporation
 4 for obtaining Bundy Aid including to any Bundy Aid
 5 review committee appointed to evaluate its
 6 religious links."
 7 A. Okay.
 8 Q. Are you able to testify on that topic
 9 today?
 10 A. Yes.
 11 Q. So how does Yeshiva University's claim
 12 that it is "a religious corporation" impact its
 13 ability to obtain Bundy Aid, which you said is not
 14 supposed to be used for a religious purpose?
 15 MR. BAXTER: Objection. The witness
 16 hasn't been shown any documents about Bundy
 17 Aid.
 18 If you know what she's talking about,
 19 you can answer. I'm going to ask you not to
 20 speculate.
 21 A. Right. It would be easier for me to
 22 answer if I saw what the things were.
 23 Q. I appreciate that. I'm not holding a
 24 document that has the answer to the question. I'm
 25 just asking you what you know.

Page 160

1 KALINSKY
 2 A. To me I don't think it's -- you're
 3 asking a contradiction.
 4 Q. Okay. So let me ask a better question
 5 if you can't answer it that way.
 6 So you testified right at the beginning
 7 here that your understanding is that Bundy Aid is
 8 not supposed to be used for a religious purpose.
 9 What's the basis of that information?
 10 How do you know that?
 11 A. By reviewing some of the Bundy
 12 documents. I don't remember all the details.
 13 Q. Okay. So to prepare for this deposition
 14 you reviewed some documents and from those
 15 documents you learned that Bundy Aid comes with
 16 restrictions on its use for religious purposes. Is
 17 that fair?
 18 A. Yes.
 19 Q. And what documents did you review?
 20 A. The names of the documents or the years?
 21 Q. If you could just generally describe
 22 what the documents were, please?
 23 MR. BAXTER: I'm just going to ask you
 24 not to speculate. If you remember what
 25 specific documents had to do with Bundy

Pages 157 to 160

Page 161

1 KALINSKY
2 versus other grants you received, then you
3 can testify.
4 A. Yeah. I could be confusing Bundy with
5 DASNY right now in terms of the clarity.
6 Q. Did you review anything called a
7 constitutional eligibility questionnaire?
8 A. Yes.
9 Q. Has Yeshiva University ever completed
10 one of those in order to qualify for Bundy Aid?
11 MR. BAXTER: I ask the witness not to
12 speculate. If you remember, you can say,
13 but, if you want to show him the document to
14 trigger his memory, that might help.
15 A. Is that okay?
16 MS. ROSENFELD: I would ask that you not
17 make speaking objections and prompt the
18 witness, because, as you know, your client
19 has taken the position that he doesn't have
20 those and never filled them out, so to ask
21 me to show it to the witness is not helpful.
22 A. Okay. I don't know. I'm not aware.
23 Q. Do you know if Yeshiva University has
24 ever had to fill out a questionnaire answering
25 certain questions about its religious nature in

Page 162

1 KALINSKY
2 order to get this Bundy Aid?
3 A. Again, I think there are different forms
4 that have to be filled out. So some of the forms
5 may be questionnaires. Some of the forms may be
6 checked boxes.
7 (Plaintiffs' Exhibit 19, Blank
8 application for participation in Bundy Aid,
9 was so marked for identification, as of this
10 date.)
11 Q. I'm handing you what has been marked as
12 Exhibit 19, and this is a blank application for
13 participation in Bundy Aid. If you turn to page 3
14 of the document, you will see there's something
15 called a constitutional eligibility questionnaire.
16 Take your time to read it, and then my question
17 after you have read it is has Yeshiva University
18 ever completed a questionnaire of this type to
19 receive Bundy Aid?
20 A. Let me take the first page first.
21 Okay.
22 Q. Has Yeshiva University ever completed a
23 questionnaire of the type in front of you in this
24 exhibit in order to receive Bundy Aid?
25 A. I'm not aware.

Page 163

1 KALINSKY
2 Q. Did you see any completed questionnaires
3 like this when you reviewed documents to prepare
4 for your deposition?
5 A. No.
6 Q. Do you have any more information than
7 you've already shared about how Yeshiva University
8 characterizes its religious nature for purposes of
9 obtaining Bundy Aid?
10 A. In terms of filling out any other forms?
11 In terms of an introductory paragraph?
12 Q. So really anything. We know that
13 Yeshiva University receives Bundy Aid.
14 A. Yes.
15 Q. And we know that Bundy Aid according to
16 you is not supposed to be used for a religious
17 purpose. Is there anything else that you can
18 testify about with regard to Bundy Aid?
19 A. Other than doing what we're supposed to
20 be doing in terms of filling out the correct forms
21 and only using the money as it has been
22 appropriated for, if that's a correct way of saying
23 something.
24 Q. So what did Yeshiva University use the
25 Bundy Aid money for?

Page 164

1 KALINSKY
2 A. I believe it -- I don't want to
3 speculate here. I just don't want to be confused
4 between what we used DASNY money and Bundy funding
5 for. Bundy Aid has to do with --
6 Q. Let me mark an exhibit to show you.
7 That might help you.
8 (Plaintiffs' Exhibit 20, Document, was
9 so marked for identification, as of this
10 date.)
11 Q. Please take your time and read Exhibit
12 20, and let me know when you've had a chance to
13 read it.
14 A. Okay.
15 Q. Does Exhibit 20 refresh your
16 recollection that Bundy Aid relates to financial
17 aid for students?
18 A. Yes. That was helpful. Thank you.
19 Q. Sure, and just to go back to my question
20 then, can you tell me what Yeshiva University uses
21 the Bundy Aid funds for?
22 A. Definitely what I can see from this
23 document for the previous year relates to financial
24 aid that helps make Yeshiva University affordable
25 for our students. I think we give \$46 million in

Pages 161 to 164

Page 165

1 KALINSKY
2 scholarships to students. Everything helps.
3 Q. So does Yeshiva University make some
4 attempt to designate the use of funds for religious
5 versus nonreligious purposes when it's giving out
6 financial aid?
7 MR. BAXTER: Objection as to form.
8 A. Are you asking if we -- how we allocate
9 the money?
10 Q. In the beginning of discussing this
11 topic, you testified that Bundy Aid is not supposed
12 to be used for religious purposes.
13 A. Um-hum.
14 Q. And now that you have refreshed your
15 recollection that it receives Bundy Aid and that it
16 goes toward financial aid, does Yeshiva University
17 need to make any special provisions about how it
18 distributes Bundy Aid, given the restrictions that
19 the aid comes with?
20 MR. BAXTER: Objection to the
21 characterization and it calls for a legal
22 conclusion.
23 But if you know, you can answer.
24 A. I don't think so.
25 Q. Okay. You can set that aside. You

Page 166

1 KALINSKY
2 mentioned DASNY. So Yeshiva University also
3 receives, participates in bond issuances from the
4 Dormitory Authority of the State of New York. Is
5 that right?
6 A. Yes.
7 Q. And, for example, in 2011 Yeshiva
8 University participated in a bond issuance for
9 approximately \$90 million. Is that correct?
10 MR. BAXTER: Objection, lack of
11 foundation.
12 A. 90?
13 Q. 90.
14 MR. BAXTER: Objection. Foundation.
15 A. If you have the document, it would help
16 me.
17 Q. Sure.
18 (Plaintiffs' Exhibit 21, Excerpt from
19 bond issuance documents for DASNY to Yeshiva
20 University, was so marked for
21 identification, as of this date.)
22 Q. So this is an excerpt from the bond
23 issuance documents for DASNY to Yeshiva University.
24 The original is about 150 pages, but what you have
25 here is the cover sheet.

Page 167

1 KALINSKY
2 A. Um-hum.
3 Q. The table of contents. Do you
4 understand that Yeshiva University participated in
5 a bond issuance from the Dormitory Authority of the
6 State of New York for \$90 million in 2011?
7 A. Yes.
8 Q. If you go, please, to the page of the
9 exhibit that has the number 12 on the bottom, so do
10 you understand that the bonds were issued to raise
11 money for Yeshiva University to conduct certain
12 capital improvement projects?
13 A. Yes.
14 Q. And the 2011 project is defined in this
15 bond document as consisting "of the financing or
16 refinancing of the renovation, improvement, repair
17 and equipping of the exterior and interior of the
18 existing facilities located at the university's
19 campuses in the Bronx and Manhattan in New York
20 City including the refunding of certain taxable
21 debt that financed a portion of such expenditures."
22 My question is do you know which
23 facilities on the university's campuses the 2011
24 project financed or refinanced the renovation,
25 improvement, repair and equipping of?

Page 168

1 KALINSKY
2 A. I believe these monies went towards some
3 of the buildings that are dormitories. I believe
4 it also went towards some classrooms, office space.
5 Q. Do you know the names of any of the
6 buildings that were renovated, improved, repaired
7 or equipped using the DASNY bond issuance money?
8 A. I'm not sure which dormitories. I'm
9 trying to remember. Maybe it had to do with air
10 conditioning that maybe was brought into all of
11 them. So those would be Rubin Hall, Morganstern
12 Hall and some areas related to the -- I'm trying to
13 think of the years here, though. This is 2011.
14 MR. BAXTER: I caution you not to
15 speculate, but, if you know, you can
16 testify.
17 A. I don't remember exactly which areas.
18 Again, \$90 million would be helpful to make some
19 improvements.
20 Q. So, broadly speaking, your testimony is
21 that it went to improvements for dormitories,
22 classrooms and office space, but, as you sit here
23 today, you don't know specifically which buildings.
24 Is that right?
25 A. I think bathrooms also. It could be

Pages 165 to 168

Page 169

1 KALINSKY
 2 multiple buildings. I don't remember.
 3 (Plaintiffs' Exhibit 22, Document Bates
 4 stamped YU 01301, was so marked for
 5 identification, as of this date.)
 6 Q. Okay. So I'm handing you what has been
 7 marked as Exhibit 22, and this is Bates stamped
 8 YU 01301. This is a page that was produced by your
 9 lawyers from the DASNY bond applications.
 10 Are you aware that the participation in
 11 the DASNY bond issuances comes with this
 12 restriction on religious use clause?
 13 A. Just give me one second, please. Okay.
 14 I just read it. I'm sorry. What was the
 15 question?
 16 Q. The question was are you aware that the
 17 participation in the DASNY bond issuance comes with
 18 this restriction on religious use clause?
 19 A. I'm aware that this is here in the
 20 document.
 21 Q. But were you aware before you saw it
 22 today that it was part of the DASNY bond issuance
 23 restrictions?
 24 MR. BAXTER: I am going to note the
 25 exhibit itself is separated from any other

Page 170

1 KALINSKY
 2 documents.
 3 A. I think I may have seen this before.
 4 Yes. I would note that it is confusing language.
 5 Q. Sure. Can you tell us what steps if
 6 any Yeshiva University takes to comply with DASNY's
 7 restriction on the religious use of funds with
 8 respect to the 2011 bond issuance funds?
 9 MR. BAXTER: I object as outside the
 10 scope of number 7.
 11 But you can answer.
 12 A. My knowledge would be in connection to
 13 places of religious worship would probably be
 14 something that would be taken into account.
 15 Q. Can you explain what you mean?
 16 A. That funding given to us through DASNY
 17 would not be designated for places of religion
 18 worship.
 19 Q. So what place would that be, for
 20 example, on YU's campus?
 21 A. Beit Midrash Prayer Hall, that would
 22 probably, but then again "that the foregoing
 23 restriction shall not prohibit the free exercise of
 24 any religion," so it's a little bit confusing.
 25 Q. Right, and so my question is just, to

Page 171

1 KALINSKY
 2 your knowledge, how has Yeshiva University
 3 attempted to meet the restrictions whatever they
 4 say in this paragraph with its receipt of these
 5 funds?
 6 MR. BAXTER: Objection as outside the
 7 scope.
 8 You can answer if you know.
 9 A. Taking great care and diligence that the
 10 money would not be allocated specifically for a
 11 place of worship.
 12 Q. Anything else?
 13 A. No.
 14 Q. Has Yeshiva University taken steps to
 15 ensure that the DASNY funds are not allocated for
 16 places that are used for sectarian religious
 17 instruction?
 18 MR. BAXTER: Objection. Outside the
 19 scope.
 20 If you know, you can answer.
 21 A. I'm not sure.
 22 Q. What about in connection with any part
 23 of a program or department or school of divinity?
 24 MR. BAXTER: Same objection.
 25 A. Point of information. Getting back to

Page 172

1 KALINSKY
 2 number 2 or whichever one it is before, number 4,
 3 highly integrated, because there's a lot of
 4 integration between all of the purposes and usages
 5 of the buildings on campus.
 6 Q. So, with respect to this language and
 7 the restrictions from DASNY, are you aware of any
 8 restrictions on the use of the DASNY money to
 9 comply with this language that it can't be used in
 10 connection with any part of a program or school or
 11 department of divinity?
 12 MR. BAXTER: Objection as outside the
 13 scope.
 14 A. Yeah. I'm not sure if I understood.
 15 Q. Sure. So you said that you think that
 16 Yeshiva takes great care to not use the DASNY funds
 17 for improvements is the way I understood your
 18 testimony in places of religious worship.
 19 A. Correct.
 20 Q. You said that you didn't know what steps
 21 it took to segregate the funds with respect to
 22 places that were used for sectarian religious
 23 instruction if I understood your testimony
 24 correctly?
 25 A. And it would be difficult, even if we

Pages 169 to 172

Page 173

1 KALINSKY
 2 wanted to, to define what's a sectarian place and
 3 what's not a sectarian place on campus.
 4 Q. Right, and so my entire question is just
 5 to get the extent of your knowledge as to what
 6 Yeshiva University has done to try and comply with
 7 this if anything.
 8 A. Okay.
 9 MR. BAXTER: Again, objection as outside
 10 the scope.
 11 If you know, you can answer.
 12 A. Definitely I don't know firsthand what
 13 instructions were given in terms of the
 14 construction people, but, if we were asked, but
 15 knowing that we would comply with anything that we
 16 were told to do and if it was within the purview of
 17 our understanding that we would not be able to use
 18 the funding for a place of worship, we wouldn't be
 19 allocating any of the funding toward improvement in
 20 a place of worship.
 21 Q. Did Yeshiva University allocate any of
 22 the DASNY funds for places that are used for
 23 sectarian religion instruction?
 24 MR. BAXTER: Objection. Outside the
 25 scope. Actually, objection as to

Page 174

1 KALINSKY
 2 mischaracterizing the statement, which says
 3 not to be used for sectarian religious
 4 instruction.
 5 A. Right. So I'm not sure what that even
 6 means. What sectarian religious instruction?
 7 Q. Has Yeshiva University ever represented
 8 to DASNY that it is a religious corporation?
 9 MR. BAXTER: Objection, calls for a
 10 legal conclusion.
 11 Q. This is from topic 7, "Yeshiva
 12 University's policies and practices in obtaining
 13 bond issuances from DASNY and how Yeshiva
 14 University characterizes or has characterized its
 15 status as a religious corporation for purposes of
 16 obtaining bond issuances from DASNY."
 17 MR. BAXTER: You can answer, but I'm
 18 still stating an objection.
 19 MS. ROSENFELD: What is the objection?
 20 MR. BAXTER: To the extent it calls for
 21 a legal conclusion, he doesn't have to
 22 testify to it, but he can answer to the
 23 extent it doesn't call for a legal
 24 conclusion.
 25 MS. ROSENFELD: This is the topic for

Page 175

1 KALINSKY
 2 which you designated him to testify.
 3 MR. BAXTER: It still has some mix of
 4 factual and legal conclusions. For
 5 example, the meaning of religious
 6 corporation.
 7 But go ahead and answer the question if
 8 you're able to.
 9 MS. ROSENFELD: Well, he's here to give
 10 binding testimony on behalf of the
 11 corporation.
 12 MR. BAXTER: I'm not stopping him from
 13 testifying. I've stated my objection. He
 14 can answer the question.
 15 MS. ROSENFELD: But your objection is
 16 marring the regard claiming that this is a
 17 legal conclusion, when you designated
 18 somebody to testify. If you thought this
 19 was an improper subject for deposition, you
 20 should've objected to it, but you didn't.
 21 You produced him.
 22 So your objections to the questions at
 23 this point on that basis is not proper, and
 24 I'm going to move to strike them.
 25 Q. So, to go back to my question, has

Page 176

1 KALINSKY
 2 Yeshiva University ever represented to DASNY that
 3 it is a religious corporation?
 4 MR. BAXTER: Same objection.
 5 Go ahead.
 6 A. We would represent ourselves to DASNY as
 7 we would represent ourselves to any state, city,
 8 federal, any official documentation as to who we
 9 are. I think actually it's even here, right?
 10 History and general description. Yeshiva
 11 University, we have here who Yeshiva University is.
 12 Q. Just so the record is clear, are you
 13 reading from an exhibit?
 14 A. Yes.
 15 Q. Can you just put it on the record which
 16 exhibit.
 17 A. 21, where it says general information.
 18 Q. Sure. So again back to this distinction
 19 that we were drawing earlier that Yeshiva
 20 University may represent itself as a religious
 21 institution or religiously affiliated or having a
 22 religious identity on the one hand versus Yeshiva
 23 University claiming a legal status as a religious
 24 corporation under New York law.
 25 My question is the latter. Has Yeshiva

Pages 173 to 176

Page 177

1 KALINSKY
2 University ever represented itself to DASNY as a
3 religious corporation under New York law?
4 A. I think we represented ourselves as the
5 document shows. A religious orientation is clear
6 from the documentation. Our affiliations are
7 clear. I don't know what boxes were checked
8 unless I have the document adjacent here.
9 Q. So the answer is you don't know?
10 A. I'm not aware of which boxes off the top
11 of my head without seeing the document.
12 Q. Okay. Well, the topic that you were
13 designated to testify about is how Yeshiva
14 University characterizes or has characterized its
15 status as a religious corporation for purposes of
16 obtaining bond issuances from DASNY.
17 So I think we need to just make a clear
18 record about whether you can answer that question
19 or not. Can you answer the question of whether
20 Yeshiva University has characterized itself as a
21 religious corporation, capital R religious, under
22 the law for purposes of obtaining bond issuances
23 from DASNY?
24 A. I would assume that we have not.
25 Q. And why would you assume that you have

Page 179

1 KALINSKY
2 A. Because I haven't seen all the
3 university documents.
4 Q. Okay. Have you ever seen a document
5 where Yeshiva University applied for any source of
6 funding where it represented that it was a
7 religious corporation under New York law?
8 A. I don't think so.
9 Q. Let's move, please, to number 20.
10 Actually, you know what? I don't think we need
11 that.
12 (Plaintiffs' Exhibit 23, Document Bates
13 stamped YU 01171 through YU 01173, was so
14 marked for identification, as of this date.)
15 Q. For the record, Exhibit 23 is Bates
16 stamped YU 01171, YU 01172 and YU 01173. So did
17 Yeshiva University at some point complete a project
18 to update the pedestrian plaza around campus?
19 MR. BAXTER: I object. This is outside
20 the scope, but I will let him answer.
21 A. There's a 185th Street plaza project.
22 It's actually a New York City street plaza project,
23 if that's what you're referring to.
24 Q. And did Yeshiva University receive funds
25 from DASNY to support that project?

Page 178

1 KALINSKY
2 not?
3 A. From my recollection from the
4 documentation that need to be presented, we
5 presented under the education law.
6 Q. When you say "we presented under the
7 education law," what are you referring to?
8 A. We presented as a university.
9 Q. To whom?
10 A. To DASNY.
11 Q. Perhaps just to speed up our walk
12 through these various exhibits, are you aware,
13 Rabbi Dr. Kalinsky, of any instance where Yeshiva
14 University has characterized itself as a religious
15 corporation under New York law for purposes of
16 obtaining funding from any source?
17 A. With the capital R?
18 Q. Meaning legally organized as a religious
19 corporation when we say capital R, are you aware of
20 any presentation of that type by Yeshiva
21 University?
22 A. I'm not sure.
23 Q. And are you not sure because you think
24 it's possible, or are you not sure -- what makes it
25 hard to answer that question?

Page 180

1 KALINSKY
2 A. We applied for funding. Again, the
3 document in front of me is about security cameras
4 at the pedestrian plaza. So I'm not sure which
5 part you're asking about.
6 Q. Sure. It says it applied for a grant in
7 the amount of \$250,000. Do you see that?
8 A. Yes.
9 Q. If you go to the next page, 1171, it's
10 on the DASNY letterhead, 1172, you can see that a
11 grantee questionnaire was filled out by Yeshiva
12 University?
13 MR. BAXTER: I'm just going to note for
14 the record you don't have the full document
15 here. This is excerpts.
16 But go ahead and review the document.
17 A. Yeah.
18 Q. Do you see that grantee questionnaire?
19 A. It's just information here. I'm not
20 sure.
21 Q. Well, do you see at the top it says,
22 "New York State of Opportunity DASNY Grant Programs
23 Grantee Questionnaire"?
24 A. Yes.
25 Q. Okay, and then, if you flip to the back

Pages 177 to 180

Page 181

1 KALINSKY
 2 of that page, 1173, Yeshiva University reported to
 3 DASNY that it was a university educational
 4 organization. Is that correct?
 5 A. Yes.
 6 MR. BAXTER: Where is that? Okay.
 7 Q. Okay. You can set that aside. Handing
 8 you what has been marked as Exhibit 24.
 9 (Plaintiffs' Exhibit 24, Document Bates
 10 stamped 1355 through 1356, was so marked for
 11 identification, as of this date.)
 12 Q. This was produced by your counsel Bates
 13 stamped 1355 and 1356. This is a letter from John
 14 Greenfield, director of government relations. Is
 15 he one of the people that you spoke with to prepare
 16 for your deposition today?
 17 A. Yes.
 18 Q. And did Yeshiva University seek to
 19 obtain \$10 million from New York State to renovate
 20 the Amsterdam Avenue pedestrian plaza?
 21 A. I believe that's what that says here in
 22 bold.
 23 Q. And do you know if Yeshiva University
 24 received that money?
 25 A. I don't know if that went through. I

Page 182

1 KALINSKY
 2 don't know how quickly these things go. This is
 3 not so long ago. February 16, 2021. I don't know.
 4 Q. Okay, and in this document Yeshiva
 5 University represents itself as a 501(c)(3)
 6 not-for-profit institution of higher learning
 7 located in the City of New York, is that right?
 8 A. That is what it says.
 9 Q. Okay, and it says here that "This would
 10 provide a needed space for respite and community
 11 gathering in Washington Heights."
 12 Do you see that?
 13 MR. BAXTER: I'm going to object to the
 14 extent this is outside the scope of the
 15 deposition.
 16 You can answer.
 17 A. Which paragraph are you in?
 18 Q. The second to last full paragraph, "The
 19 benefit of this project is twofold."
 20 A. Yeah, this is true, yeah, meaning if
 21 you're familiar with the project, it's on Amsterdam
 22 Avenue. Amsterdam Avenue is the heart of the
 23 campus, but it's also Amsterdam Avenue, and,
 24 generally speaking, both from the 185th Street
 25 plaza and the Amsterdam Avenue plaza, with joy, the

Page 183

1 KALINSKY
 2 people are hanging out there especially in the
 3 summer when we're not in session, our local
 4 community members, for probably four or five months
 5 out of the year. They're there throughout the
 6 whole year, but they're the main ones here.
 7 So it's definitely a place of respite,
 8 and that's why New York City has a plaza project.
 9 There's plazas all over the place. Near Pinehurst
 10 there's a plaza project. That's what it does.
 11 Q. So is the plaza open to all members of
 12 the public?
 13 A. Sure.
 14 Q. Can Yeshiva University refuse to allow
 15 members of the public to access the plaza?
 16 A. No.
 17 MR. BAXTER: Objection. Calls for a
 18 legal conclusion.
 19 If you know, you can answer.
 20 Q. Okay. Is there any exception that
 21 Yeshiva University would claim to public use of the
 22 plaza based on its status as a religious
 23 corporation?
 24 A. Let me answer the question a little bit
 25 that I was going to say before in answering my

Page 184

1 KALINSKY
 2 first question.
 3 There's a difference between individuals
 4 and groups. If someone would want to bring 50
 5 people to the plaza and play loud music and give
 6 out, you know, whatever it might be, they would
 7 actually have to go to the city to ask for
 8 permission to run a program on the plaza.
 9 If you're asking about a single
 10 individual entering the plaza or leaving the plaza,
 11 it's an open plaza for the community.
 12 Q. My question was, is there any exception
 13 that Yeshiva University would claim to public use
 14 of this plaza based on its status as a religious
 15 corporation?
 16 MR. BAXTER: I'm going to object to this
 17 line of questioning as outside the scope of
 18 the notice. So I instruct the witness not
 19 to answer.
 20 A. I don't know.
 21 MS. ROSENFELD: It's not outside the
 22 scope of the notice, because the notice is
 23 its practices in obtaining bond issuances
 24 and how it characterizes itself as a
 25 religious corporation.

Pages 181 to 184

Page 185

1 KALINSKY
 2 MR. BAXTER: From DASNY. From DASNY.
 3 MS. ROSENFELD: This is money from New
 4 York State, and I don't think that the judge
 5 would appreciate us slicing it quite so
 6 narrowly, since this is an application for
 7 funding from New York State similar to
 8 DASNY.
 9 MR. BAXTER: I'm going to stick with
 10 what the notice says and instruct the
 11 witness not to answer any questions about
 12 this topic.
 13 Q. So, with respect to the DASNY funds we
 14 talked about in those buildings that the DASNY
 15 funds were used for, has Yeshiva University ever
 16 tried to limit activities in any of those
 17 facilities based on its claimed status as a
 18 religious corporation to your knowledge?
 19 MR. BAXTER: Again, I object as outside
 20 the scope.
 21 MS. ROSENFELD: That's directly in the
 22 scope of topic 10.
 23 MR. BAXTER: ??
 24 MS. ROSENFELD: Topic 7.
 25 MR. BAXTER: How they use it after they

Page 186

1 KALINSKY
 2 get it is not within the scope of the
 3 question.
 4 MS. ROSENFELD: Okay. Well, I think it
 5 is fairly implied in the topic, and I would
 6 like the witness to answer the question.
 7 MR. BAXTER: You can answer if you know.
 8 I just ask you not to speculate.
 9 A. Okay. So can you say it one more time
 10 so I can try not to speculate.
 11 Q. Um-hum. With respect to the DASNY funds
 12 that we talked about previously that were used to
 13 improve certain facilities on Yeshiva's campus, has
 14 Yeshiva University ever tried to limit activities
 15 in those buildings based on its claimed status as a
 16 religious corporation to your knowledge?
 17 A. Activities? I'm not sure. Like what
 18 would happen? What you would be referring to?
 19 Are you asking if we would limit activities? I
 20 don't know. I'm not sure.
 21 Q. Is Yeshiva University's legal status
 22 as -- claimed legal status as a quote unquote
 23 religious corporation, has Yeshiva -- you know
 24 what? I think this is not your question. I will
 25 just withdraw it.

Page 187

1 KALINSKY
 2 Is it accurate that Yeshiva enters into
 3 contracts with the City of New York from time to
 4 time to provide services?
 5 MR. BAXTER: Objection. Outside the
 6 scope of the deposition. You don't have to
 7 answer the question.
 8 MS. ROSENFELD: These are all going to
 9 be questions about Yeshiva's representations
 10 to -- public-facing representations about
 11 its legal status.
 12 MR. BAXTER: Ask the question again.
 13 Back to number 1?
 14 MS. ROSENFELD: Exhibit 25.
 15 (Plaintiffs' Exhibit 25, Contract
 16 effective July 1st, 2018, was so marked for
 17 identification, as of this date.)
 18 MR. BAXTER: Tell me what topic you're
 19 asking questions under.
 20 MS. ROSENFELD: I think it goes probably
 21 to 2 and also partially to 1. I mean these
 22 are issues about its public presentation of
 23 its status.
 24 So I would assume these are facts that
 25 would go to its claim to be a religious

Page 188

1 KALINSKY
 2 corporation and as well as its actual
 3 status.
 4 Q. So if you go to --
 5 A. And I've never seen this before.
 6 Q. I understand. There's no question.
 7 If you go to the second page of the document, it
 8 says this is an agreement between the City of New
 9 York acting --
 10 A. Page 1 or page 2?
 11 Q. Page 1 of the actual contract. It
 12 says, "This agreement effective July 1st, 2018
 13 between the City of New York acting by and through
 14 its Department of Health and Mental Hygiene and
 15 Yeshiva University, contractor, a not-for-profit
 16 corporation," et cetera.
 17 So this is a contract between the City
 18 through DOHMH and Yeshiva University to provide
 19 certain services. You can see at the end that the
 20 contract is executed by Mr. Lauer for Yeshiva
 21 University and by the Assistant Commissioner for
 22 the City.
 23 A. Do you have what this is about?
 24 MR. BAXTER: I object. I don't think
 25 this is the full document.

Pages 185 to 188

Page 189

1 KALINSKY
2 THE WITNESS: Yeah.
3 Q. I believe it's the full document.
4 A. It can't be.
5 Q. It's the agreement, and it's signed.
6 This is the agreement.
7 A. What are they agreeing to?
8 Q. So what I wanted to ask you, Rabbi Dr.
9 Kalinsky, is do you see at the top where it says
10 Recitals, and it says, "Contractor is a
11 community-based not-for-profit corporation or other
12 public service organization"?
13 A. No.
14 Q. It's in the very top recital.
15 A. "Contractor, which is community-based
16 not-for-profit corporation or other public service
17 organization." Okay.
18 Q. And, in this case in this contract with
19 Yeshiva University, do you see that above?
20 A. Yes.
21 Q. So from time to time has Yeshiva
22 University represented that it's a community-based
23 not-for-profit corporation?
24 MR. BAXTER: Objection. The document
25 speaks for itself, and it's outside the

Page 190

1 KALINSKY
2 scope.
3 A. I think we need to know what this is
4 talking about before we talk about why we would be
5 presenting ourselves in a certain way.
6 Q. If you can answer my question, you do
7 need to. So in this document is Yeshiva University
8 representing that it's a community-based
9 not-for-profit corporation?
10 MR. BAXTER: Again, objection for lack
11 of foundation and incomplete document.
12 If you know, then you can answer. If
13 you don't know, don't speculate.
14 A. This may be a very specific -- I
15 wouldn't say that this references Yeshiva
16 University necessarily. I don't know what it's
17 talking about. Maybe it's about --
18 Q. Do you see on page 11 of the document
19 that it's signed by Yeshiva University by Mr.
20 Lauer?
21 A. Yes.
22 Q. Okay. Does Yeshiva University change
23 how it represents itself depending on the audience
24 to whom it's speaking?
25 A. I can't answer that question.

Page 191

1 KALINSKY
2 Q. Well, as a legal entity, does Yeshiva
3 University represent itself differently depending
4 on whether it's speaking to a government funder,
5 whether it's speaking to its students, whether it
6 is speaking to the Bundy Aid funders?
7 A. So, again, if you want to differentiate
8 between asking for aid and talking to students, you
9 can use different language. One is going to be a
10 legal technical term. One is going to be reality.
11 Q. What about for its legal corporate
12 status? Does that change depending on who it's
13 speaking to?
14 A. I don't think the university speaks to
15 its students about its legal corporate status.
16 Q. Okay, but what about with respect to
17 representations to government? Does Yeshiva
18 University change how it describes its legal status
19 depending on who it's speaking to, whether city,
20 state or federal government?
21 A. I assume whoever fills out forms is
22 being honest in filling them out appropriately
23 representing the university and representing what
24 needs to be done.
25 Q. So I'll show you what has been marked as

Page 192

1 KALINSKY
2 Exhibit 27.
3 (Plaintiffs' Exhibit 27, Application for
4 grant, was so marked for identification, as
5 of this date.)
6 Q. Are you aware that Yeshiva University
7 applied for grants from the Department of Homeland
8 Security for security cameras?
9 MR. BAXTER: Again objection as outside
10 the scope.
11 You can answer.
12 A. I think so. It would be a worthwhile
13 thing to ask for. Was this for the university?
14 Is this for the high school?
15 Q. So, if you look at the second page which
16 is Bates stamped by your lawyers YU 01085, it says
17 "Summary description of the project."
18 Do you see the first two sentences
19 provide a description of the grantee as Yeshiva
20 University?
21 A. I see the first sentence. That's the
22 first time I'm seeing it described in those exact
23 words.
24 Q. Okay. Well, would you agree that the
25 university has become one of the world's premier

Pages 189 to 192

Page 193

1 KALINSKY
 2 centers for the academic study of Jewish culture,
 3 religion, philosophy and tradition?
 4 A. Amongst other things.
 5 Q. And on the front page, did you speak
 6 with Ronald Nahum, director of finance and
 7 administration, to prepare for your deposition
 8 today?
 9 A. Not in the recent week. I do know who
 10 he is, and I have spoken to him in the past, but
 11 not in the last week or so.
 12 Q. Okay. Have you ever spoken to him to
 13 get ready for today's deposition?
 14 A. No.
 15 Q. Do you see here that somebody checked
 16 the box on here not-for-profit? There's two
 17 choices, sectarian entity and not-for-profit, on
 18 page 1084.
 19 A. Um-hum.
 20 MR. BAXTER: I'm just going to object.
 21 This is an incomplete form.
 22 But go ahead.
 23 Q. Do you know who made that selection?
 24 A. No.
 25 Q. Is this another example of Yeshiva

Page 194

1 KALINSKY
 2 University representing itself as a not-for-profit
 3 corporation?
 4 A. I wouldn't categorize it as that.
 5 Q. You disagree with the categorization of
 6 whoever filled out this form made?
 7 A. No, I didn't say that either. Again, I
 8 didn't speak to the person who filled out the form.
 9 There's two boxes. They filled out one of them to
 10 apply for the grants. It could be this person is
 11 not familiar with the other terminology of
 12 sectarian. I think, as we discovered, it's a very
 13 unclear word.
 14 So whoever it is of these four people, I
 15 wouldn't define university on this piece of paper.
 16 Q. This is a representation made to obtain
 17 money from the federal government, right?
 18 A. Um-hum.
 19 Q. It has to be accurate, right?
 20 A. It is accurate.
 21 Q. Okay. In the beginning of the
 22 deposition when I asked you who you had spoken to,
 23 one of the people that you mentioned is somebody
 24 who I believe you said is responsible for
 25 institutional research. I may be misstating that

Page 195

1 KALINSKY
 2 name.
 3 A. He's maybe the director or assistant --
 4 associate director. I don't know exactly his
 5 title. You're referring to David Palmer?
 6 Q. Yes. What is the division or
 7 department or group that he works in?
 8 A. David Palmer is a faculty member, and he
 9 also works for the Provost in the Department of
 10 Institutional Research.
 11 Q. Okay. The Department of Institutional
 12 Research.
 13 A. Yeah, but he's not, I don't think he
 14 runs the department being that he doesn't do it
 15 full-time, but he runs a lot of, crunches a lot of
 16 the numbers for the institution.
 17 Q. Okay, and what specifically did you
 18 discuss with him that was helpful or that was
 19 needed for you to prepare for today's deposition?
 20 A. He was the one who crunches the number
 21 for the Bundy funding, for the graduates. That's
 22 the institutional research. That area is his area.
 23 He'll work with the registrar's office and look at
 24 the end of the year to see how many students
 25 completed X amount of degrees, and he's the one who

Page 196

1 KALINSKY
 2 would be able to create that report.
 3 Q. And so did he create a report for you
 4 that showed how much Bundy Aid had been received by
 5 Yeshiva University?
 6 MR. BAXTER: Objection to form.
 7 A. It was a discussion about what he does
 8 for Bundy funding.
 9 Q. And so can you just describe what he
 10 said to you and what you said to him about the
 11 Bundy funding that you haven't already testified
 12 about today?
 13 A. Sure. If I recall, I just asked him, so
 14 I need to know information on Bundy. He said sure.
 15 We apply. We fill out the forms. I think at one
 16 point they were paper forms. Then they became more
 17 digital forms. He fills them out as appropriate
 18 and obviously representing it's accurate data.
 19 Q. Okay. Did you and he speak at all about
 20 this element of the topic that related to its
 21 religious corporate status and Bundy Aid?
 22 A. Are you referring to --
 23 Q. -- the topic.
 24 A. -- 19?
 25 Q. I'm actually referring to topic 6 in the

Pages 193 to 196

Page 197

1 KALINSKY
 2 original notice, which was about the university's
 3 status as a religious corporation for purposes of
 4 obtaining Bundy Aid, and my question was whether
 5 you had spoken to this individual about that aspect
 6 of the notice?
 7 A. If I recall, I asked him what are the
 8 procedures for receiving Bundy Aid. He told me
 9 there are forms. We fill out the forms. We didn't
 10 go through specifics every single line all the
 11 things that he needs to fill out, and he did not
 12 know about any additional forms about the religious
 13 characterization.
 14 (Recess taken)
 15 BY MS. ROSENFELD:
 16 Q. Rabbi Dr. Kalinsky, I'm handing you
 17 Pathways to Our Future, which is Exhibit 26.
 18 (Plaintiffs' Exhibit 26, Pathways to Our
 19 Future, Yeshiva University's strategic plan
 20 2016 to 2020, was so marked for
 21 identification, as of this date.)
 22 Q. Did you review this document, Yeshiva
 23 University's strategic plan 2016 to 2020, to
 24 prepare for your deposition?
 25 A. Yes. I refreshed my memory. I was

Page 198

1 KALINSKY
 2 involved in creating it, so I should be somewhat
 3 familiar.
 4 Q. Okay. If you'd please turn to page 6
 5 using the document numbering.
 6 A. Okay.
 7 Q. So in that first sort of introductory
 8 paragraph, it says, the last sentence of the
 9 paragraph, "YU will grow its enrollment by building
 10 and extending its intellectual brand, retaining the
 11 hearts and minds of the Modern Orthodox community
 12 while expanding beyond our traditional
 13 constituency."
 14 What does this mean when the strategic
 15 plan talks about expanding beyond Yeshiva
 16 University's traditional constituency?
 17 A. If I recall and also can -- I believe
 18 this has to do with looking at trajectory to the
 19 more Yeshivish community, to the more Hasidic
 20 community and to build programs for that
 21 constituent beyond the traditional Modern Orthodox
 22 community, and we actually did that.
 23 The Wurzweiler School of Social Work has
 24 a program, a collaboration with the Sara
 25 Schenirer -- I'm not sure what the last --

Page 199

1 KALINSKY
 2 Institute or something, and we've recruited many
 3 more students from the more Yeshiva community,
 4 Hasidic community, to the social work school.
 5 In cyber security, we're now recruiting
 6 students from Lakeland, New Jersey to come take our
 7 cyber security graduate program.
 8 Q. And so when the document speaks about
 9 traditional and new markets at 2B?
 10 A. 2B. One second. "Increase student
 11 enrollment in all schools." Yeah. Traditional is
 12 used in terms of a secular word here, I think.
 13 Q. But is the new markets referring to the
 14 same group that you just spoke about before?
 15 A. I think so. Again, this is a strategic
 16 plan. The university was trying to figure out ways
 17 to expand enrollment in our graduate schools. That
 18 was the goal.
 19 So, if we viewed ourselves as the
 20 middle, the Modern Orthodox, the traditional, it
 21 could be new markets also. I don't know what the
 22 traditional brand of a Ferkauf student was or is.
 23 You could say the same thing for undergraduate.
 24 Maybe in 2016 we didn't have a lot of
 25 students from Brooklyn, New York. Now we're going

Page 200

1 KALINSKY
 2 to get into Brooklyn, New York and recruit in those
 3 high schools, and they're not traditional in that
 4 we don't traditionally recruit from there, but now
 5 we're going to go in there and recruit those
 6 students, all aligned in the mission and things of
 7 that sort.
 8 Q. Okay. Thanks. You can set that aside.
 9 I am handing you what has been marked as
 10 Plaintiffs' Exhibit 29.
 11 (Plaintiffs' Exhibit 29, List of
 12 lobbying activities performed by Yeshiva
 13 University's lobbyists as reported to New
 14 York State, was so marked for
 15 identification, as of this date.)
 16 Q. Are you aware that Yeshiva University
 17 hires lobbyists, and its lobbyists are required to
 18 report their lobbying activity to the public?
 19 MR. BAXTER: Objection, outside the
 20 scope.
 21 MS. ROSENFELD: Well, I'm going to get
 22 there.
 23 A. I don't know so much about this
 24 document.
 25 Q. Okay. I'm not asking about the

Pages 197 to 200

Page 201

1 KALINSKY
 2 document. I am just asking you in general, are
 3 you aware that Yeshiva University has lobbyists
 4 that lobby?
 5 A. For our interests, yes.
 6 Q. Okay, and what this document is, whether
 7 or not you've seen it before, is a list of lobbying
 8 activities performed by Yeshiva University's
 9 lobbyists as reported to New York State.
 10 So my question is does Yeshiva
 11 University report in connection with its lobbying
 12 activities that it is a religious corporation under
 13 any New York law?
 14 A. I don't know.
 15 Q. And do you know if the lobbying
 16 reporting requirements for religious corporations
 17 are different for religious corporations or other
 18 entities?
 19 A. I don't know. I didn't prepare this
 20 piece. I don't know.
 21 Q. Well, this is just another aspect of
 22 Yeshiva University's outward-facing reporting.
 23 So --
 24 A. Again, but I would speculate if I could.
 25 MR. BAXTER: Don't speculate. Let her

Page 202

1 KALINSKY
 2 ask a question, and you answer the question.
 3 A. Yeah. I mean it would be the same
 4 things that I said for other things that we
 5 represent ourselves as.
 6 Q. Okay. So, in particular, though, you're
 7 not aware of how Yeshiva University characterizes
 8 itself for purposes of registering its lobbying
 9 activities, is that correct?
 10 A. Right.
 11 Q. Okay. You can set that aside. Are you
 12 aware of whether Yeshiva University has reported to
 13 City Council, Borough President or any of the
 14 lobbying targets in here that it characterizes
 15 itself as a religious corporation under New York
 16 law?
 17 A. No. I don't know.
 18 Q. I'm handing you what has been marked as
 19 Plaintiffs' Exhibit 28.
 20 (Plaintiffs' Exhibit 28, Document headed
 21 Religious Institution Certification Form,
 22 was so marked for identification, as of this
 23 date.)
 24 Q. Rabbi Dr. Kalinsky, why don't you take a
 25 minute and review this document, and let me know

Page 203

1 KALINSKY
 2 when you have had a chance to review it. I will
 3 ask you some questions.
 4 Have you had a chance to skim the
 5 document?
 6 A. I think I have the basic idea.
 7 Q. Okay. So my first question, just
 8 generally, are you aware that colleges and
 9 universities may register as religious institutions
 10 with the New York State Department of Education for
 11 the purpose of receiving Title 4 funding for
 12 financial aid from the federal government?
 13 A. Now I understand this document. Yeah.
 14 Q. Okay, and so, in your designated role as
 15 corporate representative, are you aware of whether
 16 Yeshiva University has registered as a religious
 17 institution with the New York State Department of
 18 Education?
 19 A. I'm not aware.
 20 Q. Do you know if Yeshiva University has
 21 registered as a religious institution with the New
 22 York State Department of Education?
 23 A. I don't know.
 24 Q. If you look at page 1, it's titled
 25 Religious Institution Certification Form, and it

Page 204

1 KALINSKY
 2 asks certain questions about the institution, for
 3 example, the name, the address. Do you see that?
 4 A. Yes.
 5 Q. Then question 3 asks if the religious
 6 institution with the New York State Department of
 7 Education -- I'm sorry. Withdrawn. The question
 8 at 3A asks, "If the institution is owned,
 9 controlled, operated and maintained by a religious
 10 organization lawfully operating as a nonprofit
 11 religious corporation," and then defines that as
 12 religious organization. Do you see that?
 13 A. Yes.
 14 Q. And then it also asks at attachment A,
 15 which is the second page, do you see it says at the
 16 top attachment A?
 17 A. Yes.
 18 Q. So then it says that, to register as a
 19 religious institution, it has to also submit this
 20 certification form from the organization that owns,
 21 operates, controls, maintains it. Do you see
 22 that?
 23 A. Okay. Yeah.
 24 Q. And if you turn to the back of that
 25 page, it says that the religious organization has

Pages 201 to 204

Page 205

1 KALINSKY
 2 to provide documentation --
 3 A. Where does it say religious
 4 organization?
 5 Q. I'm sort of paraphrasing. It says,
 6 "Attach a copy of documentation establishing that
 7 the religious organization is lawfully operating as
 8 a nonprofit religious corporation pursuant to New
 9 York State's Religious Corporations Law."
 10 Do you see that?
 11 A. Yes.
 12 Q. Okay. So does Yeshiva University
 13 operate under New York State's Religious
 14 Corporations law?
 15 MR. BAXTER: Objection, calls for a
 16 legal conclusion.
 17 But go ahead.
 18 A. Do we have documentation saying this is
 19 your question?
 20 Q. No. My question is does Yeshiva
 21 University operate under New York State's Religious
 22 Corporations Law?
 23 A. We are a religious corporation
 24 incorporated under an education corporation.
 25 Q. So does Yeshiva University operate under

Page 206

1 KALINSKY
 2 New York State's Religious Corporations Law as
 3 asked in question 5 in the document in front of
 4 you?
 5 A. I'm not sure about the legal definition.
 6 Q. Well, you have been designated to answer
 7 this precise question.
 8 A. Really?
 9 Q. Yes. So the question is does Yeshiva
 10 University operate pursuant to New York State's
 11 Religious Corporations Law?
 12 A. My understanding, I feel like this
 13 question was asked like hours ago, so I'm just not
 14 sure if it's different than what it was then. We
 15 operate as a religious corporation, and we're
 16 incorporated as an education corporation with the
 17 State of New York.
 18 Q. Well, this uses New York State's
 19 Religious Corporations Law, capital R, capital C,
 20 capital L, correct?
 21 A. Yes.
 22 Q. Does Yeshiva University operate under
 23 New York State's Religious Corporations Law,
 24 capital R, capital C, capital L?
 25 A. I don't know.

Page 207

1 KALINSKY
 2 Q. Okay. Do you know if Yeshiva University
 3 operates as a nonprofit religious corporation
 4 pursuant to New York State's Religious Corporations
 5 Law?
 6 MR. BAXTER: Same objections.
 7 A. The wording in here is a little bit,
 8 religious corporation, and then you have "pursuant
 9 to New York State's Religious Corporations Law."
 10 We discussed already a few times the
 11 capital R Religious Corporation. I do not believe
 12 we're incorporated -- we're incorporated as an
 13 education with the State of New York, but we are a
 14 religious corporation. I don't think that has
 15 changed in anything that we've said or that I've
 16 seen.
 17 Q. So this document is asking if a
 18 religious organization is operating pursuant to New
 19 York State's Religious Corporations Law.
 20 So my pretty straightforward question to
 21 you is does Yeshiva University operate pursuant to
 22 New York State's Religious Corporations Law as you
 23 see it in front of you in this document?
 24 A. I don't think we can attach a copy of
 25 documentation. That's what this question is

Page 208

1 KALINSKY
 2 asking.
 3 Q. Because why?
 4 A. I don't know where that would be
 5 documented as a New York State Religious
 6 Corporation Law. I said we're a religious
 7 corporation incorporated under the education law.
 8 Q. So can we agree that Yeshiva University
 9 is not incorporated under New York State's
 10 Religious Corporations Law?
 11 A. With a capital R. Yes.
 12 Q. And can we, and, with respect to its
 13 operations as a -- okay. Withdrawn.
 14 So is Yeshiva University controlled
 15 within the meaning that is on the front page, if we
 16 look at 3A?
 17 A. Yes.
 18 Q. So this would be the document that a
 19 college or university registering as a religious
 20 institution with New York State Department of
 21 Education for purposes of receiving federal
 22 financial aid would have to fill out.
 23 Is Yeshiva University an institution,
 24 I'm sorry, is Yeshiva University controlled by an
 25 institution that operates under the Religious

Pages 205 to 208

Page 209

1 KALINSKY
2 Corporations Law?
3 MR. BAXTER: Objection.
4 Go ahead.
5 A. Yeah. This is again a nuanced reading
6 of the word "controlled," and I'll restate I think
7 what I mentioned before.
8 We don't operate under control of the
9 religion here. We are a religious institution.
10 We are a religious corporation. We have many
11 faculty members who are rabbis who influence the
12 decisions of the university. It would be hard to
13 necessarily that they have complete control in a
14 controlling type of way where they would be forcing
15 people to do certain things.
16 Q. Do you know if Yeshiva University
17 intends to fill out this religious institutions
18 certification form?
19 A. I don't know.
20 Q. Who would know the answer to that? Who
21 would be in charge at Yeshiva of making decisions
22 about whether to certify and submit this form or
23 not?
24 A. I don't know if it's one person who
25 would decide. I don't know. This may have to go

Page 210

1 KALINSKY
2 to the board. I don't know. It's defining the
3 institution. I would think that would be -- I
4 would assume that would be important discussion
5 before being just signed on a piece of paper.
6 Q. Do you make any distinction between
7 being a religious institution or a religious
8 corporation?
9 A. In my understanding, there's not much of
10 a distinction.
11 Q. So for you those phrases are essentially
12 interchangeable?
13 A. I would use, in my speaking, I would use
14 the word "institution" because people don't use the
15 word "corporation" in talking about recruiting
16 students, talking about a Yeshiva. Yeshiva would
17 be described more of an institution, but, in
18 talking about our corporate manner, we would say
19 definitely religious in that way as well.
20 Q. So, if somebody asks you to explain the
21 difference between your perception of being a
22 religious corporation and a religious institution,
23 is there any difference that you would draw?
24 A. One is more of a legal term, but, just
25 talking to neighbors and to young people who

Page 211

1 KALINSKY
2 wouldn't necessarily know the distinction, I don't
3 know.
4 Q. Are you aware of any document that
5 exists prior to the filing of this lawsuit where
6 Yeshiva University refers to itself as a religious
7 corporation?
8 A. Anything dated earlier that said we are
9 a religious corporation that I would have seen?
10 Prior to preparing for this, I don't think in
11 corporate terms, meaning if you ask me what are we?
12 We're Yeshiva University. What's Yeshiva
13 University? Yeshiva University.
14 Q. So for purposes of preparing for this
15 deposition, did you review any documents that
16 predate the filing of this lawsuit and refer to
17 Yeshiva University as a religious corporation?
18 A. Other than the fact that RIETS, Rabbi
19 Isaac Elchanan Theological Seminary, when it was
20 incorporated in 1897 as a seminary, it wasn't
21 incorporated as a religious corporation, even
22 though no one would argue whether that is a
23 religious corporation or not, and that being
24 continued, so that any further documents that we've
25 seen the charter says it's education has continued

Page 212

1 KALINSKY
2 in with amendment, amended, but it has continued,
3 continuing that tradition and that philosophy of
4 the Yeshiva, that's where I would understand our
5 origin of saying that we are a religious
6 corporation.
7 Q. But, in order to prepare for today's
8 deposition, did you review any documents that
9 predate the filing of this lawsuit that refer to
10 Yeshiva University using the term "religious
11 corporation"?
12 A. That predate this deposition or predate
13 or any documents?
14 Q. Well, let's start with have you ever
15 seen any documents to prepare for this deposition
16 that refer to Yeshiva as a religious corporation?
17 A. I would have to look back if there are
18 any filings, but off the top of my head I'm not
19 sure. I would say it's definitional to Yeshiva
20 University. In the first word, Yeshiva University,
21 Yeshiva means religious corporation.
22 Q. Okay. So the answer to the question of
23 whether you've ever seen a document that refers to
24 Yeshiva University as a "religious corporation" is
25 I'm not sure. Is that right?

Pages 209 to 212

Page 213

1 KALINSKY
 2 A. Correct.
 3 Q. And, prior to being asked to testify in
 4 this deposition and preparing for this deposition,
 5 have you ever heard anybody refer to Yeshiva
 6 University as a "religious corporation"?
 7 A. Definitely religious institution. That
 8 for sure. Again, prior to this, I don't think I
 9 thought of the word "corporation" with Yeshiva
 10 University.
 11 MS. ROSENFELD: I don't have any more
 12 questions. Thank you for your time today.
 13 THE WITNESS: Sure.
 14 MR. BAXTER: I have just a couple of
 15 questions.
 16 MR. BAXTER: I'm going to ask the court
 17 reporter to show the witness Exhibit 20.
 18 EXAMINATION BY MR. BAXTER:
 19 Q. Do you remember this document from
 20 earlier in your deposition?
 21 A. Yes.
 22 Q. And you testified that you spoke to
 23 David Palmer again do you remember?
 24 A. Yes. Associate. Now I see here his
 25 title is associate director of institutional

Page 214

1 KALINSKY
 2 research.
 3 Q. And what did you speak to David Palmer
 4 about?
 5 A. Bundy Aid.
 6 Q. Okay. I'm going to ask the reporter to
 7 show you Exhibit 19. Do you remember this document
 8 from earlier in your deposition?
 9 A. Yes.
 10 Q. And did you ask Mr. Palmer if he had
 11 ever seen this document?
 12 A. Yes.
 13 Q. And what was his response?
 14 A. He had not seen it.
 15 MR. BAXTER: Okay. No further
 16 questions.
 17 MS. ROSENFELD: Thank you very much.
 18 MR. BAXTER: Thank you.
 19 (Time noted: 4:30 p.m.)
 20 _____
 21
 22 Subscribed and affirmed to
 23 before me this ____ day of ____, 2021.
 24 _____
 25

Page 215

1
 2 CERTIFICATION
 3
 4 I, JOSEPH R. DANYO, a Shorthand
 5 Reporter and Notary Public, within and for the
 6 State of New York, do hereby certify:
 7 That I reported the proceedings in the
 8 within entitled matter, and that the within
 9 transcript is a true record of such proceedings.
 10 I further certify that I am not related,
 11 by blood or marriage, to any of the parties in this
 12 matter and that I am in no way interested in the
 13 outcome of this matter.
 14 IN WITNESS WHEREOF, I have hereunto
 15 set my hand this 30th day of November, 2021.
 16
 17
 18 JOSEPH R. DANYO
 19
 20
 21
 22
 23
 24
 25

Page 216

1
 2 INDEX
 3 Witness Page
 4 RABBI DR. YOSEF KALINSKY 3
 5
 6 EXHIBITS
 7 Plaintiffs' Page
 8 Exhibit 1 Notice of deposition 9
 9 Exhibit 2 Document from New York State 23
 10 Education Department showing
 11 Yeshiva University's enrollment
 12 for 2019 to 2020
 13 Exhibit 3 Vision page of website 27
 14 Exhibit 4 President Berman's statement to 28
 15 board of trustees
 16 Exhibit 5 Yeshiva University employee 32
 17 handbook
 18 Exhibit 6 Mission statement of Yeshiva 35
 19 University
 20 Exhibit 7 Bylaws of Yeshiva University 37
 21 Exhibit 8 December 15, 1967 articles of 37
 22 incorporation amended charter
 23 Exhibit 9 Document Bates stamped YU 02560 69
 24 through 2589 and YU 02747
 25 through YU 02752
 26 Exhibit 10 Pages from Yeshiva University 71
 27 Career Center Class of 2018
 28 Post-Graduation Destination
 29 Survey
 30 Exhibit 11 Yeshiva University 75
 31 Undergraduate Dress Code

Pages 213 to 216

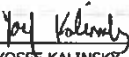
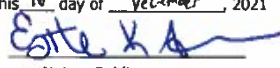
Page 217

1		
2	Exhibit 12 List of current board of trustees from Yeshiva University website	83
3		
4	Exhibit 13 Petition dated October 9, 1969 of Yeshiva University to amend charter	94
5		
6	Exhibit 14 Schedule E	105
7	Exhibit 15 Document Bates stamped YU 02981 through 2985	141
8		
9	Exhibit 16 Charter of RIETS dated February 27, 1970	148
10	Exhibit 17 Document dated March 2019	150
11	Exhibit 18 Document dated October 25, 2021	150
12	Exhibit 19 Blank application for participation in Bundy Aid	162
13		
14	Exhibit 20 Document	164
15		
16	Exhibit 21 Excerpt from bond issuance documents for DASNY to Yeshiva University	166
17	Exhibit 22 Document Bates stamped YU 01301	169
18	Exhibit 23 Document Bates stamped YU 01171 through YU 01173	179
19	Exhibit 24 Document Bates stamped 1355 through 1356	181
20		
21	Exhibit 25 Contract effective July 1st, 2018	187
22	Exhibit 27 Application for grant	192
23	Exhibit 26 Pathways to Our Future, Yeshiva University's strategic plan 2016 to 2020	197
24		
25		

Page 218

1		
2	Exhibit 29 List of lobbying activities performed by Yeshiva University's lobbyists as reported to New York State	200
3		
4		
5	Exhibit 28 Document headed Religious Institution Certification Form ~oOo~	202
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Page 219

1	SIGNATURE PAGE OF YOSEF KALINSKY		
2	Page	Line	Should be Changed to Read
3	<u>See attached errata sheet</u>		
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18			
19	I, YOSEF KALINSKY, hereby certify that I have read the transcript of my testimony taken under oath and that the transcript is a true and complete record of my testimony, and that the answers on the record as given by me are true and correct.		
20			
21			
22			
23	Sworn to before me this 16 day of December, 2021	YOSEF KALINSKY	
24			
25	Notary Public		

ESTHER K. SASSON
Notary Public, State of New York
No. 02SA4966712
Qualified in Nassau County
Commission Expires on 05/14/2022

Pages 217 to 219

New York
212-273-9911

Hudson Court Reporting & Video
1-800-310-1769

New Jersey
732-906-2078

A	108:5,13	54:13	123:21	189:5,6
a.m 1:11	109:12,20	96:21	143:9	ahead 23:15
Abady 1:17	111:5	152:10,12	147:25	24:24 25:9
2:4	112:14,16	additional	affiliated	29:10 30:5
ABIGAIL 2:13	113:8,16	42:24	176:21	34:22 36:9
ability 97:3	accompanied	107:24	affiliates	36:16 37:7
130:23	107:21	108:3,4,11	20:16 22:2	38:11,19
159:13	accompany	111:10,19	affiliation	39:6 41:3
able 11:9	114:17,19	114:8,9	11:14	43:11 44:9
17:23	accords 25:4	145:8,13	129:16	49:19
73:23	account	148:22,24	affiliat...	54:22 56:4
76:17	50:24	152:2,17	177:6	58:19,25
88:23	51:18	153:3,4	affirmat...	59:20
100:5	60:16	197:12	104:6	63:13 76:2
104:21	170:14	address 81:7	affirmed 3:3	78:9 88:14
105:2	accountants	204:3	118:5	93:23
108:11	84:25	addresses	214:22	103:3
111:12,17	accurate	75:8	affirming	105:6
111:18	34:24	adjacent	55:4,8	106:13
112:15	187:2	177:8	105:11	107:16
115:19	194:19,20	adjective	affordable	117:4
116:6	196:18	124:2	164:24	118:20
145:8,11	accustomed	administ...	Afternoon	124:9
158:6	26:6	5:25 49:14	118:2	125:14
159:8	acting 188:9	51:7 52:2	against- 1:6	140:7
173:17	188:13	193:7	ago 6:17	158:14
175:8	activities	administ...	19:9 31:5	175:7
196:2	125:17	74:16	31:6 89:12	176:5
abroad 26:13	126:18	admissions	100:9	180:16
absent	185:16	13:17	182:3	193:22
104:22	186:14,17	16:18	206:13	205:17
absurd 50:8	186:19	admitting	agree 21:18	209:4
academic	200:12	137:23	21:23	aid 154:21
7:20 52:20	201:8,12	adopted	75:21	156:9,12
67:12	202:9	86:23 87:4	85:19 86:9	156:16,19
68:17,18	218:2	advanced	118:15	156:21
68:21,25	activity	145:19	119:2,9	157:2,8,12
69:9 71:14	200:18	147:3,18	120:2	158:2,7,7
74:13,19	actual 36:14	advice	122:4	158:25
156:16	43:3 188:2	107:15	124:20	159:4,4,13
193:2	188:11	advisor 8:5	132:14	159:17
academics	ad 64:8	advisors 8:6	140:15,23	160:7,15
7:22 8:12	add 13:24	affairs 12:9	149:2	161:10
accepting	48:14	12:11,11	192:24	162:2,8,13
136:8	73:12	12:12	208:8	162:19,24
access	added 151:16	affiliate	agreed 4:11	163:9,13
113:22	152:3	21:14 81:9	agreeing	163:15,18
183:15	adding 152:7	85:21,23	189:7	163:25
accessible	addition	86:8 88:25	agreement	164:5,16
	18:10,13	89:8	188:8,12	164:17,21

164:24	150:15	89:10	190:6,12	138:22
165:6,11	212:2	91:13	190:25	139:21,22
165:15,16	216:18	93:12 97:9	192:11	139:24,25
165:18,19	amendment	98:3,23	202:2	194:10
191:6,8	43:2 85:8	101:10	206:6	196:15
196:4,21	85:18,20	102:2	209:20	applying
197:4,8	91:21	103:22	212:22	52:18
203:12	95:18	104:5,21	answered	appointed
208:22	97:14	105:2,6,7	42:12 46:3	49:4 50:15
214:5	212:2	106:25	47:23 51:9	159:5
217:12	amendments	107:16	54:21	appointm...
air 168:9	85:16	111:6	58:18 78:8	44:4 48:25
al 1:4,7	amount 16:23	119:18	114:14	49:7
Alan 12:21	180:7	120:18	124:7	appreciate
112:8,9,11	195:25	121:4,13	128:3,5	31:25
112:11,23	Amsterdam	124:9	answering	40:15 51:2
113:4,13	181:20	125:2	15:24 45:5	51:23 54:9
113:19,22	182:21,22	127:3,11	94:9	61:11
114:4,13	182:23,25	127:12	144:21	124:14
116:12,18	ANDREW 2:16	128:6,6,13	161:24	131:25
Albert 19:3	annexed	128:17	183:25	132:21
22:10	95:21	130:9	answers 3:17	159:23
aligned	annual 39:15	131:25	54:10	185:5
41:10	answer 3:19	133:3	144:11	approach
200:6	4:5,17,19	135:6	219:20	68:19,20
ALLIANCE 1:4	4:24,25	137:7	anti-dis...	approaches
allocate	5:7 11:21	144:15	152:4,7	68:21,22
165:8	12:3 13:24	145:6	154:16	appropriate
173:21	14:7 15:23	152:22,23	anti-har...	71:20
allocated	16:2 18:4	155:5,9	152:19	196:17
171:10,15	21:10 25:9	158:12,14	antithet...	appropri...
allocating	29:10 30:5	159:19,22	64:8	163:22
173:19	30:25 34:5	159:24	anybody	appropri...
allow 125:5	36:9,19	160:5	213:5	191:22
183:14	39:7 41:3	165:23	appear 9:13	approxim...
allowed	41:17	170:11	appears 92:2	24:9 25:21
24:20	44:12	171:8,20	151:10,12	26:10,11
allows	46:19 47:4	173:11	application	74:18
111:16	47:21	174:17,22	162:8,12	166:9
amend 94:23	48:16	175:7,14	185:6	area 195:22
95:16	51:14	177:9,18	192:3	195:22
96:22	53:19	177:19	217:12,22	areas 76:19
97:17	54:15 56:4	178:25	applicat...	77:16
217:4	61:10	179:20	157:15	168:12,17
amended	63:20 65:2	182:16	169:9	argue 128:12
37:22 38:4	66:10,13	183:19,24	applied	211:22
85:11	66:18 74:8	184:19	179:5	arrived
89:14	76:3 78:11	185:11	180:2,6	127:16
94:11	86:3,15	186:6,7	192:7	article 49:9
95:22	88:14	187:7	apply 52:17	articles

37:15,22	117:16	213:24,25	190:23	136:25
38:3	119:24	Association	author 112:2	137:10
216:18	125:10	70:6 92:18	authorities	141:15
aside 25:20	127:22	associat...	137:4	143:19
37:9 74:15	129:15,17	16:16	authority	146:6,12
74:23	134:16	assume 41:9	59:17	146:19,23
76:12	135:7	57:23	99:14	156:10,14
83:18	140:8	83:23	166:4	161:22
103:6	143:11,12	125:3	167:5	162:25
136:7	143:17,23	138:8,9,10	authorized	169:10,16
149:24	145:22	153:2	94:7,12	169:19,21
154:19	155:17	177:24,25	96:19	172:7
165:25	159:25	187:24	available	177:10
181:7	160:3	191:21	74:20	178:12,19
200:8	165:8	210:4	Avenue 1:17	192:6
202:11	180:5	assuming	2:5,10	200:16
asked 14:2	184:9	58:8 79:6	181:20	201:3
24:18 30:7	186:19	attach	182:22,22	202:7,12
38:23,24	187:19	108:24	182:23,25	203:8,15
42:12 46:3	191:8	109:8	awarded	203:19
51:9 54:21	200:25	111:18	87:23,24	211:4
58:18	201:2	205:6	99:24	Azireli 5:24
59:13 78:8	207:17	207:24	100:6	6:2,2
114:14	208:2	attachment	145:16	18:19,20
124:7	asks 132:24	204:14,16	aware 5:22	22:11
128:3,4	204:2,5,8	attempt	12:14	80:13
155:7	204:14	165:4	27:11 37:4	
173:14	210:20	attempted	49:25	B
194:22	aspect 8:4	171:3	50:12 51:5	B 216:6
196:13	78:12	attend 18:24	55:21	back 13:24
197:7	127:22	80:5 81:8	56:10 58:4	30:19
206:3,13	130:15	138:19	65:24	59:12
213:3	197:5	149:18	67:17,25	70:16
asking 10:9	201:21	attendance	71:8 80:21	71:10,19
11:8 16:9	aspects 7:4	54:4,18	81:5,13,18	80:8 90:15
21:2,11	8:3 9:11	attended	82:7,19	95:14
22:7 23:8	assault	5:17 18:18	85:12	107:18
32:2 45:2	154:12	attention	86:12	110:5
45:7,24,25	assertion	91:22	87:17,21	128:22
46:4,9,25	15:11	attorney	89:13	137:14
47:2 48:5	27:18	4:15,16,22	117:6	138:2
48:6 51:4	46:15	98:5 106:8	120:6	148:6
51:12	assist 143:3	106:16,23	131:4,5,7	155:4
56:18 57:6	assistant	107:14	131:13,14	164:19
63:19 68:7	6:11,16	134:4	133:23	171:25
89:22	188:21	attorneys	134:9	175:25
90:16,25	195:3	2:4,10	135:9,14	176:18
94:2 103:5	associate	11:21	135:17	180:25
104:7,9	6:15,16	91:12	136:6,14	187:13
113:9	195:4	audience	136:20,22	204:24

background	29:9 30:3	126:25	193:20	194:24
55:15	34:21 36:8	127:9	196:6	198:17
ballpark	36:15 37:6	128:3,7,11	200:19	207:11
26:5	38:9,19	128:16	201:25	Belkin 95:8
based 8:23	39:4 40:25	130:5,18	205:15	105:11
24:10	41:15	131:11,18	207:6	belong 45:11
106:10	42:12 43:9	132:8,24	209:3	46:21
129:11	44:7 46:3	133:11,15	213:14,16	47:10,18
153:20	46:7,23	137:5	213:18	48:9,24
183:22	47:12,23	139:15	214:15,18	benefit
184:14	49:18 51:9	140:5	bear 142:2	182:19
185:17	54:21 56:2	142:7,12	BECKET 2:9	Beren 67:2,3
186:15	58:18,23	142:15	began 123:8	147:19
baseline	59:19	144:13	beginning	Berman 14:19
84:16	62:15	147:4	151:20	29:24 31:4
basic 4:14	63:11 66:2	150:17	160:6	31:9
203:6	71:2 73:11	152:15,20	165:10	Berman's
basis 8:7	73:17 74:6	154:23	194:21	28:12 36:3
15:10	75:24 78:8	158:9,13	behalf 10:11	216:12
27:18	85:13,24	159:15	11:10 45:5	Bernard
46:14	86:13 87:6	160:23	45:9 48:8	80:14
124:15	87:11,14	161:11	175:10	best 3:14
129:10	88:10 89:9	165:7,20	Beit 7:9	18:9 69:17
160:9	89:19 90:2	166:10,14	62:11	74:8 105:7
175:23	90:22 91:8	168:14	170:21	better 12:4
Bates 69:23	91:25 93:9	169:24	belief 55:12	34:5 78:2
70:7 92:11	93:23	170:9	129:16	105:2
141:20,24	95:19 97:6	171:6,18	beliefs 55:5	141:4,25
169:3,7	98:20 99:5	171:24	55:9,19	160:4
179:12,15	100:19	172:12	125:17	beyond
181:9,12	101:8,25	173:9,24	126:19	198:12,15
192:16	103:2	174:9,17	believe 10:7	198:21
216:19	104:11	174:20	29:15,18	Bible 66:19
217:7,16	105:6	175:3,12	30:20 69:8	68:3
217:17,19	106:10,24	176:4	73:10 75:5	big 20:11
bathroom	107:15	179:19	76:9 77:19	binding
154:24	108:20	180:13	81:15 91:4	175:10
bathrooms	110:15	181:6	98:24	bit 3:23
168:25	112:6	182:13	100:2,18	7:14,16
baton 45:18	114:14,21	183:17	110:25	18:5 25:15
Baxter 2:12	115:2	184:16	112:10	43:4 58:14
4:22 10:18	116:19	185:2,9,19	113:18	79:15
11:19 12:2	117:3	185:23,25	120:3	80:19 86:6
14:6,7,10	118:18	186:7	124:16	114:20
14:17	119:3,10	187:5,12	134:15	131:20
15:14	119:16,23	187:18	143:20	138:3
17:25 21:8	120:16	188:24	164:2	155:5
22:13	121:11	189:24	168:2,3	170:24
23:13	124:7,24	190:10	181:21	183:24
24:23 25:7	125:13	192:9	189:3	207:7

blank 33:20	184:23	Breuer 7:8	157:2, 8, 12	18:11
33:21, 21	217:14	brief 6:24	157:17	64:11
162:7, 12	bonds 167:10	briefly 3:12	158:2, 7, 25	174:23
217:12	books 145:7	Brincker...	159:4, 4, 13	called 17:17
blood 215:11	145:10	1:16 2:4	159:16	66:24
board 23:11	Borough	bring 40:6	160:7, 11	71:22 84:7
23:17, 22	202:13	41:25	160:15, 25	99:16, 24
28:12 36:4	Boston	42:15	161:4, 10	144:4
38:7, 17, 22	125:23	76:21	162:2, 8, 13	156:12
39:2, 10, 14	bottom 32:24	113:11	162:19, 24	161:6
39:16, 19	33:5 70:15	184:4	163:9, 13	162:15
39:20, 22	70:16	bringing	163:15, 18	Calling 44:7
40:8, 16, 23	71:17	27:12	163:25	calls 21:9
41:5, 13	86:23	brings 57:12	164:4, 5, 16	23:13 38:9
42:4, 10, 14	141:7	68:21	164:21	46:7 58:24
42:14, 19	150:20	broad	165:11, 15	63:12
42:24	167:9	29:20	165:18	88:13
44:14, 17	box 106:18	broadest	191:6	93:10 97:7
44:18, 19	106:18	158:16	195:21	98:21
45:11, 13	107:19	broadly	196:4, 8, 11	101:9
45:16, 20	108:6, 8, 12	168:20	196:14, 21	106:11
45:21 46:5	108:22	broken 33:19	197:4, 8	110:16
46:21	110:25	Bronx 167:19	214:5	116:19
47:10, 17	111:9	Brooklyn	217:12	118:18
47:19 48:9	112:13	199:25	Bureau	119:3, 10
48:20, 21	114:8, 9, 13	200:2	109:17	119:16
50:15, 15	114:24	brought	burning	120:16
82:18, 22	135:21, 24	41:18, 20	149:6	121:11
82:24 83:4	193:16	41:20	business	124:24
83:10, 12	boxes 111:3	42:13	11:5 17:8	126:25
95:25	113:7, 14	44:20, 21	17:13	127:9
97:16	113:15	45:23	19:22	131:11
149:15	162:6	77:20	27:11	132:8
210:2	177:7, 10	134:14	69:11	139:16
216:13	194:9	168:10	120:7	140:5
217:2	boys 22:4	build 198:20	125:8	152:21
board's	branch	building	129:2	158:10, 11
39:15	148:15	52:21	bylaws 37:10	165:21
boards 23:9	brand 198:10	198:9	37:18 38:2	174:9, 20
bold 154:11	199:22	buildings	38:6, 14, 24	183:17
181:22	break 4:2, 3	168:3, 6, 23	109:24	205:15
bond 166:3, 8	4:5, 6, 9, 12	169:2	216:17	cameras
166:19, 22	66:5 82:14	172:5		180:3
167:5, 15	86:6 91:5	185:14	C	192:8
168:7	98:4	186:15	C 2:2 206:19	campus 7:5
169:9, 11	118:10	bullet 75:5	206:24	8:6 26:16
169:17, 22	154:24	108:23	215:2, 2	52:19
170:8	breakdown	Bundy 154:21	cafeteria	60:14 61:3
174:13, 16	73:7	156:9, 12	82:3	61:9 65:18
177:16, 22	breaks 29:21	156:15, 21	call 17:5	67:3, 5

76:15,20	158:22	certificate	100:23	103:20
76:22,23	carry 137:3	95:23	Chanukah	104:3
76:25	carryover	96:22	8:16,18	105:11
78:12,15	144:4	99:21	character	140:21
78:24,25	case 83:23	109:24	126:3	141:15
79:3,19,20	189:18	142:6,18	127:20	143:21
83:21	catalogue	142:23	144:8	148:3,8,25
84:22 85:2	69:16	147:20	characte...	211:25
126:8	catch 71:16	148:17	43:10	216:18
134:21	catching	certific...	113:10	217:5,8
138:25	97:10	20:2	158:11	charters
139:2,3	categori...	certific...	165:21	15:25
147:19	194:5	202:21	197:13	140:17
170:20	categorize	203:25	characte...	check 108:12
172:5	194:4	204:20	66:16	111:2,9
173:3	category	209:18	characte...	114:7,10
179:18	114:5	218:5	159:3	114:13,24
182:23	137:18	certify	174:14	checked
186:13	caution	209:22	177:14,20	107:18
campuses	168:14	215:6,10	178:14	108:5
26:16	Celli 1:16	219:19	characte...	110:25
60:15	2:4	cetera	129:4	113:6,14
77:19	center 71:25	109:25	159:2	113:15
149:20	72:12	188:16	163:8	162:6
167:19,23	83:25 84:2	chance 28:19	174:14	177:7
capital	84:4,5,8	28:21 92:4	177:14	193:15
127:6	84:10,19	97:20	184:24	checking
155:12,13	216:22	98:12	202:7,14	106:18
155:18	centers	164:12	charge	135:21
156:6	193:2	203:2,4	209:21	choices
167:12	certain 6:14	change 31:13	charitable	193:17
177:21	9:14 27:2	69:7 91:7	106:6	choose 72:7
178:17,19	31:3 45:4	143:10,13	Charities	134:5
206:19,19	46:6 51:8	143:14	109:17	chose 134:6
206:20,24	52:3 77:11	152:13,17	charter	chumash 9:5
206:24,24	89:2 96:24	152:24	16:14	churns 13:2
207:11	113:6,7,14	190:22	37:15,23	city 12:15
208:11	113:15	191:12,18	38:4 43:2	57:18
Cardozo	114:5	changed 31:3	43:3,5	131:22
19:15	154:15	31:13 71:8	44:5,12	134:16
22:11	161:25	90:5 92:21	49:10 85:8	136:16
care 171:9	167:11,20	93:6	85:11	157:16
172:16	186:13	143:15,18	89:14	167:20
career 71:25	188:19	143:21,25	91:20	176:7
72:12	190:5	144:2,2,3	92:13	179:22
83:24 84:2	204:2	207:15	94:12,23	182:7
84:3,5,7	209:15	219:2	95:16,18	183:8
84:10,18	certainly	changes	97:5,14,17	184:7
216:22	78:11	66:13	98:18,19	187:3
careful	142:17	67:14	99:3	188:8,13

188:17,22	123:10	144:6	163:2	124:25
191:19	144:8	199:6	195:25	127:2,10
202:13	click 30:12	comes 96:2	completely	131:12
claim 137:2	client	100:14	40:9 41:10	132:9
137:12	161:18	123:17	50:9,16	139:16
154:5	club 41:21	160:15	97:24	140:6
159:11	41:21,22	165:19	compliance	152:21
183:21	41:25 42:3	169:11,17	112:25	158:10
184:13	code 74:24	comfortable	113:5,20	165:22
187:25	75:4,4,8	36:24	complicated	174:10,21
claimed	75:10,17	76:17	111:17	174:24
153:13,16	75:20,22	coming 13:2	115:13	175:17
185:17	76:6,8,11	20:19	comply 170:6	183:18
186:15,22	83:19	26:15	172:9	205:16
claiming	216:24	55:15 78:4	173:6,15	conclusions
154:15	coerce 54:25	78:23 79:5	component	175:4
175:16	collabor...	Commis...	7:20 20:14	conditio...
176:23	198:24	188:21	21:17,19	168:10
claims	college 5:14	committed	22:8 33:16	conduct
154:16	7:8 17:7,8	32:3 39:23	89:3	148:13
clarify	19:4 66:20	committee	components	167:11
100:24	67:15,21	39:14,19	41:8 69:13	confer 94:7
104:19	67:25	42:19	comport	94:13
clarity	68:10	159:5	78:13	96:19 97:3
161:5	69:10,14	communic...	125:19	conferred
class 67:16	72:8 83:24	13:16	comprised	146:9
71:25	84:3,6,7	community	17:2	conferring
72:13 74:3	138:6	39:25 77:7	concentr...	94:15
216:22	208:19	139:12	73:7	confirming
classes 62:9	colleges	182:10	concentr...	109:17
classical	17:2,4	183:4	72:15,18	115:20
68:23	18:10	184:11	73:14	116:7
classmates	21:18,21	198:11,19	concert	confused
83:22	22:8 70:7	198:20,22	153:19	164:3
classrooms	203:8	199:3,4	conclusion	confusing
168:4,22	column	communit...	21:9 23:14	161:4
clause	108:23	189:11,15	38:10 44:8	170:4,24
140:16	come 30:12	189:22	46:8 58:24	conglome...
141:14,16	53:6,9,14	190:8	63:12	61:20
143:16,18	53:23,24	compare 92:4	88:13	Congratu...
148:25	53:24	complaint	93:10 97:7	100:10
169:12,18	54:25	152:19	98:21	connect
clean 13:10	56:12,15	complete	101:9,22	84:19
clear 46:19	56:21 57:4	15:20	106:11	connected
47:4 48:16	57:12,25	179:17	110:16	60:23
51:20	58:6,16	209:13	118:19	connection
176:12	65:15	219:20	119:4,11	19:10
177:5,7,17	67:22 77:5	completed	119:17	109:7
clearly 31:5	84:22 85:2	161:9	120:17	115:10
69:15	137:18	162:18,22	121:12	148:18

170:12	continue	209:6	210:18	126:3,5,9
171:22	120:23	controlling	211:11	126:13,16
172:10	148:12	209:14	corporation	126:18,21
201:11	continued	controls	15:12	126:24
conserva...	92:23	63:9	16:19,22	127:7,24
139:9	93:13,15	204:21	21:3,4	127:25
considered	118:7	conveys	27:19 42:9	128:15,20
68:23	123:16	81:14	46:16	128:21
107:23	140:11	copy 95:22	88:20,21	129:4,6,8
consistent	211:24,25	108:17,24	88:22 89:5	129:11,14
74:11	212:2	109:16	89:15,15	129:21
97:14	continues	115:20	89:24,25	130:3,13
100:12	70:20	116:6	90:11,12	130:19,24
103:20	93:18	142:2	91:3,4,16	131:6,10
150:10,13	141:10	205:6	91:18	131:17
150:16	144:10	207:24	92:16,19	132:6,16
consisting	continuing	core 69:4,9	92:24 93:7	133:2,9,10
167:15	102:20,21	69:11,13	93:7,14,15	133:10,16
consonance	212:3	70:21 71:6	95:23 96:4	133:22
153:8	contract	71:9 89:20	97:18	134:6,12
constitu...	187:15	123:16	101:15,16	135:11,13
198:13,16	188:11,17	corner 86:23	101:16	135:19
constituent	188:20	corporate	102:10,10	136:16,17
198:21	189:18	10:6 32:2	102:11	136:24
constituted	217:20	38:16,25	104:2	137:3,13
21:3	contractor	39:8 40:18	110:9,11	140:4,11
constitutes	188:15	40:21 41:4	110:14,19	140:14
67:9	189:10,15	44:23 45:9	111:9	143:2
constitu...	contracts	46:11 47:3	118:11,15	148:10,11
161:7	187:3	51:4,14,16	119:2,8,14	148:13
162:15	contradi...	64:22	119:21,25	149:11
constitu...	160:3	65:10	120:3,7,8	153:13,17
16:17	control 59:2	84:25 85:5	120:9,13	153:24
construc...	59:15,22	88:19	120:15	154:6,10
173:14	59:25 63:6	89:23 93:6	121:6,7,9	154:17,18
consult	63:16,23	97:15	121:10,14	155:9,16
144:25	64:3,5,17	100:24	121:15,17	155:24
contains	64:18 65:9	101:14,20	122:2,6,9	156:2,4,5
37:3,15	65:10	101:23,23	122:22	156:7
70:7	109:15	103:7	123:4,4,6	157:7
contents	115:17,18	120:21,22	123:9,10	159:3,12
167:3	209:8,13	127:5	123:11,15	174:8,15
context	controlled	133:8	123:15,21	175:6,11
35:10	58:21	136:10	123:23	176:3,24
54:14	59:14	141:16	124:3,6,13	177:3,15
60:11	109:6	154:4	124:16,17	177:21
contexts	115:10,22	155:11	124:20,21	178:15,19
119:6	116:9	191:11,15	125:5,7,8	179:7
continua...	204:9	196:21	125:9,11	183:23
70:10	208:14,24	203:15	125:12	184:15,25

185:18	19:17,18	202:9	54:23 61:5	168:7
186:16,23	19:20	206:20	89:7 196:2	169:9,11
188:2,16	21:13,24	213:2	196:3	169:17,22
189:11,16	22:5,6	219:21	created 68:2	170:16
189:23	24:10,16	corrections	85:21 96:3	171:15
190:9	27:21	17:10	creates	172:7,8,16
194:3	37:12,16	correctly	120:9	173:22
197:3	43:7 46:12	20:25 35:5	creating	174:8,13
201:12	49:2,11	44:10	198:2	174:16
202:15	53:2 57:15	66:18	crunches	176:2,6
204:11	57:19,20	158:4	195:15,20	177:2,16
205:8,23	57:22	172:24	culture	177:23
205:24	65:21,22	Council	134:20	178:10
206:15,16	66:25 68:4	202:13	193:2	179:25
207:3,8,11	71:22,23	counsel	current 27:8	180:10,22
207:14	72:7,21	11:17,19	75:4,8,10	181:3
208:6,7	74:17,24	14:16 99:5	83:3,10,12	185:2,2,8
209:10	75:3,9	99:7,10	217:2	185:13,14
210:8,15	76:8,10	107:4	currently	186:11
210:22	77:24	112:7	5:10 6:21	217:15
211:7,9,17	82:23 85:9	181:12	30:23 35:7	DASNY's
211:21,23	87:13	counselors	69:9 147:5	170:6
212:6,11	89:15 93:5	84:5	curriculum	data 13:2
212:16,21	93:13	counting	7:25,25	26:3
212:24	98:15	150:20	40:3 52:19	196:18
213:6,9	99:14	COUNTY 1:2	69:5,6,10	date 9:18
corporat...	100:7,15	couple	69:11,13	24:3 27:25
121:24	104:24	149:14	70:22 71:7	28:14
125:6	105:25	213:14	71:9 88:4	32:19
128:24,25	106:9	course 33:25	126:10	35:17
128:25	107:25	58:13 59:8	134:19	37:20,24
129:2,2	109:4,22	69:3	138:25	70:2 72:4
130:6,25	110:9,19	151:19	Curriculums	75:18 83:6
149:8,9	113:2,24	courses	69:7	94:24 95:5
201:16,17	114:6,25	66:19,19	curtness	105:21
205:9,14	115:6	66:20,21	76:3	140:8,13
205:22	117:8	66:21	customs 7:24	141:22
206:2,11	122:19	67:10,21	cyber 20:3	148:5
206:19,23	125:3	court 1:2,25	199:5,7	150:4,7
207:4,9,19	127:8	3:16,20		162:10
207:22	130:3,14	4:18 9:19	D	164:10
208:10	137:16	10:21 24:4	D 216:2	166:21
209:2	139:24	33:2 79:21	D.C 2:11	169:5
correct 4:13	147:11,13	128:12	Danyo 1:18	179:14
5:12,13	149:16	150:11	3:3 215:4	181:11
6:4,5,8,20	156:7	213:16	215:18	187:17
6:22 11:14	163:20,22	courts 77:19	DASNY 161:5	192:5
11:15 17:3	166:9	cover 112:2	164:4	197:21
18:16,17	172:19	166:25	166:2,19	200:15
19:13,14	181:4	create 8:19	166:23	202:23

dated 70:4	86:23 87:4	defining	147:12,15	deposition
94:21	95:24	111:8	148:22,24	1:14 3:10
95:11	216:18	136:3	195:25	9:14,17,21
97:16	decide 32:5	210:2	delaying	9:22 11:2
117:13	41:24	definitely	66:12	11:4,17
148:4,8	71:19	20:22	denomina...	13:23 14:6
150:2,5	106:21	32:22	43:23 44:2	14:12,15
151:5,6	107:13	33:17	44:15 46:6	14:20,23
211:8	114:9	59:10	46:22	15:3 16:10
217:4,8,10	209:25	64:18	47:11,18	63:2
217:11	decided	77:10 82:5	48:10,24	101:12
dates 88:12	114:7,13	83:20	49:6,17,24	120:20,21
90:4	decision	84:24	51:8 52:3	160:13
David 12:23	59:11	134:17	104:4	163:4
13:14	60:10,17	139:11	105:5	175:19
195:5,8	60:18 61:5	164:22	denomina...	181:16
213:23	63:22	173:12	108:18,25	182:15
214:3	89:12,17	183:7	115:6	187:6
day 7:17	90:13 91:5	210:19	denomina...	193:7,13
52:21	114:4	213:7	139:7,8	194:22
60:10	156:24	definition	denominator	195:19
64:12	157:5	29:20	73:16	197:24
123:12	decision...	104:23	department	211:15
142:9	59:17 60:7	105:3	23:24 24:6	212:8,12
214:23	63:7,10	129:11	64:7 66:9	212:15
215:15	decisions	133:2	66:14,24	213:4,4,20
219:23	51:19 59:4	152:16	66:24 67:3	214:8
day-to-day	59:4 60:8	206:5	67:4,16,17	216:8
11:5	60:9 63:24	definiti...	67:23,24	describe
deal 67:19	64:19	212:19	68:2,3	60:7
Dean 5:10	209:12,21	degree 5:20	82:8 92:10	122:11,15
6:11,15,16	deeper 31:20	5:24 94:15	171:23	160:21
6:17,17,18	defendants	99:16	172:11	196:9
7:2,6,11	1:8 2:10	100:4,6	188:14	described
9:12 10:23	33:2 92:10	145:16,20	192:7	63:3 65:7
14:22 27:8	defendants'	146:8	195:7,9,11	79:25
62:7 74:17	150:10	degrees 5:22	195:14	100:23
144:24,25	define 21:19	85:22	203:10,17	127:17
145:2,3,4	64:17	87:23,24	203:22	135:13
Dean's 6:6	66:15	88:3,4	204:6	192:22
Deans 22:24	118:21	94:6,13,17	208:20	210:17
23:4 27:6	121:16	96:19,24	216:9	describes
debt 167:21	139:17	96:24 97:3	depending	94:5
decades 42:6	140:13	98:16,17	15:6 35:9	191:18
42:6,6	173:2	99:2	190:23	describing
89:12	194:15	100:11	191:3,12	32:6 40:15
146:22	defined	145:8,9,11	191:19	description
156:21	167:14	145:13	depends	6:25 109:9
December	defines	146:25	64:17	115:8
37:21 38:3	204:11	147:2,3,3	130:15	176:10

192:17,19	21:16 23:6	directly	211:2	81:3,10
descriptive	29:16	14:25	distinguish	86:19 88:2
124:2	30:23 31:4	75:11	132:25	91:20 92:3
deserve	31:21 32:7	133:13	distributes	93:11
136:5	35:8 54:7	185:21	165:18	94:11,13
designate	74:19	director	divinity	95:7,11
165:4	79:16 80:7	12:9	87:23	96:2,3,16
designated	80:16,19	112:25	94:15	97:8 98:4
101:19	104:7	113:4,19	145:22	98:6,22
121:3	117:14	181:14	146:5,11	100:10,22
132:22	118:16,25	193:6	146:18,21	100:23
170:17	119:5,6,14	195:3,4	171:23	102:20
175:2,17	119:19,20	213:25	172:11	103:4,5,21
177:13	120:15	directory	division	105:22
203:14	125:4	108:18,25	195:6	106:3,8,14
206:6	127:13	115:6	doctor 94:15	106:15
designation	130:21	disagree	doctoral	107:10
103:7	139:7	194:5	145:16,20	108:21
designat...	140:16	discovered	doctorate	111:7
129:3	141:16	194:12	145:11,21	115:17
designee	148:24	discrimi...	146:5,10	127:5,6
154:4	152:25	103:11,14	Doctorates	131:14
desire 76:5	153:3	103:16	146:18	132:13
157:8	162:3	153:22	doctors 50:7	134:3,9,23
desires	191:9	discuss 90:7	document	137:10
97:13	201:17	195:18	23:23 24:5	141:6,15
destination	206:14	discussed	24:25 25:3	141:20
72:2,13	differen...	88:9	25:12,14	142:8,16
73:4	191:7	114:20	25:19 28:4	149:11,12
216:22	differently	137:11	29:23 30:6	150:2,5
details	191:3	207:10	30:12	152:25
160:12	difficult	discussing	36:17,20	153:2
develop	43:4 90:9	165:10	36:23,25	154:2,8,12
34:13	109:14	discussion	37:3 38:12	155:12
device 98:2	116:2	133:7	39:4,12,18	157:18,20
dictionary	148:6	196:7	40:25	159:24
105:3	172:25	210:4	42:17	161:13
difference	digital	discussions	44:16	162:14
91:15	196:17	152:6	46:23,25	164:8,23
132:14,18	dignity	dissolve	49:25	166:15
184:3	153:7	66:8,12,15	51:20,24	167:15
210:21,23	diligence	dissolving	52:15	169:3,20
differences	171:9	66:17	65:20	177:5,8,11
29:5	dining 77:16	distinction	69:20,23	179:4,12
132:20	77:18	20:17,18	70:11,15	180:3,14
144:19	direct 66:10	63:15	71:19	180:16
different	91:22	126:15	72:11	181:9
7:14,15	direction	156:2	74:10,15	182:4
12:10 17:2	60:24	176:18	76:4 78:6	188:7,25
20:2,3	144:3	210:6,10	78:18,21	189:3,24

190:7,11	38:25 40:5	125:21	105:19,24	101:7
190:18	45:14	dormitories	117:2	102:6,9,11
197:22	46:20 47:8	168:3,8,21	215:2	104:2
198:5	47:13,14	dormitory	216:2,6	105:13
199:8	48:4,5,18	81:20	217:6	110:11
200:24	81:5,13	166:4	e-mail 8:16	118:12
201:2,6	85:25	167:5	earlier	121:6
202:20,25	87:17,22	Doron 13:15	114:20	122:2,5,7
203:5,13	92:8 99:24	64:7	138:3	124:12
206:3	108:11	double	140:21	128:20
207:17,23	111:11,19	154:10,11	155:5	129:25
208:18	113:7,16	double-s...	176:19	140:24
211:4	113:23	87:10	211:8	156:5
212:23	114:23	Dr 1:14 3:2	213:20	178:5,7
213:19	123:19	3:6 40:16	214:8	203:10,18
214:7,11	124:10	44:22	earned	203:22
216:9,19	134:14	97:19	146:10	204:7
217:7,10	136:2,14	110:24	easier 63:20	205:24
217:11,13	136:22	118:4,9	159:21	206:16
217:16,17	141:17	128:13	easily 108:5	207:13
217:19	148:7	133:20	108:12	208:7,21
218:4	155:11	155:4	109:12,19	211:25
document...	159:16	178:13	112:14	216:9
68:6 85:15	160:12,14	189:8	Eastern 68:3	educational
107:22,24	160:15,19	197:16	eat 76:17,25	31:10
108:3,4	160:20,22	202:24	77:9	88:21
109:15	160:25	216:4	eating 77:12	89:15,24
111:4	163:3	draw 210:23	79:21,23	90:12 91:3
112:13	166:19,23	drawer	81:20 82:5	91:18
113:11	170:2	112:17	ecosystem	92:23 93:7
114:16,18	179:3	drawing	31:10,10	93:14,15
114:19	211:15,24	176:19	31:15	93:19 96:4
115:14	212:8,13	dress 74:24	educate 11:9	97:18
140:18	212:15	75:4,4,8	educating	101:15
176:8	217:15	75:10,17	143:4	102:22
177:6	DOHMH 188:18	75:20,22	education	106:17
178:4	doing 8:16	76:6,8,11	5:25 8:23	107:25
205:2,6,18	12:4 26:25	83:19	15:12	123:20
207:25	27:15	216:24	16:19,22	124:11
documented	87:16	dual 40:3	23:24 24:6	125:7
64:21 65:4	163:19,20	52:19	27:19	128:24
208:5	dollar 58:10	60:13	46:16	130:19
documents	domestic	126:9	70:21 71:6	133:9
15:2,5,7	154:13	duly 3:2	80:14	134:7
15:12,16	donation	95:24	91:15,16	140:22
15:17,21	57:7 58:9	118:5	92:9,24	141:11
15:22,25	donations	duties 6:25	93:8 94:16	148:13
16:8,11	56:6,10,12		94:17	149:9
22:23 23:3	donor 17:12	E	98:11,17	156:25
29:6 38:17	donors	E 2:2,2,13	99:2 101:2	157:7

181:3	68:10	24:16 27:3	equipped	156:18
effective	eliminated	198:9	168:7	192:22
187:16	97:4,23,25	199:11,17	equipping	exactly 6:12
188:12	98:18 99:3	216:10	167:17,25	11:15
217:20	eliminating	ensure	Eric 2:12	12:19 19:8
effectuate	96:23	171:15	22:16	26:22
97:13	Emery 1:16	entering	73:13	39:21 67:9
Einstein	2:4	184:10	89:21	67:13,19
19:3 22:10	employ 8:9	enters 187:2	101:11	67:24 68:5
either	employed	entire 173:4	120:20	75:14
103:23	6:21 62:21	entities	133:17	116:15
111:4,11	62:22	12:16	150:9	130:11
120:5	83:17	21:25 85:2	especially	145:23
128:24	employee	201:18	40:3 183:2	147:21
194:7	32:18,21	entitled	ESQ 2:7,7,12	149:23
elaborate	32:25 33:3	215:8	2:13,16	158:17
149:3	33:19 34:8	entity 16:6	essentially	168:17
Elchanan	36:2	32:2,4,10	210:11	195:4
13:6 20:10	216:14	45:9 56:9	established	examination
20:22	employees	58:22 59:3	144:4	3:5 9:25
21:14	34:11,14	59:14,16	establis...	10:20
50:20,25	76:20,20	60:3 62:25	205:6	118:7
60:14 62:5	employer	63:8,25	estimate	213:18
80:11	62:14,16	64:22	26:22	examined 3:4
92:17	62:19	65:11 84:7	et 1:4,7	118:5
100:17	employers	118:16	109:25	example 20:4
102:17	84:20,22	120:9	188:16	31:13
123:8	encourage	123:22	European	49:20,21
144:9	77:20 78:3	124:21,22	144:5	51:11
211:19	encouraged	126:17	evaluate	57:18
elect 42:24	53:12	130:23	159:5	118:23
election	77:23,25	131:16,23	evidence	119:15
39:14	78:3	132:7	22:14	133:25
42:19	encourages	191:2	43:10	156:14
element	77:9	193:17	88:11	166:7
196:20	endless	entity's	evidentiary	170:20
elements	16:23	120:21	5:4	175:5
70:21 71:6	endowment	environment	evolution	193:25
eligibility	84:12	52:19 53:4	85:4 88:19	204:3
161:7	ends 98:11	53:10	89:4 90:3	excel 58:8
162:15	enforce 77:7	54:24	101:13	58:11,13
eligible	engage	55:17	102:16	excellent
43:24 44:3	153:21	76:22 77:8	133:7	34:14
48:24 49:2	English	79:2 80:18	evolved	exception
49:3,3,4,6	100:2	80:19,25	30:22	183:20
49:11,12	enroll 17:23	81:2 83:22	89:23	184:12
138:22	enrolled	equal 73:9	90:11 91:2	excerpt
139:20,21	25:6,22	equally	102:19	166:18,22
139:23,25	enrollment	43:24 44:3	exact 73:24	217:14
eliminate	23:25 24:7	49:6	84:14	excerpts

180:15	48:23	217:2,4,6	34:7 59:2	186:13
excluded	69:23 70:3	217:7,8,10	88:23 98:6	fact 101:17
154:15	70:12,17	217:11,12	122:24	123:7
exclusively	71:24	217:13,14	170:15	126:7
93:19	72:11,23	217:16,17	210:20	156:10
141:11	73:18 74:2	217:19,20	explained	211:18
executed	75:16,19	217:22,23	47:20 79:4	facts 15:10
188:20	83:3,8	218:2,4	explaining	16:21
exemplify	85:9 86:19	exhibits	96:18	27:17
76:4	86:22	28:24 29:8	153:5,6	46:14
exempt	87:12	31:8	explanation	65:13
106:17	91:20	151:23	134:24	67:13
109:8	92:14,16	178:12	exploring	187:24
exempted	94:21,25	exist 31:5	145:13	factual
111:16	95:17,22	65:23	express	175:4
exemption	105:10,16	66:22	16:17	faculty 7:21
106:6	105:17,19	112:18,19	81:16	8:2,11,19
107:20	105:23	114:24	138:21	8:24,25
109:18	112:3	115:15	expressing	9:8,10
111:7	141:2,20	117:11	31:16	33:21
114:5	141:23	151:13	144:8	34:19
115:21	143:17	existing	extending	53:18,24
116:7	148:3,7	167:18	198:10	54:5,19
exercise	149:24	exists 32:4	extent 21:8	55:3,8,10
170:23	150:2,5,19	67:2 211:5	22:13 30:3	61:25
exert 65:9	151:4,4,6	expand	58:23	62:18
65:10	151:9,13	199:17	63:11	67:10 69:7
exhaust	151:13,17	expanding	88:10,13	81:23,24
13:11	162:7,12	198:12,15	93:9 97:6	82:6,10
exhaustive	162:24	expect 80:12	101:8	138:6,9,16
16:4	164:6,8,11	81:25 82:4	110:15	143:25
exhibit 9:16	164:15	expectation	139:15	195:8
9:20,23	166:18	78:7,19	152:20	209:11
23:23 24:4	167:9	expectat...	158:10	fair 35:11
27:23 28:2	169:3,7,25	52:16 76:5	173:5	122:11,14
28:11,16	176:13,16	78:14 80:2	174:20,23	146:17,24
28:21,25	179:12,15	80:15 81:7	182:14	147:8
28:25	181:8,9	81:15	exterior	160:17
29:23	187:14,15	expected	167:17	fairly 186:5
30:13	192:2,3	76:19 78:2	eyes 132:16	faith 137:24
32:17,25	197:17,18	78:2,3,16		139:7,23
33:6 35:2	200:10,11	79:13,22	F	143:5
35:15,19	202:19,20	79:24 80:5	F 215:2	154:10
35:24,25	213:17	expecting	face-to-...	faiths. '
36:2,4,6	214:7	78:25	68:14	137:25
37:18,21	216:8,9,11	expendit...	facet 104:7	familiar
37:25 38:3	216:12,14	167:21	facets 86:5	36:11
42:25 43:2	216:15,17	experience	facilities	38:11
43:8,12,21	216:18,19	74:16	167:18,23	53:21 73:3
45:15,15	216:21,24	explain 3:12	185:17	182:21

198:3	211:5,16	90:21	136:10	204:20
familiarize	212:9	100:21	following	209:18,22
28:8 107:6	filings	142:20	31:2 116:3	218:5
far 33:23	113:24	154:25	follows 3:4	formal
father 45:18	135:9,14	finish 137:9	29:25	155:19,20
February	135:17	first 3:2	118:6	formally
142:9	212:18	16:2 27:16	font 43:16	86:8
148:4,8	fill 116:3	34:11 43:3	food 60:15	155:25
182:3	161:24	43:12	60:19	formed 143:2
217:9	196:15	59:24	77:18,19	148:11,12
federal	197:9,11	72:23	79:21	former 95:8
57:18	208:22	86:22	force 52:22	forming
133:23	209:17	91:23	53:14,23	15:10
134:11	filled 49:15	93:20	54:24	27:17
135:11	51:7 52:2	95:15	77:11	46:14
136:21	111:14	101:4	forced 53:11	forms 116:4
176:8	116:17,23	112:3	forcing	162:3,4,5
191:20	116:24	142:25,25	209:14	163:10,20
194:17	117:7	150:18	foregoing	191:21
203:12	161:20	162:20,20	96:22	196:15,16
208:21	162:4	184:2	97:14	196:17
feeder 55:14	180:11	192:18,21	170:22	197:9,9,12
138:20	194:6,8,9	192:22	forever	formulat...
feel 36:24	filling	198:7	123:16	31:4
53:11	107:8	203:7	forge 9:6	forth 8:22
76:17	111:13	212:20	form 22:18	37:11 40:6
155:23	163:10,20	firsthand	29:9 34:21	65:7,20
206:12	191:22	13:7 23:5	36:8,15	fostering
Ferkauf	fills 191:21	144:23	37:6 49:18	54:24
19:11	196:17	173:12	59:19	found 16:8
22:10	final 59:4	fit 48:20	62:15	foundation
31:24	59:16	55:16	104:11	15:15 25:8
80:16	finance	fitting	111:2,7,14	74:7 75:25
81:19	193:6	137:18	111:15,24	85:14,25
199:22	financed	five 31:5,6	112:9	86:14
field 108:4	167:21,24	84:12	113:7,14	98:21
Fifth 1:17	financial	183:4	114:5,21	106:12
2:5 96:11	56:8	five-yea...	115:2	166:11,14
figure	164:16,23	52:23	116:9,17	190:11
199:16	165:6,16	flip 87:3	116:23,24	foundations
file 134:13	203:12	180:25	117:2,3	57:22
156:18	208:22	Floor 2:5	120:14	four 7:7,11
filed 106:5	financing	flow 151:21	135:8	17:20,24
131:15	167:15	focus 41:13	147:4	18:10,13
134:4,10	find 29:12	84:5	165:7	183:4
156:4,6	30:8 68:22	focused	193:21	194:14
files 137:4	112:17	13:10	194:6,8	Fourth 96:11
filing	157:20	20:14 32:9	196:6	free 170:23
131:13	fine 14:2	40:18	202:21	friends
133:22,24	35:8 73:24	132:3	203:25	40:10

front 28:2	195:21	generally	38:11, 19	God 153:10
28:15, 24	196:8, 11	52:21	39:6 40:17	goes 135:4
29:8, 17	203:11	55:15	41:3 42:25	165:16
32:20	funds 56:15	87:22	43:11, 17	187:20
35:19, 24	56:20 57:3	160:21	44:9 49:19	going 5:23
36:23	57:10, 25	182:24	54:22 56:4	10:9, 11
37:25 48:4	58:5, 16	203:8	58:19, 25	11:19
73:19	164:21	getting 8:19	59:12, 20	13:10 15:9
75:11, 19	165:4	171:25	63:13	15:18
151:5, 6	170:7, 8	girls 22:4	71:19 76:2	27:16
162:23	171:5, 15	give 6:24	78:9 85:3	32:14
180:3	172:16, 21	12:7 25:10	86:18	36:24
193:5	173:22	26:19 28:8	88:14	40:14, 19
206:3	179:24	49:20	90:15	41:25 45:2
207:23	185:13, 15	54:10, 14	93:16, 23	59:10 66:2
208:15	186:11	56:24	95:2, 14	71:13 79:6
full 54:10	funny 98:2	69:16, 19	103:3	80:8 85:3
76:6	further	70:23	105:6	90:8, 19
180:14	81:19	83:14 94:8	106:13	128:22
182:18	118:5	95:5	107:15	133:3
188:25	151:10	105:18	110:4, 5, 20	137:14, 20
189:3	153:4, 6	116:21	110:22	142:7, 20
full-time	211:24	133:24	115:4	150:9
8:10 24:8	214:15	145:8	117:4, 20	151:20
25:2, 5	215:10	157:19	118:20	154:19
84:10	future 41:7	164:25	124:9	158:9
195:15	197:17, 19	169:13	125:14	159:19
fully 18:2	217:23	175:9	128:22	160:23
149:4		184:5	130:21	169:24
function	G	given 10:11	138:2, 20	175:24
154:5	gained 91:10	51:3	140:7	180:13
functioning	gather 12:6	118:10	141:19	182:13
67:4	gathering	125:10	154:24	183:25
functions	182:11	165:18	155:4	184:16
44:17, 18	general 25:5	170:16	158:14	185:9
FUND 2:9	25:24 29:7	173:13	164:19	187:8
funder 191:4	35:12 38:5	219:20	167:8	191:9, 10
funders	38:16, 24	gives 73:7	175:7, 25	193:20
191:6	39:17	giving 147:7	176:5	199:25
funding	70:21 71:6	165:5	180:9, 16	200:5, 21
12:15	84:15	glad 20:13	182:2	213:16
156:11	106:8, 16	go 11:25	184:7	214:6
157:16	134:4	13:24	187:25	good 3:6
164:4	139:18	23:15	188:4, 7	26:25
170:16	154:3	24:24 25:9	193:22	27:13 60:7
173:18, 19	176:10, 17	29:10 30:5	197:10	governance
178:16	201:2	30:8, 11, 19	200:5	22:23
179:6	General's	33:5, 7	205:17	39:14, 19
180:2	106:23	34:22 36:9	209:4, 25	42:19
185:7	107:14	36:16 37:7	goal 199:18	46:19 47:8

47:13,14	5:14 6:2	32:4 42:8	115:17	86:17
47:19	graduates	guided	139:17	104:18
48:18	62:12 84:6	151:11	152:22,23	161:21
65:21	195:21	guides 16:16	178:25	164:18
governing	grandfather	guiding	209:12	168:18
23:3,7	45:19	60:23,25	Hasidic	195:18
government	grandson	153:6	198:19	helps 164:24
12:11,12	45:19		199:4	165:2
57:18	grant 134:16	H	Haun 14:18	hereto 95:21
131:15	180:6,22	H 216:6	He'll 195:23	hereunto
132:6	192:4	half 10:19	head 12:21	215:14
133:23	217:22	66:3	64:6	hesitant
134:11	granted	102:14	177:11	36:21
135:11,17	95:24	Hall 168:11	212:18	hey 78:23
136:16,22	grantee	168:12	headed	high 20:16
181:14	158:3	170:21	202:20	21:15 22:3
191:4,17	180:11,18	hand 176:22	218:4	61:18,19
191:20	180:23	215:15	heads 3:21	62:9 83:17
194:17	192:19	handbook	Health 17:9	192:14
203:12	grants	32:18,21	19:19 20:5	200:3
governments	134:14	33:2,3,19	23:7	higher 27:3
131:21	161:2	34:8 36:2	188:14	53:21
GPATS 147:17	192:7	216:14	healthy 27:6	98:11
graduate	194:10	handbooks	heard 213:5	101:2,7
5:24 9:9	great 14:4	16:15	hearing 26:6	102:6
17:4 18:15	32:16	handed 9:19	heart 182:22	105:13
18:21,22	65:18 95:6	72:10 83:7	hearts	182:6
19:11,12	171:9	hanging	198:11	highest
19:16,20	172:16	162:11	heavily 61:8	53:22
19:23,23	Greenfield	169:6	Hebrew 68:3	highly
20:6 21:6	12:8 13:13	181:7	68:11,15	144:17
22:12,20	181:14	197:16	98:16 99:2	172:3
25:17 26:8	ground 67:13	200:9	99:24,25	hire 50:18
26:17,20	group 61:24	202:18	100:5	hired 7:21
26:23 27:4	195:7	hands 69:6	143:4,5	50:22
27:5 29:22	199:14	hanging	Heights	84:12
31:24	groups 184:4	183:2	182:11	hires 200:17
33:20	grow 79:2	happen	held 1:15	history 51:3
34:18	198:9	134:19	help 44:12	51:17
62:11	growing	186:18	85:15	60:21
79:12,13	27:10	happened	118:22	66:20
79:15,17	84:11	68:9	140:18	67:16,17
79:24 80:5	growth 39:24	happy 157:19	157:18	67:21,23
80:7,17,22	guess 126:14	Harassment	161:14	176:10
81:3,6,13	137:6	154:12	164:7	hold 90:15
81:19	145:20	hard 26:19	166:15	holding
83:19	guidance	26:21	helpful 14:4	60:25
138:4	8:12 59:7	31:18	16:15	159:23
199:7,17	59:7 84:4	85:16	25:20 35:6	Homeland
graduated	guide 8:7	112:17	75:12	192:7

hone 136:13	202:22	68:11	199:10	instances
honest	identify	include	independ...	73:15
191:22	64:2	26:12	23:10	Institute
honors 23:20	identity	150:15	Index 1:6	199:2
hope 9:7	126:3,19	included	individual	institution
34:14	127:20	73:20	23:18 63:9	5:18
Hopefully	129:7,15	135:2	184:10	100:25
6:12	150:14	includes	197:5	101:7
hour 66:3	176:22	26:13	individuals	102:6,8,18
102:15	illegal	68:19	11:23	102:21,22
hours 7:16	103:10,13	including	39:21,22	102:25
7:17	103:14,15	24:17	56:11 57:9	103:9,22
206:13	103:16	94:14	153:7	103:24,25
house 53:8	153:22	159:4	184:3	104:10,22
HUDSON 1:25	impact	167:20	influence	105:12,14
human 34:12	153:13,17	incomplete	59:22,24	106:17
82:8	159:12	190:11	60:6 61:22	108:2
hundreds	impacts	193:21	63:3,16,18	111:8
61:3	153:24	incorporate	63:21,22	118:24
Hygiene	154:6	121:18,20	64:4,5,20	119:15
188:14	impart 9:2,3	156:25	64:24 65:6	120:4
	9:4	incorpor...	65:18	122:12
I	implied	92:17	209:11	126:4
idea 203:6	186:5	102:8,10	influencers	129:23
identical	importance	102:15	61:2,8	132:12,15
29:4	16:12	104:2	64:19	134:7,18
identifi...	important	110:8,11	influences	134:25
9:18 24:2	15:22 18:6	110:13,18	60:4 62:25	135:5,12
27:24	153:5	121:6,23	information	136:4,9
28:13	210:4	122:5,7	9:2,3 12:7	155:14
32:19	imposes	124:5,11	13:21	156:25
35:17	157:25	129:24	82:10 91:6	176:21
37:20,23	impossible	130:2,12	116:22	182:6
70:2 72:3	116:13	130:19	144:23	195:16
75:18 83:5	impression	133:16	156:23	202:21
94:24	27:5	140:22	157:4,10	203:17,21
105:20	improper	205:24	157:24	203:25
141:22	175:19	206:16	158:15	204:2,6,8
148:5	improve	207:12,12	160:9	204:19
150:4,7	186:13	208:7,9	163:6	208:20,23
162:9	improved	211:20,21	171:25	208:25
164:9	168:6	incorpor...	176:17	209:9
166:21	improvement	37:16,22	180:19	210:3,7,14
169:5	167:12,16	38:4 95:23	196:14	210:17,22
179:14	167:25	96:23	inquiry	213:7
181:11	173:19	109:25	131:25	218:5
187:17	improvem...	142:6,18	inside 18:15	institut...
192:4	168:19,21	142:24	instance	76:5
197:21	172:17	216:18	132:10	institut...
200:15	in-person	Increase	178:13	12:24

148:15	intimately	146:21	139:21	49:1 50:1
194:25	138:14	167:10	job 26:25	51:1, 15
195:10, 11	introduce	issues 99:13	John 12:8	52:1 53:1
195:22	125:20	144:6	181:13	54:1 55:1
213:25	127:18	187:22	join 40:10	56:1 57:1
institut...	introduc...	item 76:21	41:25	58:1 59:1
31:11	163:11	iteration	joining 40:8	60:1 61:1
130:22	198:7	28:10	Joseph 1:18	62:1 63:1
144:18	invested	33:17	3:3 215:4	64:1 65:1
203:9	41:6, 7, 7	76:10	215:18	66:1 67:1
209:17	42:16, 22	iterations	journey 8:8	68:1 69:1
instruct	50:17	29:19	8:9	70:1 71:1
4:24 91:8	inviting	30:20	joy 182:25	72:1 73:1
184:18	77:8		Judaic 80:15	74:1 75:1
185:10	involved	J	Judaism	76:1 77:1
instruction	198:2	J 2:16	45:17	78:1 79:1
68:11, 15	Isaac 7:8	James 7:8	115:17	80:1 81:1
171:17	13:6 20:9	Jersey 199:6	judge 185:4	82:1 83:1
172:23	20:22	Jewish 5:25	July 187:16	84:1 85:1
173:23	50:20, 25	7:23, 24, 24	188:12	86:1 87:1
174:4, 6	60:14 62:5	9:4, 5	217:20	88:1 89:1
instruct...	80:10	18:22	June 33:3	90:1 91:1
4:15 107:7	92:17	39:24 40:6	junior 61:21	92:1 93:1
107:20	100:17	40:6 41:11		94:1 95:1
173:13	102:17	50:5 55:15	K	96:1 97:1
instructs	123:8	56:23, 24	Kalinsky	97:19 98:1
4:16 5:6	144:9	56:25 57:7	1:14 3:1, 2	99:1 100:1
integrated	211:19	57:25 58:6	3:6 4:1	101:1
62:5	Israel 26:14	58:16 66:9	5:1 6:1	102:1
144:17	26:15, 17	66:14, 20	7:1 8:1	103:1
172:3	149:20	66:21, 24	9:1 10:1	104:1
integration	issuance	67:2, 4, 15	11:1 12:1	105:1
172:4	166:8, 19	67:16, 21	13:1 14:1	106:1
intellec...	166:23	67:23 68:2	15:1 16:1	107:1
198:10	167:5	68:17, 18	17:1 18:1	108:1
intends	168:7	68:19 69:2	19:1 20:1	109:1
209:17	169:17, 22	71:14, 22	21:1 22:1	110:1, 24
intercha...	170:8	72:5, 20	23:1 24:1	111:1
210:12	217:14	74:3, 13, 19	25:1 26:1	112:1
interested	issuances	80:14	27:1 28:1	113:1
39:24, 24	166:3	81:24	29:1 30:1	114:1
40:7	169:11	137:23	31:1 32:1	115:1
138:23	174:13, 16	138:5, 7, 13	33:1 34:1	116:1
215:12	177:16, 22	138:16, 19	35:1 36:1	117:1
interests	184:23	139:7, 12	37:1 38:1	118:1, 4, 9
201:5	issue 100:14	193:2	39:1 40:1	119:1
interior	148:17	Jewish-a...	41:1 42:1	120:1
167:17	issued	56:16, 21	43:1 44:1	121:1
interview	100:16	57:4, 13	45:1 46:1	122:1
79:5	146:5, 17	Jews 139:20	47:1 48:1	123:1

124:1	174:1	17:18,19	50:13,14	136:3
125:1	175:1	19:19 20:4	52:4 58:3	137:8
126:1	176:1	22:11 23:7	58:10,20	138:8,9,11
127:1	177:1	27:9	58:20	138:14
128:1,14	178:1,13	Katzman 17:9	65:12,12	139:13
129:1	179:1	17:18	65:19,25	140:9
130:1	180:1	keep 76:14	66:11,14	143:12,15
131:1	181:1	77:3,14,15	66:16 67:8	145:14,17
132:1	182:1	77:21	67:12,21	145:24
133:1,20	183:1	78:25	68:5,7,9	146:15,21
134:1	184:1	79:13,17	69:10 71:3	147:21
135:1	185:1	79:25	74:8 76:10	149:23
136:1	186:1	80:12	78:21,22	151:15
137:1	187:1	81:23	79:5,11	152:2
138:1	188:1	87:16	80:12 81:2	158:13
139:1	189:1,9	keeping 78:5	81:4,10	159:18,25
140:1	190:1	78:20 79:6	83:2,20	160:10
141:1	191:1	key 20:23	84:3,9,13	161:18,22
142:1	192:1	kind 8:21	85:17 86:4	161:23
143:1	193:1	kitchenette	86:15,21	163:12,15
144:1	194:1	82:11	88:16	164:12
145:1	195:1	Kluger 12:21	89:11,11	165:23
146:1	196:1	13:14	89:17 90:2	167:22
147:1	197:1,16	112:8,9,11	90:5,8,10	168:5,15
148:1	198:1	112:11	90:14	168:23
149:1	199:1	113:4,6,13	91:14,14	171:8,20
150:1	200:1	113:19,22	91:16	172:20
151:1	201:1	114:4,13	96:12 97:9	173:11,12
152:1	202:1,24	116:12,18	97:20 98:2	177:7,9
153:1	203:1	Kluger's	98:23,25	179:10
154:1	204:1	112:23	99:12	181:23,25
155:1,4	205:1	know 4:2,6	103:17	182:2,3
156:1	206:1	4:11,11	105:7	183:19
157:1	207:1	11:13 13:7	106:25	184:6,20
158:1	208:1	13:8,22	108:25	186:7,20
159:1	209:1	15:21 18:3	109:2	186:23
160:1	210:1	18:12	111:18	190:3,12
161:1	211:1	19:10	115:7,16	190:13,16
162:1	212:1	22:23 23:3	116:11,14	193:9,23
163:1	213:1	23:5 26:12	117:10	195:4
164:1	214:1	26:20	119:5,18	196:14
165:1	216:4	28:19	119:19	197:12
166:1	219:1,19	29:12	120:4	199:21
167:1	219:22	32:11	125:2	200:23
168:1	kashrut 82:9	33:23 34:5	128:7,18	201:14,15
169:1	139:2	34:6 38:19	128:19	201:19,20
170:1	KATHERINE	38:20 39:6	130:20	202:17,25
171:1	2:7	39:21,25	132:19	203:20,23
172:1	Katie 3:7	47:5 48:12	133:24	206:25
173:1	Katz 17:17	48:13	135:15,21	207:2

208:4	106:11	135:14,19	46:2,4,8,9	210:24
209:16,19	166:10	136:18,24	58:24	legally 88:8
209:20,24	190:10	137:14	63:12	110:13
209:25	laid 78:16	140:4,24	87:18	118:17
210:2	Lakeland	176:24	88:13	120:14
211:2,3	199:6	177:3,22	90:13 91:5	124:5
knowing	Lamm 61:19	178:5,7,15	93:10 97:7	126:23
136:3	82:21	179:7	98:21	133:21,24
173:15	language	201:13	101:9,21	137:12
knowledge	152:7,17	202:16	103:15	155:8,25
10:25 11:3	170:4	205:9,14	106:11	178:18
13:5 24:10	172:6,9	205:22	110:16	legs 4:10
39:17 40:6	191:9	206:2,11	113:24	let's 22:16
91:11,11	large 61:2	206:19,23	118:19	22:17
99:8,11	64:18	207:5,9,19	119:4,6,8	25:22 38:5
107:2	larger 43:16	207:22	119:11,17	39:20
145:15	139:12	208:6,7,10	120:2,3,4	42:25 43:7
170:12	largest	209:2	120:16,22	55:23 64:6
171:2	55:24	lawfully	120:25	64:7 91:19
173:5	late 157:6	204:10	121:12	96:7
185:18	Lauer 2:16	205:7	123:5	105:16
186:16	14:11,13	laws 125:4	124:25	108:14
known 26:2	188:20	154:16	125:11	110:5,20
knows 90:4	190:20	lawsuit 3:9	127:2,5,6	113:12
Kolinsky	law 7:24 9:4	211:5,16	127:10,23	134:13,23
44:22	19:15	212:9	128:11	140:25
Kolinsky's	46:21 47:9	lawyers 3:8	129:17,19	141:19
40:16	47:17	14:5,14	131:6,9,12	149:13,21
kosher 60:15	48:25	141:24	132:3,6,9	156:9
76:14,16	92:19,24	169:9	132:25	179:9
76:19,24	93:8 102:9	192:16	136:10	212:14
76:25 77:4	110:9,11	lay 101:17	139:16	letter
77:9,14,15	110:14,19	laying	140:6	109:16
77:19,21	118:12	158:17	152:21	112:2
78:5,12,15	119:22	layout 25:14	155:11,11	115:20
78:20,24	120:7,8,8	127:21	155:19,20	116:7
79:7,14,17	121:20,22	lead 59:10	158:10,11	181:13
79:23,25	121:24	leadership	165:21	letterhead
80:12	122:2,5,7	40:6	174:10,21	180:10
81:20,23	124:12,22	Leading	174:23	level 40:4
81:25 82:5	125:6	61:25	175:4,17	53:21
	126:17	learned 99:7	176:23	levels 27:3
L	127:8,24	160:15	183:18	LIBERTY 2:9
L 206:20,24	128:2,8,14	learning	186:21,22	lieu 68:2
lack 15:14	128:23	182:6	187:11	life 8:23
25:7 74:7	129:3,25	leaving	191:2,10	65:18
75:24	130:6,13	184:10	191:11,15	139:3
85:13,24	130:15,25	legal 20:18	191:18	like-minded
86:13	131:19	21:9 23:14	205:16	42:15
98:20	132:17	38:10 44:8	206:5	limit 22:17

185:16	little 3:23	105:16	love 141:18	150:3
186:14,19	5:21 7:14	107:5	lunch 4:12	151:5
limited	7:15 25:14	108:7	117:21	217:10
32:12	58:14	127:5	118:10	mark 149:25
51:24	79:15	140:25,25		164:6
58:15	80:19	141:3,5	M	marked 9:17
line 36:10	114:20	142:4,24	Maazel 1:17	9:20 24:2
40:9 42:23	138:3	148:9	2:4	24:4 27:24
50:9 86:16	155:5	151:5,6	machine	28:13,16
98:10	170:24	155:11	60:19	32:18,25
132:13	183:24	192:15	main 146:24	35:17
133:4	207:7	195:23	183:6	37:19,23
137:9,14	live 79:19	203:24	maintain	69:25 72:3
184:17	living 20:20	208:16	148:12	72:11
197:10	LLP 1:17 2:4	212:17	maintained	75:18 83:5
219:2	lobby 201:4	looked 35:2	204:9	83:7 91:23
lines 8:21	lobbying	85:7,19	maintaining	94:23,25
19:6	200:12,18	95:17 96:3	102:19	95:21
links 159:6	201:7,11	123:18	maintains	105:20
list 9:24	201:15	134:3	204:21	141:21
15:20 16:4	202:8,14	135:8	MAJANE 2:13	148:4
20:22	218:2	137:11	major 56:10	150:3,6
22:21	lobbyists	140:20	71:21	162:9,11
70:19	200:13,17	143:16	73:22	164:9
72:15,18	200:17	147:6	74:13,19	166:20
73:21 83:3	201:3,9	looking	majored 74:3	169:4,7
83:10	218:3	25:24	majority	179:14
114:16	local 183:3	29:23 40:5	50:5 76:24	181:8,10
200:11	located	54:11	146:25,25	187:16
201:7	167:18	72:10	147:6	191:25
217:2	182:7	87:17,21	majors 72:6	192:4
218:2	long 11:13	95:3 105:9	72:9,15,18	197:20
listed 94:13	60:21	117:7	72:21	200:9,14
97:4	64:25 65:2	141:5	73:13	202:18,22
107:22	123:12	198:18	74:20	markets
listen	138:23	looks 24:19	making 5:3	199:9,13
110:12	182:3	24:25	60:9 156:3	199:21
listing	longer 32:13	36:10 74:9	209:21	marks 92:11
108:17,24	look 12:13	lot 13:2,4	mandate	marriage
115:5	12:17	13:21	54:23	215:11
lists 96:24	25:14 28:9	15:15 27:8	mandating	marring
literally	28:21	31:20 61:5	54:4,18	175:16
16:23	29:12	145:4	mandatory	Mashgiach
126:22	30:10	156:18	53:17	8:5
150:20	32:24 40:4	172:3	Manhattan	Mashgichim
155:8	42:21	195:15,15	167:19	8:4
literary	43:21,22	199:24	manner 88:8	master 94:16
68:21	73:19	lots 58:11	210:18	master's
literature	86:21	loud 3:20	March 70:5	5:20,24
98:17 99:2	91:19	184:5	92:20	145:11,13

146:20	68:17	67:10	71:14	31:19,21
147:20	103:18	82:17,19	199:20	31:23 32:3
materials	104:16	82:24	Midrash 7:9	32:5,7,10
16:19	119:21,25	83:12	62:11	32:12 33:9
matter 46:20	121:14	84:10	170:21	33:13,15
47:9,17	139:13,19	138:6,16	million	33:18,22
48:10,17	174:6	183:4,11	58:10	34:3,7,9
48:25	212:21	183:15	164:25	34:13,15
49:15	meant 155:6	209:11	166:9	34:19,24
65:21	medical	membership	167:6	35:3,9,10
120:20	22:14	40:11	168:18	35:12,15
215:8,12	Medicine	88:20	181:19	35:18,20
215:13	19:4	89:14,24	millions	36:7,12,14
Max 2:7	meet 11:17	90:11 91:3	60:9	36:21 37:2
87:16	12:6,18	91:15	mind 15:19	37:4 39:23
Mazer 7:10	13:18 14:5	92:19 93:6	98:5	40:10 41:7
mean 30:21	14:10,11	101:15	137:19	41:11
30:22	14:19,22	123:9,10	141:3	42:16,23
31:12 53:7	14:24	123:14	154:23	50:17
59:15	157:11	133:9	minds 198:11	200:6
104:13	171:3	memory	ministry	216:15
112:16	meeting	161:14	143:5	missions
119:20	17:16	197:25	minute	35:14
126:7	39:15 82:4	men 7:4,5	202:25	misstates
127:12	meetings	75:6	minutes	22:14
130:5	8:25 27:6	Mental	70:23	misstating
139:8,10	Melgar	188:14	102:14	194:25
146:7	111:21,25	mention 20:8	mischara...	mix 175:3
149:5	member 9:10	20:9 23:19	30:4 88:11	Modern
155:13	38:8,18	mentioned	mischara...	198:11,21
170:15	39:3 46:6	21:5 22:3	174:2	199:20
187:21	49:24 50:4	22:9	misconduct	modified
198:14	82:22	126:20	153:8	93:2
202:3	195:8	138:2	154:13	moment 15:10
meaning 31:4	members 38:7	166:2	misleading	money 17:19
62:3,4	38:17 39:2	194:23	120:24	56:25 57:6
64:6 119:8	39:10,11	209:7	missing	57:17,21
119:13	40:23,24	mentor 9:10	21:11	84:12
123:5	41:6,24	Merriam-...	22:11	163:21,25
125:17	42:5,10,11	105:4	mission	164:4
138:11	42:24	messages	27:14,20	165:9
152:14	44:14,14	79:8	27:22 28:3	167:11
155:14	44:19,19	messy 18:7	28:6 29:2	168:7
175:5	45:11 46:5	met 3:7	29:7,13,16	171:10
178:18	46:21	11:23 12:8	29:19,25	172:8
182:20	47:10,17	12:19,23	30:2,8,12	181:24
208:15	48:9,19	13:11	30:15,17	185:3
211:11	49:16	14:13,14	30:21,22	194:17
means 61:23	50:16	14:16	30:23 31:2	monies 168:2
63:21,23	61:25	middle 70:6	31:14,17	months 183:4

moral 153:10	146:15	106:22	218:3	189:11,16
153:10,11	190:16	107:14	newspaper	189:23
Mordecai	209:13	110:14	66:15	190:9
17:18	211:2	120:6	night 26:2	193:16,17
Morganstern	need 4:5	125:5	nights 84:24	194:2
168:11	25:11	127:8,24	Nissel 14:22	Notary 1:19
morning 3:6	38:12	128:2,14	32:25 33:6	3:3 215:5
68:14	39:18	128:23	nominated	219:25
move 149:13	41:17,19	130:4,13	39:13,19	note 10:18
154:20	45:23	130:15	42:18	91:25
175:24	46:18 47:4	134:4	non-acad...	169:24
179:9	54:12	135:16,19	52:21	170:4
moved 67:17	77:15	140:4	non-deno...	180:13
98:19 99:3	110:21	149:21	102:6,25	noted 4:18
MRE 145:9	114:18	151:9	103:9,18	21:2 34:17
MSW 6:3	116:17	154:21	103:22,24	214:19
multiple	149:7	156:11	104:10,13	notes 24:23
169:2	151:24	157:25	104:15,22	notice 1:15
music 184:5	158:15	158:25	105:4,12	9:13,16,21
	165:17	166:4	105:14	11:2 27:17
N	177:17	167:6,19	137:22	89:21
N 2:2 215:2	178:4	176:24	non-disc...	120:20
216:2	179:10	177:3	152:14,18	184:18,22
N.W 2:10	190:3,7	178:15	153:14,18	184:22
Nahum 193:6	196:14	179:7,22	153:25	185:10
name 3:7	needed	180:22	154:6	197:2,6
12:21	113:16	181:19	non-Jewish	216:8
92:20	114:24	182:7	58:2,6,17	notice's
155:19	182:10	183:8	non-kosher	133:14
195:2	195:19	185:3,7	60:19	November
204:3	needs 76:21	187:3	nondenom...	1:11 97:16
names 83:16	113:23	188:8,13	100:25	215:15
160:20	191:24	199:6,9,13	101:7	nuanced
168:5	197:11	199:21,25	nonkosher	209:5
narrowly	negotiat...	200:2,13	76:21	number 7:22
15:8 16:10	19:9	201:9,13	nonprofit	10:20
185:6	neighbors	202:15	204:10	11:23 17:2
nature 79:16	210:25	203:10,17	205:8	18:14
88:4	never 25:13	203:21	207:3	19:21 24:8
123:24	161:20	204:6	nonrelig...	25:5,18,24
125:15,16	188:5	205:8,13	165:5	26:4,11,12
126:2	new 1:2,2,18	205:21	nonsecta...	34:16
157:13	1:18,20	206:2,10	137:22	39:13
158:2	2:5,5	206:17,18	139:14	84:14,16
161:25	23:24 24:5	206:23	not-for-...	97:11
163:8	26:16 27:9	207:4,9,13	120:8	107:19,19
Near 68:3	27:10,12	207:18,22	125:8	107:24,25
183:9	92:9,19,22	208:5,9,20	129:2	108:6,7,15
necessarily	92:25	215:6	182:6	111:10,13
32:12 82:2	106:7,16	216:9	188:15	111:16,17

114:11	40:25	173:9,24	61:4	125:23
167:9	41:15 43:9	173:25	102:18	okay 5:2,5
170:10	44:7 46:7	174:9,18	196:18	6:14 14:3
172:2,2	49:18 56:2	174:19	occurred	15:21
179:9	58:23	175:13,15	86:11	17:15
187:13	59:19	176:4	100:12	18:13 22:7
195:20	62:15	183:17	October	24:24
numbering	63:11 74:7	187:5	94:22	25:19 30:7
198:5	75:24	189:24	95:11	33:4 38:20
numbers	85:13,24	190:10	150:6	39:12
25:25	86:13	192:9	151:7	43:21
26:21,23	88:10 89:9	196:6	152:3	45:13,24
27:8,15	89:22 93:9	200:19	217:4,11	47:8 51:10
73:9	97:6 98:20	205:15	offer 68:25	54:16
156:18	99:5 101:8	209:3	144:12	59:21 60:2
195:16	101:12,18	objections	145:12	60:6 61:23
numerical	101:21,22	4:16 5:7	147:12,19	62:24
43:18	103:2	22:17,18	offered	63:23
<hr/>	104:11	41:16	63:16	64:25
O	106:10,24	46:24	145:24	68:16
<hr/>	110:15	47:12	offering	69:22
O 215:2	114:21	89:19	147:15	70:13,18
oath 219:19	115:2	101:25	offers 145:7	70:23
object 4:22	116:19	128:10	147:2	71:12
22:13	117:3	161:17	offhand 86:4	74:11
120:23	118:18	175:22	138:13	76:12
142:7	119:3,10	207:6	office 6:7	80:20
144:13	119:16,23	objects	12:24	81:12 83:9
150:12	120:24	143:2	106:7,23	86:6,18,20
158:9	121:11	observance	107:14	87:21 90:6
170:9	124:8,24	80:23,24	144:24,25	90:19,20
179:19	125:13	obtain	168:4,22	91:19
182:13	126:25	159:13	195:23	93:16
184:16	127:9	181:19	offices 1:16	95:14
185:19	128:16	194:16	44:3 48:25	97:12 98:8
188:24	130:5	obtained	49:6	100:21,22
193:20	131:11,18	92:8	official	101:6
objected	132:8	obtaining	108:17,18	102:4
10:19	137:5	100:2	108:24	103:20
175:20	139:15	154:21	115:5,6	105:16
objecting	140:5	158:25	176:8	107:5,11
142:15	142:14	159:4	officially	109:5,16
objection	147:4	163:9	12:20 19:6	109:23
4:17,23	152:15,20	174:12,16	19:7 45:20	110:4,20
5:3 10:22	159:15	177:16,22	45:21	113:19
15:14 21:8	165:7,20	178:16	officials	114:4
23:13 25:7	166:10,14	184:23	12:15	115:4,8,19
29:9 30:3	171:6,18	197:4	131:22	117:6,19
34:21 36:8	171:24	obviously	oh 81:19	120:11
36:15 37:6	172:12	13:4 39:22	87:8	121:22,25
38:9 39:4				

122:18,23	205:12	207:18	115:21,25	50:4
125:4	207:2	operation	116:8	138:18,25
127:15	208:13	42:9 59:5	118:16	143:5
131:3,5	212:22	operations	119:15	198:11,21
135:16	214:6,15	97:15	120:14	199:20
136:12	Once 81:17	208:13	122:15,17	ourself
137:9,20	ones 9:8	Opportunity	125:18	16:18
138:15	32:14	180:22	126:19	outcome
141:14,19	42:22	opposed	127:23	215:13
144:11,20	50:18	20:15 32:6	129:17,20	outline
146:2,4,16	183:6	124:4,5	132:4	64:25
146:20,24	oOo 2:18	155:20	143:10	outside 56:2
147:11	218:6	option 108:8	181:4	56:11
148:21	open 53:8	ordain 99:14	189:12,17	137:5
149:13,24	151:3	ordained	204:10,12	170:9
150:17,18	183:11	5:18 100:4	204:20,25	171:6,18
150:23	184:11	100:9	205:4,7	172:12
151:3,25	opening	147:23	207:18	173:9,24
152:2	27:10	ordains	organiza...	179:19
153:12	operate	100:8	109:24	182:14
156:9	37:12 42:7	order 11:25	organiza...	184:17,21
159:7	92:6	41:20,21	106:7	185:19
160:4,13	205:13,21	108:11	organized	187:5
161:15,22	205:25	111:9,19	93:18	189:25
162:21	206:10,15	116:16	118:17	192:9
164:14	206:22	157:12	120:14	200:19
165:25	207:21	161:10	126:16,23	outward-...
169:6,13	209:8	162:2,24	128:14	201:22
173:8	operated	212:7	129:6,20	overlap
177:12	93:19	ordination	133:22	145:4
179:4	109:6	5:19 98:16	137:12	oversee 7:3
180:25	115:9,22	98:25	141:10	7:20,25
181:6,7	116:8	99:16,21	155:8,25	9:11 23:10
182:4,9	141:11	100:5,11	178:18	62:7
183:20	204:9	100:16	orient 96:18	overseers
186:4,9	operates	143:24	orientation	23:9,22
189:17	45:16,20	145:7,19	40:2 177:5	oversees
190:22	45:22	147:2,3,12	orienting	13:16 62:8
191:16	46:10	147:15,17	95:4 96:5	owned 204:8
192:24	59:18	147:21,24	origin 58:7	owning
193:12	60:22	148:18	58:17	121:17
194:21	65:14,14	ordinations	212:5	owns 204:20
195:11,17	100:13	147:7	original	
196:19	204:21	organiza...	92:3	P
198:4,6	207:3	97:15	142:18	P 2:2,2
200:8,25	208:25	104:8	166:24	p.m 117:20
201:6	operating	109:6,7,10	197:2	117:21
202:6,11	137:22	109:10,18	originally	118:3
203:7,14	204:10	113:10	38:23	214:19
204:23	205:7	115:9,11	orthodox	page 9:23

27:23	Palmer 12:23	59:8,9	215:11	103:10,12
30:16 33:5	13:14	77:6 79:2	parts 20:14	performed
33:7 35:23	195:5,8	79:8 87:22	33:16	200:12
35:23 36:5	213:23	88:6,23	passing	201:8
43:3,4,8	214:3,10	94:17	45:17	218:2
43:12	paper 24:22	126:6	Pathways	permission
70:20	32:11	130:16	197:17,18	184:8
71:10	194:15	134:23	217:23	perpetuated
72:14,17	196:16	144:11	pause 18:3	42:5
72:23	210:5	152:6	pedestrian	person 12:20
73:21	paragraph	169:22	179:18	111:14
86:19,22	24:12	171:22	180:4	121:17
87:3,8,9	30:16	172:10	181:20	138:19
91:23	34:23	180:5	pegging	194:8,10
92:13,15	43:22	part-time	130:11	209:24
93:17 95:2	71:14,17	8:10	pending 4:4	personal
95:5,15	92:16	partially	10:21 36:6	10:25 13:5
96:8 97:21	93:16,24	149:3,4	45:12 47:6	91:11 99:8
98:10	94:5 95:20	187:21	71:4 90:17	107:2
101:3,4	96:8,20	participate	100:20	personally
106:18	97:4 107:6	52:8,25	133:19	11:13
110:4,20	110:5	particip...	Penner 145:3	157:21
112:3	114:15	166:8	Pennsylv...	persons
142:25	141:6	167:4	2:10	43:23 44:2
150:19,19	148:9	particip...	people 41:11	49:5 51:8
150:21	150:24	166:3	42:2,15	52:3
162:13,20	151:9,12	particip...	50:16	perspective
167:8	151:15,16	162:8,13	54:25	51:3
169:8	152:3,10	169:10,17	56:24 84:9	petition
180:9	152:11,13	217:12	84:13,16	94:21
181:2	153:3,4,20	particular	107:3	95:15
188:7,10	163:11	35:14 38:8	122:16,21	97:16
188:10,11	171:4	38:18 39:3	173:14	105:10
190:18	182:17,18	39:11	181:15	217:4
192:15	198:8,9	40:24	183:2	petitioner
193:5,18	paragraphs	42:11	184:5	96:21
198:4	34:17	44:15	194:14,23	97:13
203:24	43:18	45:12	209:15	Ph.D 6:3
204:15,25	paraphra...	46:22	210:14,25	philanth...
208:15	205:5	47:11,18	people's	56:12
216:3,7,11	part 19:4	48:10	32:7	philosophy
219:1,2	20:4,7,10	49:16,24	percent	7:23 53:13
pages 70:4	20:11,23	49:25	26:14	66:21
71:24 87:7	21:6,20,21	56:17 75:5	74:12,18	193:3
87:14	22:9,20	76:3	percentage	212:3
97:19	23:20	142:25	73:24	phrase 61:13
98:13	27:14	202:6	74:14	61:23
150:20	39:21 40:8	particul...	perception	68:17
166:24	41:13,22	27:7	210:21	93:20
216:21	44:5 53:13	parties	perform	122:8

150:15	162:7	128:9	161:19	92:6
phrases	164:8	130:7	positions	prepare 11:9
210:11	166:18	141:2	49:13 51:6	11:16,18
physical	169:3	149:25	51:25	11:24 12:7
126:7	179:12	150:19	possess	13:18,21
127:21	181:9	151:3	109:21	14:6,12,15
piece 24:22	187:15	160:22	possibility	14:20,22
131:24,25	192:3	164:11	40:8	15:2,13
132:4	197:18	167:8	possible	16:10
194:15	200:10,11	169:13	116:13	112:9
201:20	202:19,20	179:9	178:24	148:16
210:5	216:7	198:4	post-gra...	156:10
Pinehurst	plan 197:19	point 3:25	72:2,13,24	160:13
183:9	197:23	4:9 6:15	73:4	163:3
PL 91:23	198:15	13:23	216:22	181:15
92:7,12	199:16	66:23 75:5	powers 92:25	193:7
141:6	217:23	86:16 89:2	PR 64:6	195:19
place 27:13	play 50:21	108:10,23	practice	197:24
67:11,22	129:8,9	119:7,24	53:21	201:19
170:19	184:5	171:25	practices	212:7,15
171:11	plaza 179:18	175:23	125:17	prepared
173:2,3,18	179:21,22	179:17	127:20	10:15,17
173:20	180:4	196:16	137:21,25	70:5
183:7,9	181:20	pointing	154:21	111:23
placed 97:24	182:25,25	31:7	158:24	157:21
places	183:8,10	108:20	174:12	preparing
156:18	183:11,15	policies	184:23	11:3 16:24
170:13,17	183:22	45:4 54:3	prayer 139:2	143:4
171:16	184:5,8,10	54:18 77:7	170:21	211:10,14
172:18,22	184:10,11	137:21	prayers	213:4
173:22	184:14	150:13	53:23,24	present 2:15
plaintiffs	plazas 183:9	153:14,18	53:24	97:15
1:5,15 2:4	please 4:2	153:25	Pre-COVID	126:13
3:8	7:2 9:23	154:7,20	84:24	132:11
Plaintiffs'	22:18 28:9	158:24	precise	134:17
9:16,20	28:18 33:7	174:12	25:24	135:3
23:23	37:9 42:25	policy 48:11	206:7	139:4
27:23	70:14,24	49:16	precisely	presenta...
28:11	71:10	77:22	11:7	135:5
32:17	72:14	137:24	predate	136:9
35:15	76:12	150:24	211:16	178:20
37:18,21	83:14	151:4,8,16	212:9,12	187:22
69:23	91:23	152:4,8,11	212:12	presented
71:24	93:17 95:2	152:13,14	prefer 24:21	136:15
75:16 83:3	96:8 98:9	152:19,24	69:19	178:4,5,6
94:21	98:10	153:7	prefers	178:8
105:19	103:6	portion	17:12	presenting
141:20	107:9	88:24	premier	190:5
148:3	110:6,12	167:21	192:25	presents
150:2,5	110:21	position	premises	155:21

preserve 5:4	16:15	7:13,14,18	providing	174:15
president	20:18,19	8:17 17:6	104:23	177:15,22
13:16	26:4 56:25	18:14,15	provisions	178:15
14:19	65:25	19:21 20:3	165:17	197:3
28:11	69:15 78:2	23:18,19	provost	202:8
29:24 31:9	80:9 82:20	27:10	12:24	208:21
36:3 49:21	119:6	180:22	195:9	211:14
49:23 50:3	147:6	198:20	Psychology	pursuant
50:10,15	155:15	prohibit	19:12	1:15 205:8
50:18,19	170:13,22	170:23	public 1:19	206:10
50:20,22	183:4	project	3:3 12:9	207:4,8,18
50:24 95:8	187:20	167:14,24	12:11	207:21
202:13	procedures	179:17,21	76:18	purview 7:3
216:12	45:4	179:22,25	77:16 82:3	8:12
president's	152:19	182:19,21	183:12,15	173:16
26:3	197:8	183:8,10	183:21	put 8:21
presidents	proceed 3:13	192:17	184:13	14:3 31:12
50:5	proceedings	projects	187:22	31:18
presumably	215:7,9	167:12	189:12,16	60:19
113:22	process 79:5	promote	200:18	85:23
presume	145:13	143:3	215:5	157:15
115:24	produce	promoted	219:25	176:15
116:2	16:20	6:10,15	public-f...	puts 53:4
132:18	109:3	prompt 130:7	187:10	putting
pretty	produced	161:17	purpose	31:15
207:20	92:10	promulgates	113:11	
previous	141:23	80:22	140:16,22	Q
40:5 54:7	169:8	proper	141:14,16	qualify
64:23 80:9	175:21	101:12,22	143:9,16	161:10
92:25	181:12	175:23	143:18,21	question 4:3
144:25	professes	pros 134:23	143:23	4:4,19,22
145:3	153:9	prospective	144:2	4:23,24,25
164:23	professors	84:19	148:10,25	10:20
previously	138:3	proud 134:20	158:5,8	11:22 12:2
92:10	program 7:9	provide	159:14	12:3 13:11
118:4	7:10,21	32:14	160:8	15:6,23,24
186:12	18:23	108:2	163:17	18:2,4
PRIDE 1:4	19:16,23	109:13,14	203:11	21:10,16
primarily	19:25	111:4,12	purposes	24:19 25:4
7:4	23:21	112:12	21:4 63:2	30:25 36:6
prior 211:5	60:12,13	115:14,20	73:25	38:14,24
211:10	147:18	116:6	84:18	40:14,14
213:3,8	171:23	182:10	93:19	40:17,20
private	172:10	187:4	129:19	41:18
57:22	184:8	188:18	141:11	44:13
privileges	198:24	192:19	148:11,16	45:12 46:9
93:2	199:7	205:2	160:16	47:4,6,21
probably	programming	provided	163:8	47:22,24
11:25 12:4	8:13,15	110:2	165:5,12	51:23 52:5
12:13 16:2	programs 7:7	142:3,5	172:4	54:8,13,15

54:17	167:22	150:9	133:20	ready 193:13
58:14	169:15,16	161:25	144:9	reality 64:4
59:12	170:25	175:22	145:3	64:5,24
61:10	173:4	185:11	147:23	65:13
62:24	175:7,14	187:9,19	155:4	191:10
64:24 65:3	175:25	203:3	178:13	realize
65:5 66:11	176:25	204:2	189:8	52:18
67:6 70:19	177:18,19	213:12,15	197:16	really 5:8
71:3,4,5	178:25	214:16	202:24	8:19 9:7
71:18	183:24	quickly	211:18	16:4 31:25
73:25 80:9	184:2,12	182:2	216:4	40:17
81:12 86:5	186:3,6,24	quite 185:5	rabbinate	53:15
89:6 90:17	187:7,12	quote 186:22	148:16	62:13 65:5
90:25	188:6		rabbis 50:6	89:7 98:6
91:13 94:3	190:6,25	R	61:16	124:14
94:9,10	197:4	R 1:18 2:2	99:14	136:13
96:5 97:21	201:10	3:3 127:6	144:6	139:3
98:3	202:2,2	155:12,13	209:11	149:5
100:20	203:7	155:18	raise 167:10	153:5
101:10	204:5,7	156:6	raised 20:13	163:12
102:3	205:19,20	177:21	56:15,20	206:8
104:5,25	206:3,7,9	178:17,19	raises 57:4	reason 48:3
105:2,8,9	206:13	206:19,24	ranging 7:15	110:24
106:25	207:20,25	207:11	read 24:12	113:14
107:12	212:22	208:11	25:2 28:18	144:22
108:16	questioning	215:2,4,18	29:19	153:6
110:12,17	36:25	R-o-s-h-e-i	34:11 43:4	reasons 90:5
111:6	114:11	61:14	47:13	recall 15:18
113:13	137:10,15	rabbi 1:14	48:23	15:22
116:5	184:17	3:2,6 5:18	71:17	196:13
120:25	question...	12:23 13:6	93:23 94:4	197:7
121:2,4	161:7,24	13:14 20:9	96:7,14,16	198:17
123:3	162:15,18	20:22	97:19 98:4	recalling
125:22	162:23	40:16	98:10,12	158:4
127:3,13	180:11,18	44:22 50:7	100:5	receipt
128:11,13	180:23	50:20,24	102:14	157:2
130:9,11	question...	51:15	108:15	171:4
130:12,16	162:5	60:14	148:6	receive 9:13
131:21	163:2	61:19 62:5	151:18,24	55:22 56:7
132:23	questions	80:8,10	151:25	157:8,12
133:18	3:13,14,17	82:21	162:16,17	157:16,25
144:12	3:19 10:10	92:17	164:11,13	158:7
145:6	38:6 45:3	97:18	169:14	162:19,24
149:6	46:18	99:22,23	219:2,19	179:24
152:23,24	54:11	100:17	reading	received
157:3	59:23 65:3	102:17	44:10,11	5:20
159:24	71:13	110:24	96:17	156:15,20
160:4	101:24	118:4,9	107:20	161:2
162:16	133:4	123:8	176:13	181:24
164:19	149:14	128:13	209:5	196:4

receives	records	165:14	relations	53:17 54:4
57:17,21	17:13	197:25	12:12	54:18 55:4
58:6,16	recruit	refunding	181:14	55:9,12,15
156:11	55:14	167:20	relation...	55:19 56:8
163:13	84:22	refuse	64:22	58:22 59:3
165:15	139:4,6	183:14	65:20	59:6,7,14
166:3	200:2,4,5	regard	109:9	59:16 60:3
receiving	recruited	163:18	115:9	60:24
197:8	199:2	175:16	144:18	62:25 63:8
203:11	recruiters	regarding	157:5	63:25 77:8
208:21	138:20	10:10	relation...	78:13,13
recess 66:6	recruiting	137:25	8:20,23	80:4,5,23
90:23	199:5	Regents	9:7 12:14	81:8 88:21
117:21	210:15	92:21	12:16	89:5 94:16
155:2	recruitment	95:25	67:20	94:16
197:14	8:22 16:18	97:17	religion 9:5	98:17 99:2
recital	78:22 79:9	register	38:8,18	101:16
189:14	reduced	7:12	39:3,11	102:7,10
Recitals	50:11	130:23	40:24	102:18,21
189:10	refer 69:20	203:9	42:11	103:25
recognize	122:16	204:18	45:12	109:8,17
28:6 34:9	211:16	registered	53:13	110:9,10
35:4 36:20	212:9,16	7:6,17	54:23	110:14,19
recognized	213:5	203:16,21	60:17	111:9
124:22	references	registering	134:17	113:10
128:24	190:15	202:8	170:17,24	115:11,21
recognizes	referring	208:19	173:23	116:7
125:21	39:12 67:5	registrar's	193:3	118:11,24
recollec...	90:14	195:23	209:9	118:25
164:16	123:5,7	registra...	religions	120:13
165:15	126:21	106:6	53:20	121:6,8,25
178:3	178:7	109:8	religiosity	122:6,9,12
reconsti...	179:23	regular 8:7	79:3	122:15,18
143:8	186:18	138:20	religious	122:22
record 3:7	195:5	reject 57:6	2:9 7:19	123:4,6,10
4:18 5:3,8	196:22,25	Rejecting	7:24 8:8	123:15,23
10:18 13:9	199:13	153:8	8:14 15:11	124:2,6,13
14:3 31:7	refers 68:18	relate 11:12	16:6,19,22	124:16
70:3 90:22	95:17	127:18	27:19 40:2	125:6,12
92:2,7	211:6	related 13:6	41:13	126:2,4,9
102:2	212:23	15:25	43:23 44:2	126:13,16
117:20	refinanced	16:14,14	44:15 46:6	126:17,20
154:25	167:24	36:25 75:6	46:16,22	126:21,24
158:23	refinancing	98:16	47:11,18	127:7,18
176:12,15	167:16	105:10	48:10,24	127:21,22
177:18	reform 139:8	168:12	49:5,17,24	127:23,25
179:15	refresh	196:20	51:8 52:3	128:15,21
180:14	85:16	215:10	52:8,25	128:25
215:9	164:15	relates	53:10,11	129:6,14
219:20,20	refreshed	164:16,23	53:12,16	129:21,22

129:23	178:14,18	78:24 86:3	1:25 73:14	194:2
130:3,6,13	179:7	86:4	201:16,22	196:18
130:24,24	183:22	116:14	reports	represents
131:6,10	184:14,25	156:17	137:4	41:12
131:16,22	185:18	160:12,24	represent	139:12
132:5,11	186:16,23	161:12	92:12	182:5
132:15,16	187:25	168:9,17	106:22	190:23
133:2,10	196:21	169:2	107:13	reproduce
133:16,22	197:3,12	213:19,23	176:6,7,20	69:17
134:6,12	201:12,16	214:7	191:3	request
135:5,10	201:17	remind 3:22	202:5	106:6
135:12,13	202:15,21	18:9	represen...	107:21
135:19,22	203:9,16	157:18	135:2	114:17,19
136:5,9,10	203:21,25	reminded	136:2	requested
136:16,23	204:5,9,11	13:20	142:16	112:13
137:3,13	204:12,19	remotely	194:16	require 38:7
138:25	204:25	26:19	represen...	38:17 39:2
139:19,20	205:3,7,8	removed	135:23	39:10
140:3,10	205:9,13	85:22	150:11	40:23
140:13	205:21,23	renovate	187:9,10	46:20 47:9
149:8,11	206:2,11	181:19	191:17	47:16 48:7
150:14	206:15,19	renovated	represen...	48:8 75:2
151:11	206:23	168:6	10:4,6,12	81:22
153:13,17	207:3,4,8	renovation	39:8 40:19	108:4
153:24	207:9,11	167:16,24	40:21 41:5	116:10
154:5,9,10	207:14,18	repair	44:24	required
154:17,18	207:19,22	167:16,25	46:11 47:3	41:14,19
155:9,14	208:5,6,10	repaired	51:4,15,16	41:19
155:15,24	208:19,25	168:6	103:8	48:17,17
155:24,25	209:9,10	rephrasing	104:20	48:19,22
156:4,6	209:17	31:14	203:15	48:23
157:13	210:7,7,19	report 26:3	represented	49:15 52:7
158:2,5,8	210:22,22	196:2,3	106:16	52:10,15
159:3,6,12	211:6,9,17	200:18	132:5	52:25
159:14	211:21,23	201:11	133:21	55:12,18
160:8,16	212:5,10	reported	134:11	77:24
161:25	212:16,21	181:2	135:10,18	79:13
163:8,16	212:24	200:13	136:23	107:21,23
165:4,12	213:6,7	201:9	142:5	111:3
169:12,18	218:4	202:12	174:7	114:16
170:7,13	religiously	215:7	176:2	200:17
171:16	176:21	218:3	177:2,4	requirement
172:18,22	remaining	reporter	179:6	44:13
174:3,6,8	87:24	1:19 3:16	189:22	45:10 46:5
174:15	remember	3:20 9:19	represen...	49:22
175:5	6:12 13:25	24:4	3:8 64:14	50:11
176:3,20	14:2 15:7	213:17	64:14	51:25
176:22,23	16:11	214:6	131:16	52:24 53:3
177:3,5,15	26:22	215:5	190:8	53:17
177:21,21	75:14	reporting	191:23,23	56:14,20

57:3,11	214:13	197:22	right 5:15	173:4
77:2,13	responsi...	202:25	6:11,13,19	174:5
requirem...	6:25	203:2	16:13 17:4	176:9
42:13 46:2	responsible	211:15	19:21	182:7
48:14 51:6	194:24	212:8	20:14,25	194:17,19
52:6,7,9	responsive	reviewed	22:7 24:18	202:10
76:13	40:13	15:15,23	25:18	212:25
80:21 81:7	54:11	16:5,12	31:13 32:8	right-hand
81:14	restate 71:2	29:24	32:9 34:16	86:23
157:11,25	80:10	160:14	36:23 41:4	role 40:18
201:16	97:17	163:3	45:7 48:20	45:8 50:21
requires	209:6	reviewing	49:3,8	129:8,9
42:10	restated	160:11	55:16,17	154:3
75:22	93:2 95:22	rich 51:17	60:20	203:14
requiring	restricted	RIETS 5:17	63:14,16	Ronald 193:6
54:4	105:5	22:3 61:16	63:17 64:4	room 77:18
research	restriction	62:3,8,20	66:11 67:9	81:21
12:25	169:12,18	62:22 81:9	68:7 70:16	Rosenfeld
194:25	170:7,23	81:10	74:5 87:10	2:7 3:5,7
195:10,12	restrict...	85:20,21	88:12	22:16
195:22	160:16	85:23 86:8	90:16,18	47:25 66:4
214:2	165:18	86:8 87:19	94:14,19	66:7 73:13
resource	169:23	87:24 88:9	107:23	73:18
82:8	171:3	89:7 98:19	108:8	78:10
resources	172:7,8	99:4,13,13	113:3,20	89:20 90:6
34:12 82:9	restroom	99:23	114:20	90:21,24
respect 22:8	4:10 90:19	100:6,8,15	116:23	94:2 95:20
42:8 52:5	restruct...	123:21	118:17	101:11
62:24	67:12	140:16	119:7,15	104:14
92:15	results	141:15	119:20,22	117:19
140:2	73:20	142:6,19	121:19	118:8
150:8	retain 34:13	142:24	122:2,3,8	120:19
157:12	retaining	143:8,13	126:11,22	128:4,9
158:2	198:10	143:17,21	127:11	130:7
170:8	Revel 18:21	143:24	129:18	133:5,13
172:6,21	19:3 22:10	144:9,12	131:24	133:17
185:13	80:14	144:23	132:21	142:14,17
186:11	revenue	145:4,7,11	134:7	144:16
191:16	55:24	145:12,16	136:7	150:8
208:12	57:12,12	146:11,17	142:21	154:25
Respecting	review 15:2	146:21,25	148:23	155:3
153:7	15:5,13	147:2,14	149:18	161:16
respite	16:20	147:25	156:17,21	174:19,25
182:10	33:24	148:4,8,24	156:22	175:9,15
183:7	43:11	149:10,14	159:21	184:21
respond 3:14	102:13	149:18	160:6	185:3,21
35:7	159:5	211:18	161:5	185:24
responded	160:19	217:8	166:5	186:4
74:4	161:6	RIETS'	168:24	187:8,14
response	180:16	144:24	170:25	187:20

197:15	25:17	181:21	school's	95:20 96:7
200:21	52:15 53:7	182:8,9	31:21	108:23
213:11	57:10	185:10	schools 17:3	110:20
214:17	97:23	188:8,12	17:4,5,5	148:9
Rosh 61:18	103:15	189:9,10	17:24 20:6	151:12,15
61:19,21	104:6	192:16	20:16 21:5	152:12
65:17	118:25	198:8	21:6,12,15	169:13
83:17	119:25	204:15,18	21:18,21	182:18
Roshei 60:22	120:13	204:25	22:4,8,12	188:7
61:14,17	122:20	205:5	22:19,20	192:15
61:21 62:4	123:25	211:25	22:22 23:4	199:10
62:7,8,9	126:23	Schedule	23:10,18	204:15
62:16,19	135:22,25	105:19,24	23:20	seconds
63:3 64:11	136:2,5,8	117:2	25:17	90:20 94:8
64:20 65:6	147:14	217:6	26:17 27:2	sectarian
65:17	155:8	Schenirer	27:4,6	139:18,19
82:15,17	163:22	198:25	35:14	171:16
82:20,21	205:18	scholars	53:20	172:22
82:25	212:5	61:25	55:14 70:7	173:2,3,23
83:12	says 4:23	scholars...	79:17 80:7	174:3,6
round 25:25	28:4 29:24	165:2	83:19	193:17
Rubin 168:11	30:17 33:6	school 5:24	138:4,21	194:12
rubric 129:5	33:9,13	6:4 7:9	199:11,17	secular
rule 42:9	39:18	17:7,9,13	200:3	199:12
78:16	43:22 49:3	17:17,19	Science 17:9	security
rules 42:8	49:4,5	18:19,19	19:19 20:5	20:4 180:3
45:24,25	69:18 73:6	18:21	scope 56:3	192:8,8
ruling 5:4	77:14	19:11,12	137:6	199:5,7
10:21	86:22 87:4	19:15,19	170:10	see 9:15,24
run 22:24	90:2 92:16	19:20,22	171:7,19	9:25 33:6
23:4 52:12	93:17	20:4 22:15	172:13	33:9,18
64:8 78:12	94:11	22:25 23:6	173:10,25	35:6 42:22
90:19	95:21 96:8	23:7 26:20	179:20	43:18
129:22	96:20	26:23 27:7	182:14	72:14,17
184:8	97:11,12	27:9,9,11	184:17,22	72:25 73:8
running 74:6	98:24	31:22,24	185:20,22	86:22,25
runs 31:20	102:20	52:12	186:2	87:2 88:2
195:14,15	103:4,21	56:17	187:6	93:3,20
S	106:14	69:11	190:2	94:7,10,19
S 2:2,12	108:7,14	80:13,14	192:10	94:20
216:6	109:5	80:17,18	200:20	95:12,16
S-e-m-i-...	133:6	81:3,6,13	screened	96:8,25
99:18	140:21	81:17,19	77:6	97:12
Samuel 95:7	141:9	139:19,20	second 8:12	101:2,5
105:11	142:9,25	143:24	9:23 10:19	106:3,18
Sara 198:24	148:9,23	171:23	25:10 28:8	108:14,22
saw 159:22	150:21	172:10	43:4 61:12	117:13
169:21	174:2	192:14	72:14	123:25
saying 25:15	176:17	198:23	83:14	125:16
	180:6,21	199:4	86:19 87:8	141:9,12

141:18	selected	28:5 30:2	65:7 74:15	214:7
143:6	70:4	31:19	74:22	showed
148:19	selection	34:11 89:3	76:12	123:19
149:10	40:17	93:20	83:18	196:4
150:23,25	193:23	192:21	103:6	showing
151:8,12	self-select	198:8	149:24	16:22
155:18	54:25	sentences	154:19	23:24
162:14	self-sel...	101:3	165:25	109:15
163:2	53:5	192:18	181:7	216:9
164:22	Self-Study	separate	200:8	shown 36:13
180:7,10	70:4	29:21	202:11	37:5
180:18,21	SELVER 2:7	62:13	215:15	159:16
182:12	semikha	70:11 89:8	sets 65:20	shows 24:6
188:19	99:18,25	98:19	78:6,19	177:5
189:9,19	100:14,16	123:22	setting	side 107:23
190:18	seminary	143:9	136:7	sign 55:4,8
192:18,21	13:7 20:10	147:14	setup 126:8	55:12,18
193:15	20:23	149:15	Seventh	signage
195:24	50:21,25	separated	97:12	77:17
204:3,12	52:14	85:20 86:7	sexual	SIGNATURE
204:15,21	60:15 62:6	88:8	154:12,13	219:1
205:10	80:11 88:5	169:25	shabbat	signed 95:7
207:23	88:24	separately	78:25	105:11
213:24	92:18	135:7	shabbos 82:9	189:5
seeing 11:25	100:17	156:24	139:2	190:19
27:3	102:17	separation	shake 3:21	210:5
134:22	123:9,11	87:19,23	share 11:20	significant
177:11	144:9	100:11	14:8	56:8
192:22	148:14	sequeing	117:15	signs 77:17
seek 181:18	211:19,20	144:16	144:22	similar
seeking	seminary...	series 3:13	shared 82:11	64:23
46:13	85:22	10:9	163:7	185:7
seen 25:13	sending 81:4	served 9:21	sheet 58:8	similarly
50:2 67:14	senior 61:16	76:15	166:25	135:8
73:5 84:25	61:21	78:15	sheets 58:11	simply 4:23
105:22	sense 3:17	service	58:13	112:19
116:25	4:7 15:18	53:16,17	shook 140:12	single 52:20
117:17	25:5 84:15	54:4,18	short 82:14	58:9 61:18
146:8	91:17	189:12,16	Shorthand	70:12 81:3
170:3	100:13	services	1:19 215:4	81:3
179:2,4	132:6	52:8,20	should've	121:17
188:5	158:16	53:2,14	175:20	132:10
201:7	sensitive	80:4,6	show 16:21	138:11
207:16	82:5,7	81:8 187:4	96:21	184:9
211:9,25	83:21	188:19	100:3	197:10
212:15,23	sensitivity	session	124:10	sit 15:22
214:11,14	76:22	118:2	161:13,21	58:4
segregate	80:25	183:3	164:6	168:22
172:21	82:12	set 25:20	191:25	sits 60:13
select 114:5	sentence	37:9,10,11	213:17	sitting

62:10	113:3	165:17	193:10,12	154:22
104:19	156:17,22	specific	194:22	156:12
situated	source 23:2	15:17	197:5	157:16,25
144:24	55:24	35:13	square	158:25
Sixth 96:20	57:13,25	51:13	128:22	166:4
97:11	58:2	54:15 84:4	staff 54:5	167:6
skim 203:4	178:16	89:6 119:8	54:19 82:6	176:7
skipped	179:5	119:21	82:11	180:22
43:25	sources	123:5	84:10	181:19
slicing	56:16,22	145:6	stalking	185:4,7
185:5	57:5	157:14	154:13	191:20
small 43:13	space 82:3	160:25	stamp 92:11	200:14
43:18	168:4,22	190:14	stamped 43:3	201:9
Smith 2:13	182:10	specific...	69:24	203:10,17
14:17	speak 3:15	168:23	141:21,24	203:22
87:15	74:14	171:10	169:4,7	204:6
social 6:4	75:10	195:17	179:13,16	206:17
23:6 27:7	85:25 99:6	specifics	181:10,13	207:13
198:23	111:14,23	157:18	192:16	208:5,20
199:4	112:3	197:10	216:19	215:6
somebody	116:17	speculate	217:7,16	216:9
30:7	132:10	91:9 99:6	217:17,19	218:3
146:10	146:3	159:20	start 15:9	State's
175:18	193:5	160:24	38:5 43:7	205:9,13
193:15	194:8	161:12	55:23	205:21
194:23	196:19	164:3	151:20	206:2,10
210:20	214:3	168:15	212:14	206:18,23
somewhat	speaking	186:8,10	started 6:6	207:4,9,19
198:2	22:17	190:13	102:15	207:22
son 45:19	33:16 41:4	201:24,25	134:25	208:9
sorry 24:24	128:9	speculation	140:10	stated 18:2
43:22 94:8	155:19	116:20	144:10	69:15
103:12	161:17	speed 178:11	starting	127:4
114:3	168:20	spell 104:17	95:4	155:10
149:14	182:24	spelling	102:16	175:13
169:14	190:24	99:19	starts	statement
204:7	191:4,5,6	spend 9:6	151:10	27:21,22
208:24	191:13,19	26:14	state 1:2,20	28:3,12
sort 58:11	210:13	151:23	12:15	29:7,13,16
67:11	speaks 30:6	spiritual	23:24 24:5	29:19 30:9
135:4	31:17 39:5	8:5,6,8,12	57:18 92:9	30:22 32:3
198:7	41:2 44:16	8:14 60:24	92:19,22	32:5,11,12
200:7	46:23 47:2	spoke 11:20	92:24	33:10,13
205:5	93:11 97:8	111:21	106:7,16	33:15,19
sound 6:19	98:22	112:5,7,8	106:22	33:22 34:3
24:9 26:5	104:3	181:15	107:14	34:8,9,13
74:17	189:25	199:14	134:4,16	34:15,19
126:12,12	191:14	213:22	135:16,20	35:3,10,16
sounds 6:13	199:8	spoken 99:9	136:15	35:18,20
25:18 68:4	special	107:3	145:21	36:3,7,13

37:2,4	171:14	27:12,14	9:12 10:24	summarize
40:10 44:6	172:20	33:20,21	18:22	96:17
44:11 55:4	Stern 13:15	34:18,18	19:23	Summary
55:8,12,19	17:8 64:7	34:25 52:7	31:23 62:7	192:17
150:24	138:6	52:10,14	66:9,14,24	summer 183:3
151:4,8,16	stick 47:22	52:17,22	67:3,4,16	super 76:16
152:11,13	113:12	52:25 53:8	67:20,23	supervised
174:2	185:9	53:23	68:2,3,17	109:6
216:12,15	stir 61:5	55:11,11	68:18,19	115:10,22
statements	Stone 7:9	55:16,18	69:2 71:15	116:8
30:24 35:9	62:11	61:3,6,9	71:22 72:5	support 56:8
states 51:25	stop 61:11	62:11,12	72:20 74:4	68:6
70:6 72:24	stopping	67:14	74:13,19	113:23
100:23	175:12	72:25 73:6	80:15	150:13
131:22	straight...	73:15,21	123:13	179:25
stating	207:20	73:22 74:3	126:9,13	supports
101:25	strange 41:9	74:12,18	study 7:23	137:11
174:18	41:18	75:2,23	68:20,23	supposed
status 85:5	strategic	76:5,14	143:3	37:11
88:19	197:19,23	77:3,5,9	147:18	82:12
89:23 93:6	198:14	77:11,14	193:2	159:14
93:14,15	199:15	77:15,21	studying	160:8
100:24	217:23	78:7,14,19	7:18 26:13	163:16,19
101:14,20	street 54:2	78:23 79:9	26:18	165:11
101:24	179:21,22	79:12,13	80:17	SUPREME 1:2
102:21	182:24	79:15,16	123:12	sure 3:18
120:22	stretch 4:10	79:24 80:5	subject	4:8 7:3
131:6,10	Striar 7:8	80:22 81:8	120:19	12:19 13:9
133:8	strike	81:16 84:6	175:19	17:11 19:8
136:11	175:24	84:19,23	subjects	20:25 23:2
153:13,16	strong-s...	100:8,9	68:22	25:15
153:23	50:4	125:20	submit	28:20
155:20	struggling	137:23,25	108:11	29:11,11
159:3	48:2	138:18	112:15	38:15
174:15	student 7:17	139:6	204:19	46:17 47:7
176:23	16:16,16	143:4	209:22	49:21
177:15	16:16 54:5	145:12	submitted	51:10 55:7
183:22	54:19 61:4	148:16	33:2 70:6	56:5 57:2
184:14	72:6 73:8	149:18	111:20	58:12
185:17	78:4 79:4	164:17,25	subpoena	61:12 66:5
186:15,21	80:10 82:4	165:2	92:9	67:19,24
186:22	100:3	191:5,8,15	Subscribed	68:9 69:21
187:11,23	138:24	195:24	214:22	73:18
188:3	199:10,22	199:3,6,25	subseque...	75:13
191:12,15	students 7:6	200:6	92:21	80:13 81:2
191:18	8:7,15,17	210:16	suggest	81:20
196:21	8:19 9:7	studies 5:11	36:19	83:23
197:3	24:9 25:2	6:7,19 7:2	suggested	84:21
stay 13:10	25:6,16,22	7:7,15,18	32:13	85:18 87:6
steps 170:5	26:8,13,18	7:19,23,24	Suite 2:10	88:15,17

89:4,21	22:11	190:4	164:20	136:4
90:21 92:7	69:10	talked 13:13	170:5	138:24
96:15	Syms 17:7,13	14:8 63:18	187:18	140:12
97:22	17:14	91:10	telling	154:2
110:23	19:22	128:23	46:10	161:5
111:18	22:11	185:14	ten 8:5	163:10,11
112:20	27:11	186:12	73:14,22	163:20
117:5,12	69:11	talking	84:17	173:13
118:23		30:18	102:14	199:12
127:11	T	38:21,21	146:13,14	211:11
128:5,18	T 215:2,2	38:22 57:9	146:16	testified
140:20	216:6	57:10	147:8	3:4 90:4
144:14	table 42:21	91:12	term 103:17	118:5
151:21,22	167:3	142:21	119:8,25	133:12
157:3,4,19	tag 8:21	158:14	120:2,3,5	160:6
157:23	take 3:21,25	159:18	121:8	165:11
164:19	4:5,6,9,12	190:4,17	125:11	196:11
166:17	5:21 24:14	191:8	191:10	213:22
168:8	24:23	210:15,16	210:24	testify 9:14
170:5	25:11	210:18,25	212:10	10:4,15
171:21	38:11	talks 198:15	terminology	11:10
172:14,15	50:23 66:4	Talmud 7:23	68:5	13:19
174:5	70:24	9:5 66:21	194:11	99:10
176:18	71:15 98:4	143:3	terms 8:2,22	101:20
178:22,23	107:5,9	147:18	9:11 11:3	121:3
178:24	151:22	targets	12:14,15	133:17
180:4,6,20	154:23	202:14	12:17 14:5	157:21
183:13	162:16,20	task 10:7	15:24	159:8
186:17,20	164:11	taught 65:16	16:24	161:3
196:13,14	199:6	88:5,6	20:19,20	163:18
198:25	202:24	tax 12:21	22:24 23:3	168:16
206:5,14	taken 1:15	111:7	24:16	174:22
212:19,25	3:10 51:18	112:24,25	31:20	175:2,18
213:8,13	60:16 66:6	113:4,20	39:25 40:2	177:13
surprise	90:23	taxable	41:12	213:3
74:21	155:2	167:20	47:15	testifying
surprised	161:19	taxing 137:4	48:14	44:23 45:8
138:12	170:14	teach 62:9	50:21	48:7 54:12
survey 72:2	171:14	technical	60:17	82:15
72:13,24	197:14	191:10	64:21 65:8	150:12
73:4 74:4	219:19	tell 14:2	65:13 76:6	175:13
216:23	takes 170:6	30:9 68:16	76:24 77:7	testimony
surveyed	172:16	71:18	77:11	10:10 12:7
73:6,20	talk 8:25	76:20	78:14,17	35:5 46:14
swimming	16:5 34:13	112:12	78:22 79:4	47:2
41:21,22	78:23 89:4	113:13	80:17	109:11
41:25 42:2	89:4 98:5	116:12	104:3	110:24
Sworn 219:23	134:15	129:13	118:21	113:5
Sy 17:12	142:20	132:12	119:19	118:10,15
19:22	156:9	138:13	126:8	120:22

140:2	16:23	103:19	207:14,24	192:22
168:20	23:21	104:12	209:6	213:12
172:18,23	45:17	109:14,22	210:3	214:19
175:10	51:12	110:3	211:10	timeless
219:19,20	58:11	112:14	213:8	151:11
text 9:5	60:16	114:11	thinking	times 47:20
68:20,24	119:20	115:13	16:17	77:21
thank 3:9	126:7,20	116:21	third 18:22	207:10
22:22	127:21	119:12	72:17 96:9	title 12:10
25:13 37:9	137:17	120:24	96:11,12	12:20 83:2
49:13	159:22	122:16,21	thought	99:20
70:25	182:2	125:15,21	16:24	112:23
83:18 96:6	193:4	127:16,19	142:12	195:5
99:20	197:11	129:9	175:18	203:11
135:5	200:6	130:16	213:9	213:25
164:18	202:4,4	136:2	thousand 7:5	titled
213:12	209:15	137:17	25:16	150:24
214:17,18	think 4:14	138:17	three 7:17	203:24
thankfully	8:16 12:10	140:12	47:20	today 3:9
26:20	12:11 13:7	141:4	throat 64:13	10:4,8,16
27:15	15:16	142:8,11	thrown 5:7	11:10,17
Thanks 200:8	17:17 19:7	145:9	time 3:23,23	12:7 13:19
Theological	19:7 22:19	146:12	4:15,15,20	14:20,23
13:6 20:10	24:18 26:4	147:5,20	4:21,21	15:3 19:9
20:23	26:9,11,15	148:2	8:18,25	30:23
50:20,25	26:17 27:7	153:19	9:6 24:14	44:24 58:4
60:14 62:6	27:13 30:6	154:8	25:11	82:25
80:11	31:11	160:2	27:11	88:18
92:18	34:10	162:3	30:21	99:13
100:17	36:13,18	164:25	38:11 47:5	100:13
102:17	43:25	165:24	55:6 69:8	102:23
123:8	44:17	168:13,25	69:8 70:24	104:19
144:9	47:14,20	170:3	71:15	105:13
211:19	48:20 50:8	172:15	73:17 85:5	137:11
therefrom	50:8 51:10	176:9	86:7 87:18	144:6,10
96:23	57:16 60:3	177:4,17	88:20	144:12
therewith	60:6 64:23	178:23	101:14	159:9
148:18	65:3,23	179:8,10	107:9	168:23
thing 4:2	67:11,13	185:4	133:8	169:22
16:3 29:3	73:11,15	186:4,24	143:18	181:16
51:13 90:7	73:23 79:4	187:20	145:15,24	193:8
115:14	80:11,15	188:24	151:18,22	196:12
192:13	81:17	190:3	151:23	213:12
199:23	82:22	191:14	153:15	today's 9:14
things 3:22	83:15 84:7	192:12	157:8	14:6,12,15
8:18,24	88:12	194:12	162:16	16:10
11:4,12,24	90:13 91:5	195:13	164:11	193:13
13:4 16:4	100:19	196:15	186:9	195:19
16:7,13,14	101:11	199:12,15	187:3,4	212:7
16:20,21	102:20	203:6	189:21,21	told 17:12

113:6	Torah 5:11	19:9	137:17	82:16 85:6
130:18	6:7,19 7:2	tried 185:16	168:9,12	96:10 97:2
138:24	7:7,18	186:14	199:16	110:7
158:21	9:12 10:23	trigger	tuition 56:5	113:21,25
173:16	31:22	161:14	turn 9:8,23	118:13
197:8	61:25 62:6	true 105:15	27:16	124:19
top 24:12	64:8,9	107:18,19	70:14	165:13
33:10,14	65:16,16	122:13	71:10	167:2
43:7 98:10	67:20	133:5	72:14 96:7	186:11
107:5	123:12,13	182:20	150:19	193:19
108:3,23	150:16	215:9	162:13	194:18
114:15	153:9,21	219:20,20	198:4	unabashedly
142:4	total 24:8	trustees	204:24	56:24
177:10	24:16,19	23:11,17	two 6:17 8:3	unclear
180:21	25:2	28:12 36:4	17:10	107:17
189:9,14	149:22	38:7,17,22	18:18	194:13
204:16	track 56:13	39:2,10,13	20:16 22:3	undergrad
212:18	57:24	39:15	28:24 29:6	17:23 62:6
topic 10:10	58:15	40:23	31:19	undergrads
13:12 15:9	tracks 58:5	42:11,14	62:13	134:20
15:13	tradition	42:14,18	98:12	undergra...
16:10	9:4 42:5	42:20	101:3	5:11 6:7
27:16,17	45:18 50:2	44:14	119:5,6	6:18 7:2,4
46:13 85:3	50:5,10	45:11 46:5	144:18	7:6,12
89:20 90:3	51:11	46:21	146:22	9:12 10:23
101:13	60:21,25	47:10,17	149:20	17:6 18:10
120:21	143:25	48:9 82:18	192:18	18:14 26:7
132:24	193:3	82:22,24	193:16	29:21
133:6,6	212:3	83:4,11,12	194:9	31:21,22
137:20	tradition'	149:15	twofold	33:20
144:14,16	137:24	216:13	182:19	34:18,23
149:13	traditional	217:2	type 162:18	34:25 40:3
150:9	68:20	try 3:15	162:23	60:12
154:20	148:17	30:25	178:20	62:10,12
158:23	198:12,16	69:16	209:14	72:6,25
159:8	198:21	158:12	typed 43:5	74:24
165:11	199:9,11	173:6	92:2	75:17,20
174:11,25	199:20,22	186:10	typed-out	75:22 76:8
177:12	200:3	trying 13:21	92:13	76:13 77:3
185:12,22	traditio...	16:21 32:5	types 7:15	78:7,19
185:24	200:4	32:9 36:22	139:20,21	79:9 145:2
186:5	trajectory	54:9 61:10	typewritten	199:23
187:18	198:18	65:5 69:17	86:18	216:24
196:20,23	transcript	75:14	typically	undergra...
196:25	18:6 54:12	96:14	56:11	17:21,22
topics 9:14	215:9	104:25	U	24:17
9:24 10:4	219:19,20	124:15	um-hum 3:22	25:22
10:16,25	translation	126:15	28:17	26:14
11:8 88:18	100:2	130:10	33:11 63:5	52:13 80:2
133:14	transpired	136:13		underline

154:11	69:12	27:20 28:3	66:8,23	118:11
underneath	74:12	28:7 29:7	68:25 69:4	120:12
7:22	76:23 82:7	29:13,16	70:5 71:21	121:9,23
underscores	83:21	31:2,14,18	71:25	122:4,12
154:8	87:25 88:7	31:20	72:12	122:19,21
understand	88:24	32:18,21	74:17,22	123:2,20
4:19 5:8,9	92:12	33:23 34:4	74:23	125:12,23
10:3,13	114:12	34:15,20	75:17,20	125:23,24
11:24	121:5,15	35:4,9,13	75:22 76:7	129:5,20
12:25 16:9	121:18,19	35:13,16	76:14,16	131:3,9
18:25	123:17	35:21 36:7	76:18 77:3	133:21
20:15,17	127:4,16	37:10,11	77:6 78:4	134:5,10
30:18	129:7,10	37:14,19	78:17	134:15,24
32:10	155:10	38:2,6,16	80:22 81:6	135:9,18
35:22	160:7	39:9,9,23	81:22 83:4	136:15
36:22	173:17	40:12,22	83:11 84:2	138:19,22
44:18,22	206:12	40:22 44:6	85:8,21,23	139:12,14
51:16	210:9	44:12,24	86:7,9	140:3,15
61:13	understood	45:3,5,9	87:19,25	141:10
63:21 92:5	11:7 82:12	46:20 47:3	88:6,8,25	143:14,15
101:18	107:7	47:9,16	89:2,7,13	147:12,15
104:6,12	125:25	48:6,7,8	90:10 91:2	147:22,24
104:15,25	135:4	48:21	91:17	148:15
110:23	172:14,17	49:14,22	92:22,23	149:2,15
112:21	172:23	49:23	93:5,18	151:10
116:16	unit 121:14	50:10,18	94:6,12,14	153:9,19
120:10	121:16	50:19,23	94:18,22	153:20
122:20	units 7:11	51:5,7,18	95:9,16	154:15
124:10,12	universi...	52:2,17,18	96:4,19	156:11,15
124:15	203:9	53:6,9	99:9	156:20,24
126:14,15	university	54:6,20	100:13,14	157:6,11
130:10,22	1:7 2:16	55:2,3,7	100:25	158:6
139:3	5:11 6:22	55:13,20	101:6,19	159:2
145:5	9:22 10:5	55:22,25	102:5,7,19	161:9,23
154:9,14	10:7,12,24	56:7,13,15	102:24	162:17,22
157:3	11:10,14	56:19,21	103:8,9,21	163:7,13
167:4,10	13:3 15:25	56:23	103:23	163:24
188:6	16:7,25,25	57:11,17	104:9,20	164:20,24
203:13	18:15 19:5	57:21 58:5	105:12,13	165:3,16
212:4	19:13,16	58:15,21	106:5,15	166:2,8,20
understa...	19:24 20:7	59:5,9,10	106:21	166:23
20:20	20:11,12	59:11,14	107:3,13	167:4,11
23:16,17	20:15,21	59:17 60:4	108:19	170:6
25:21 29:5	20:24 21:2	60:8,9,11	109:2,25	171:2,14
31:17 35:5	21:7,17,20	60:12,22	110:8,10	173:6,21
39:16 40:2	21:22,22	61:2,6	110:13,25	174:7,14
41:11	22:2,9	62:19,22	111:3	176:2,11
51:21	23:11,17	63:2,4,25	113:5,20	176:11,20
52:16	24:11 25:6	64:15	115:19,23	176:23
65:15	25:23 26:9	65:14,14	116:6,9	177:2,14

178:8,14	27:18 29:2	163:24	views 40:16	161:13
178:21	29:25 30:2	165:4	violence	164:2,3
179:3,5,17	30:8,21	169:12,18	154:13	184:4
179:24	38:25 41:6	170:7	vision 27:23	191:7
180:12	42:10	172:8,16	28:4 30:17	wanted
181:2,3,18	46:15	173:17	35:23 36:5	114:24
181:23	49:10	183:21	216:11	173:2
182:5	60:23 63:7	184:13	vocabulary	189:8
183:14,21	63:9 85:4	185:25	139:18	wanting 40:4
184:13	88:19 97:5	191:9	Volozhin	wants 44:20
185:15	98:18	210:13,13	144:5,8	100:3
186:14	101:14	210:14	voting 83:15	153:10,11
188:15,18	104:8	uses 164:20		Ward 1:17
188:21	113:24	206:18	W	2:4
189:19,22	133:8	UTS 145:2,4	wait 17:25	Washington
190:7,16	137:2,12		18:3	2:11
190:19,22	137:21,24	V	walk 178:11	182:11
191:3,14	138:4	values 9:4	walking	wasn't 31:5
191:18,23	152:18	64:9 65:15	77:17,18	34:10
192:6,13	153:12,16	65:15	79:20	109:12
192:20,25	157:7	150:16	Wall 54:2	211:20
194:2,15	158:24	151:11	want 4:9	way 12:4
196:5	159:11	153:9,21	13:24	25:2 26:21
199:16	167:18,23	various	15:16 18:8	26:24 31:2
200:16	174:12	178:12	24:12,15	36:20
201:3,11	186:21	vast 146:25	38:20	38:16
202:7,12	197:2,19	vending	40:10	44:16,17
203:16,20	197:23	60:19	42:15 53:7	45:16
205:12,21	198:16	verbally	53:9,9,10	52:13 60:7
205:25	200:13	3:20	53:11,11	64:3 79:25
206:10,22	201:8,22	verify 24:15	53:12	81:16 98:7
207:2,21	216:10	version 43:5	54:14	99:18,25
208:8,14	217:23	92:3,13	55:16	106:22
208:19,23	218:3	152:3	56:24	107:13
208:24	unnatural	versions	59:22	122:10
209:12,16	3:24 18:5	116:25	61:11,12	123:22
211:6,12	unquote	117:10,13	63:6 64:8	124:18
211:13,13	186:22	versus 63:16	65:2 66:4	127:14
211:17	update	126:17	70:24 71:2	130:22
212:10,20	179:18	161:2	77:10 79:2	135:12
212:20,24	updated 69:7	165:5	90:15 98:4	141:5
213:6,10	83:15	176:22	102:13,16	153:14,18
216:14,16	usages 172:4	vibrant 59:9	107:9	153:23
216:17,21	use 4:10	vice 13:15	118:14	154:4
216:24	59:21,22	VIDEO 1:25	129:23	160:5
217:3,4,15	121:8	view 102:9	147:23	163:22
universi...	129:23	131:22	151:21,22	172:17
15:11	139:18	155:15	153:21	190:5
23:25 24:7	158:20,22	viewed 129:8	155:4	209:14
25:16	160:16	199:19	157:14,20	210:19

215:12	131:4	93:25 99:6	119:5	42:17
ways 127:17	199:2	100:21	131:21	45:10,16
199:16	207:15	101:17,19	139:2	49:16,22
we'll 18:9	211:24	101:23	192:23	51:5,20,24
47:22	wear 75:2,23	104:12	work 5:23	52:6,6,9
87:16	wearing 75:6	120:25	6:4 8:2	52:24 53:3
115:4	website	130:8	23:6 27:7	54:3,17
130:21	27:24	132:22	27:9 32:4	76:7 77:13
we're 5:23	29:14,17	133:18	84:16	78:18
8:16 9:2,3	29:20	142:11	195:23	80:20
9:3 15:9	30:10,11	144:20	198:23	wrong 24:19
25:15	35:7,19,23	158:12	199:4	Wurzweiler
26:25	35:25 36:5	159:15	working 6:6	6:4 18:18
38:20,21	69:16 83:5	161:11,18	8:6	22:10 23:6
48:2 56:23	83:11	161:21	works 12:24	198:23
56:23	84:14	184:18	39:17	
78:25 79:6	216:11	185:11	47:19	<hr/> X <hr/>
85:3 90:7	217:3	186:6	48:15 64:3	x 1:3,9
103:25	week 8:15,17	189:2	64:5,22	41:23
111:8	106:4	213:13,17	81:11	195:25
117:7	193:9,11	215:14	195:7,9	216:2,6
121:5,14	weeks 100:9	216:3	world 53:22	<hr/> Y <hr/>
121:16	welcome 94:3	Women 17:8	58:14	Y 41:23
122:25	well-versed	word 31:10	world's	yarmulkes
124:12	132:19	31:12,15	192:25	75:3,6,8
128:20,21	went 6:16	43:25	worship	75:23
128:22	83:16	52:10	170:13,18	yeah 6:13
129:24	84:13	59:21,22	171:11	13:21
130:18	168:2,4,21	63:24	172:18	38:13
134:20	181:25	64:18	173:18,20	43:14,20
135:22	weren't 88:6	66:11 78:2	worthwhile	51:10
136:5	WHEREOF	92:4,5	192:12	57:23 59:8
141:5	215:14	104:23	wouldn't	63:17
142:20,21	whichever	115:16,17	23:5 59:21	64:24
148:6	172:2	122:22	60:18 61:4	71:16 73:2
149:8,9	Wilf 67:5	124:3	74:21	91:24
150:9	138:15,16	129:24	81:25	93:25
158:21,22	willing	139:17	120:4	94:10
163:19	138:23	155:16	146:14	107:17
183:3	wishes 96:21	194:13	173:18	108:25
199:5,25	withdraw	199:12	190:15	112:8
200:5	186:25	209:6	194:4,15	115:3
206:15	withdrawn	210:14,15	211:2	119:12
207:12,12	55:23	212:20	write 24:20	122:13
208:6	56:14	213:9	writing 32:3	139:11,25
211:12	152:11	wording	50:12	142:12
we've 10:19	204:7	207:7	64:21 65:4	144:20
66:2 84:25	208:13	words 29:6	65:7 79:9	147:10
94:25	witness	44:10 61:9	written	152:22
102:14	87:13 91:8	75:7 98:11	34:10	

161:4	22:9 23:11	61:17,18	104:20,21	154:14
172:14	23:16,25	61:19,21	105:13	155:8,20
180:17	24:6 25:6	61:22 62:2	106:5,15	156:15,20
182:20,20	25:16,23	62:4,7,8,9	106:21	156:24
189:2	26:9 27:13	62:17,18	107:12	157:6,7,11
195:13	27:18,20	62:20,21	108:18	158:6,24
199:11	28:3,6,25	62:25 63:3	109:2,13	159:2,11
202:3	29:7,13,16	64:11,21	109:20,25	161:9,23
203:13	30:8,20	65:6,17,17	110:8,10	162:17,22
204:23	31:2,14,18	66:8,23	110:13,25	163:7,13
209:5	31:19	67:15,25	111:3	163:24
year 26:15	32:17,20	68:10,25	113:5,23	164:20,24
32:22,23	33:22 34:4	69:4,10,13	114:23	165:3,16
69:8,8,9	34:15,19	70:5 71:21	115:19,22	166:2,7,19
84:13	35:3,9,16	71:25 72:8	116:6,9	166:23
90:14	35:20 36:7	72:12	118:11	167:4,11
117:14	37:10,14	74:17,22	120:12	170:6
156:16	37:19 38:2	74:23	121:9,22	171:2,14
164:23	38:6,16	75:16,20	122:4,12	172:16
183:5,6	39:9,9,23	75:21 76:7	122:15,16	173:6,21
195:24	39:25	76:14 77:3	122:21,22	174:7,11
years 6:13	40:11,11	77:5 78:4	122:25	174:13
6:17 9:9	40:22,22	78:24	123:8,20	176:2,10
19:9 20:21	41:6,12	80:21 81:6	125:11,22	176:11,19
31:5,6	42:4,10	81:22	125:24	176:22,25
51:17	44:5,12,24	82:15,17	126:23	177:13,20
117:11	45:3,9	82:20,21	127:17,25	178:13,20
145:18	46:15 47:3	82:25 83:4	129:5,20	179:5,17
146:3,4,9	47:16 48:6	83:11,13	131:3,9,15	179:24
146:11,16	48:7,8	83:17,24	132:4,22	180:11
147:9	49:9,14	84:3,6,7	133:7,20	181:2,18
148:14	50:2 51:5	85:4,7,11	134:5,10	181:23
160:20	51:7 52:2	85:20,22	135:9,18	182:4
168:13	52:12,17	86:7 87:19	136:14,23	183:14,21
Yeshiva 1:7	52:18 53:6	87:25 88:7	137:2,12	184:13
2:16 5:11	53:22 54:5	88:19,25	137:21,24	185:15
5:14 6:21	54:19 55:3	89:7,13	138:4,19	186:14,21
7:10 9:22	55:7,13,19	90:10 91:2	138:22	186:23
10:5,7,11	55:22,24	92:22 93:5	139:14	187:2
10:24 11:5	56:7,13,14	93:17 94:6	140:3,15	188:15,18
15:10 16:6	56:20 57:4	94:12,14	141:9	188:20
16:25 17:7	57:8,11,17	94:17,22	144:5	189:19,21
18:15 19:4	57:21,24	95:8,15	147:11,15	190:7,15
19:13,16	58:5,15,21	96:4 97:4	147:22,24	190:19,22
19:24 20:7	59:5,8,8	98:18 99:9	148:15,25	191:2,17
20:11,11	59:13 60:4	100:13	149:15	192:6,19
20:15,21	60:10,11	101:6,13	151:10	193:25
20:23 21:2	60:12,13	102:5,7,15	152:18	196:5
21:6,17,20	60:21,22	102:19,24	153:10,12	197:19,22
21:21 22:2	61:14,14	103:8,8,23	153:16	198:15

199:3	106:22	3:2 51:15	02981 141:21	167:9
200:12,16	107:14	118:4	141:25	217:2
201:3,8,10	110:14	216:4	217:7	12:23 117:19
201:22	120:6	219:1,19		117:21
202:7,12	125:5	219:22	1	12:30 4:12
203:16,20	127:8,24	young 210:25	1 9:16,20	13 94:21,25
205:12,20	128:2,14	YU 1:4 69:24	15:9,13,23	105:10
205:25	128:23	69:24,25	16:11	217:4
206:9,22	130:4,13	70:8,8,9	27:17	1355 181:10
207:2,21	130:15	70:16	32:25	181:13
208:8,14	134:4	141:21,25	43:19	217:19
208:23,24	135:16,19	169:4,8	70:19	1356 181:10
209:16,21	140:4	179:13,13	87:14	181:13
210:16,16	149:21	179:16,16	92:13,16	217:19
211:6,12	154:21	179:16	107:19	14 74:3
211:12,13	156:11	192:16	128:22	105:19,23
211:17	157:25	198:9	187:13,21	112:3
212:4,10	158:25	216:19,20	188:10,11	217:6
212:16,19	166:4	216:20	203:24	141 217:7
212:20,21	167:6,19	217:7,16	216:8	148 217:8
212:24	176:24	217:17,18	1-9 33:6	15 9:9 37:21
213:5,9	177:3	YU's 170:20	1:30 4:12	38:3 72:6
216:10,14	178:15		1:37 118:3	86:23 87:4
216:15,17	179:7,22	Z	10 9:9 43:6	92:8,12
216:21,24	180:22	Z 41:23	71:24 72:6	95:24
217:2,4,15	181:19	O	72:11,23	141:20,23
217:23	182:7		73:19 74:2	216:18
218:2	183:8	000010 91:23	92:12,15	217:7
Yeshiva's	185:4,7	92:8	94:6	150 100:8
42:16,23	187:3	01085 192:16	181:19	166:24
50:17	188:9,13	01171 179:13	185:22	217:10,11
89:22 99:3	199:25	179:16	216:21	154010/2010
140:20	200:2,14	217:17	100 51:17	1:6
154:5,20	201:9,13	01172 179:16	58:10	16 148:3,7
186:13	202:15	01173 179:13	107:17	182:3
187:9	203:10,17	179:16	10020 2:5	217:8
Yeshivas	203:22	217:18	105 217:6	162 217:12
53:22	204:6	01301 169:4	1084 193:18	164 217:13
Yeshivish	205:9,13	169:8	10th 2:5	166 217:14
198:19	205:21	217:16	11 75:16,19	169 217:16
yesterday	206:2,10	02560 69:24	105:16,17	17 150:2,19
141:24	206:17,18	70:8	190:18	151:4,13
York 1:2,2	206:23	216:19	216:24	217:10
1:18,18,20	207:4,9,13	02747 69:24	1171 180:9	179 217:17
2:5,5	207:19,22	70:8	1172 180:10	18 150:5
23:24 24:5	208:5,9,20	216:20	1173 181:2	151:4,6,9
26:16 92:9	215:6	02749 70:16	12 83:3,8	151:13,17
92:19,22	216:9	02752 69:25	93:17	217:11
92:25	218:3	70:9	95:17	180 149:21
106:7,16	Yosef 1:14	216:20	141:6	181 217:19

185th 179:21	172:2	202 218:4	1:25	4,248 24:9
182:24	187:21	202) 955-...	2747 71:11	4,685 25:2
187 217:20	188:10	2:11	28 202:19,20	4:30 214:19
1897 92:20	216:9	2020 24:2,7	216:12	400 2:10
134:25	20 20:21	197:20,23	218:4	410 135:8
140:10	39:21	216:10	29 200:10,11	45 8:16
142:10,24	41:24	217:24	218:2	46 164:25
143:18,25	44:19	2021 1:11	2985 141:21	463 73:15,21
144:3,10	61:17 72:6	11:6 33:3	141:25	
211:20	92:20	144:10	217:7	5
19 162:7,12	145:18	147:6	2B 199:9,10	5 9:8 10:20
196:24	146:3,4,9	150:6		32:17 35:2
214:7	146:11,14	151:7	3	35:25
217:12	164:8,12	152:3	3 27:23 28:2	43:19 70:5
1919 2:10	164:15	182:3	28:25 29:8	74:12,18
192 217:22	179:9	214:23	30:14,15	87:15
1957 142:11	213:17	215:15	31:8 32:14	96:18
142:13	217:13	217:11	35:2 36:4	97:19
1967 37:22	200 149:23	219:23	43:19	101:4
38:3 43:2	218:2	21 166:18	96:18	108:7,8,12
85:8,18	2000 5:15	176:17	97:21	108:15,22
86:11,24	20006 2:11	217:14	137:20	110:5
87:4 88:9	2007 6:7	212 1:25	150:19,19	111:10,17
91:19 93:8	2008 6:10	212) 763-...	150:21	112:13
95:18,24	2011 166:7	2:6	162:13	114:11,13
96:3 97:16	167:6,14	22 169:3,7	204:5	114:24
123:19,19	167:23	217:16	216:4,11	149:13
143:9,16	168:13	23 1:11	30th 215:15	150:9
216:18	170:8	179:12,15	32 216:14	206:3
1969 85:12	2012 70:5	216:9	35 216:15	216:14
94:22	71:9	217:17	37 216:17,18	5,000 26:5
95:11 96:2	2016 197:20	24 181:8,9	386,000	26:10
97:5 98:15	197:23	217:19	156:15	50 184:4
99:4	199:24	25 150:6	3A 204:8	501 (c) (3)
100:12	217:24	151:7	208:16	182:5
217:4	2018 72:2,13	187:14,15		579 72:25
197 217:23	106:5	217:11,20	4	73:6,9,19
1970 148:4,8	117:2,7	250,000	4 28:11,16	
217:9	187:16	180:7	28:22,25	6
1st 187:16	188:12	2589 69:24	29:8,23	6 35:15,19
188:12	216:22	70:8	31:8 32:14	35:24 36:7
217:20	217:21	216:20	35:2 36:3	43:19
	2019 6:19,20	26 197:17,18	39:13	87:15
2	23:25 24:7	217:23	43:19	97:16
2 23:23 24:4	150:3	26th 142:9	96:18	98:10
43:19 85:3	151:5	27 148:4,8	97:19	101:4
87:14	216:10	192:2,3	144:17	106:18
106:18	217:10	216:11	172:2	107:25,25
107:19	2019-2020	217:9,22	203:11	108:6
133:6	156:16	273-9911	216:12	111:13,16

154:20	216:8,19			
158:23	217:4			
196:25	9:10 1:11			
198:4	90 166:9,12			
216:15	166:13			
60 90:20	167:6			
600 1:17 2:5	168:18			
60s 157:6	94 217:4			
69 85:17				
216:19				
<hr/>				
7				
<hr/>				
7 37:18,25				
38:21				
43:19				
45:15				
106:18				
170:10				
174:11				
185:23,24				
216:17				
71 216:21				
75 216:24				
<hr/>				
8				
<hr/>				
8 37:21 38:3				
38:21				
42:25 43:2				
43:8,12,19				
43:21,22				
45:15				
48:23				
70:19				
85:10,11				
86:19,22				
87:12				
91:20				
92:14,16				
141:2				
143:17				
216:18				
80 26:14				
83 217:2				
<hr/>				
9				
<hr/>				
9 43:6 69:23				
70:3 93:16				
94:22				
95:11				
141:6,8				

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 199

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 11

As always at Yeshiva, the doomsayers were not without their own set of critics. It seems that overall those who were so put off were in the minority. Focusing only on those who engaged in the debate over these issues—remember, like the Vietnam question, a very large segment of the student body went merrily about its business—there were those who defined the “Belfer case (as) a test case for Modern Orthodoxy.” Could the school, they asked, establish a first-rate graduate school and still conform to Jewish law? Far more optimistic about the “ramifications” of the experiment than those whom they called “fundamentalists,” student supporters of the administration spoke proudly of “what is being tried and tested at Belfer—the very survival of Orthodoxy in the modern world.” As far as the issue of general religiosity on campus was concerned, those with historical perspective could remind all that in a heterogeneous school like Yeshiva, there are always those who are more and those who are less committed to Torah study. Certainly few then on campus felt that the conflict over Belfer and the issue of religious diversity had yet reached a crisis stage. Still, the debate simmered until the close of the 1960s.⁴⁵

Then, in the winter of 1969–1970, alarms went off when a university restructuring effort convinced a significant minority of students that their worst fears about the future of their yeshiva were becoming reality. To qualify for state funding under the Bundy Law of 1968, which granted aid to non-sectarian institutions based on the number of advanced degrees awarded yearly, Yeshiva had to reconstitute itself as formally “nonsectarian” in order to comply with the Blaine Amendment’s provision that public money not be used “to aid schools under the control and direction of any religious denomination or in which any denominational tenet is taught.” Failure to satisfy Blaine, one administration spokesman emphasized, would bring to reality Yeshiva’s recurring nightmare: extinction due to lack of funds. Practically, these new laws meant that RIETS, Yeshiva’s senior extant branch, had to be officially divorced from the university. It would now be only “an affiliate” of YU, albeit with its own Board of Direc-

the soul of Yeshiva, if only on paper, to meet state strictures for a university was a slap in the face of all that was holy. And that, in

like All Other Universities?

239

their opinion, was only half the problem. Other aspects of the plan, potentially more troubling and frightening, stirred them to action and brought others to their side. As reconstituted, YC and SCW were now “nonsectarian” institutions. Gone from the new catalogs, published apparently to put Yeshiva in the best possible light in Albany, was the requirement—impossible under Blaine—that “no student may attend YC unless he is simultaneously attending one of the following: IETS, EMC, or JSS.” It was thus conceivable that irreligious Jews, or even non-Jews, might show up on campus in search solely of Yeshiva’s quality secular education. Interestingly enough, Dr. Revel long ago had theoretically welcomed Gentiles to Yeshiva. But he wanted them to study Jewish culture. This was not the type of outsider 1960s dissenters feared. Rather, they envisioned youngsters who “openly reject religious values and opt out of taking . . . Jewish studies.” Here all along, the most religious students had complained that even in an environment where religiosity could be “enforced”—wake-up calls for services, for example—not enough had been done to keep those who wavered on the straight and narrow. Now the doors were being swung wide open, never to be closed again.⁴⁷

Administration attempts to quell fears were initially of little avail. If anything, explanations brought additional support to the opposition’s side, including, at that stage, some of the Vietnam War

less he attended one of the Jewish Studies divisions. The loopholes created by the new catalog existed “merely on paper” to insure eligibility for badly needed funds. Yeshiva would never be in danger of being overrun by hordes of Gentiles and irreligious Jews. Nor was the institution without power and the means of insuring that, come what may, the school would remain Orthodox, notwithstanding the rhetoric of “nonsectarianism.” Moreover, the administration asserted that Albany was well aware of the legal fictions being created and certainly was “not being fooled by the college.” Students were counseled to behave like the committed yeshiva students they nurtured

240

Like All Other Universities?

But faith in the prescience, perspicacity, and perceptions of administration officials was then a rare commodity among Yeshiva student protesters. The core of the CSC, with all due respect to the president, could not share his optimism about the limited ramifications of his acts. One loyal opponent cried: “But are all these merely changes on paper? Can we be so schizophrenic as to represent ourselves in one way to the outside world, while remaining inwardly true?” His position was shared by those who deemed Dr. Belkin’s position tragically naive and legally untenable. They shuddered at the vision of a rebellious student taking Yeshiva to court for forcing him to observe religious teachings in a “nonsectarian” college. That point of view found common cause with others, including some of the Vietnam War protestors, who challenged not so much the foresightedness of the school but the ethics in composing legal fictions.

That minority opinion included those who wondered whether Yeshiva had indeed told the whole truth to Albany and, if not, would ultimately have to pay the price. Finally, there were those who trusted both Dr. Belkin’s motives and insight and yet still had fears to express about the future after his presidency. Without structural guarantees, without the strength or the commitment to the oral laws that still governed Yeshiva’s daily life, it might be possible, over the course of time—and no one knew how long Belkin would continue at Yeshi-

him misguided, those who did not support him at all, and those who realized that he was not immortal, who joined in mounting strident opposition to Yeshiva's charter revision plans.⁴⁹

Interestingly enough, like the Vietnam War protesters, CSC people were immediately caught up in the problem of getting their position across to an apathetic, sometimes even antagonistic, student body. There were those, to begin with, who simply could not see what the fuss was all about. One pro-administration student argued, after several months of the new system, that "from an objective non-emotional stance. one must surely admit that no demonstrable effect

ke All Other Universities?

241

ven further, suggesting that nonsectarianism might even be welcomed at Yeshiva. It would truly give students freedom of choice, thereby bringing to the school a freshness and openness, even as it could, he predicted, remain Orthodox.

On the other hand, others were concerned with the possible long-range effects of the move. They were worried about what public debate over Yeshiva's status would do to its reputation and to the image of its graduates. One student tried to alert others: "It appears that Yeshiva is truly in an inextricable crisis and complaining only tends to aggravate it. The future of Yeshiva is not at stake by changing a few words in a catalogue . . . Reason dictates that students think twice before they bury Yeshiva." As far as the suggested disingenuousness was concerned, one Vietnam moratorium leader who found himself arm in arm with the CSC remembered, that among his friends, the feeling was that the greater danger on campus could be found in the cells of the CSC than in the administration. For these students the furor over charter revision was a smoke screen created by some of their fundamentalist classmates to discredit their institution and to undermine the mission of the university. For them, the battle over nonsectarianism was part of a plan to desecularize Yeshiva.⁵⁰

There was apparently some truth to that last allegation. It showed as the CSC dealt with the nagging problem inherent in all

is: how far could they go in their actions without “desecrating God’s me”? This question, as already noted, had been on the agenda during policy meetings of Yeshiva’s Vietnam protesters. For CSC people, the problem took on much greater significance. After all, many of them were champions against secularization: they could never countenance appearing to behave like all other college students!

Interestingly and paradoxically enough, some of the elements least sympathetic to the long-standing policies of the Belkin administration, the out-and-out critics of Yeshiva’s outlook within the institution, suggested the most un-Yeshivalike methods. There was

242

Like All Other Universities?

promise plan that ultimately emerged was that a public demonstration, respectful but strong, would be mounted against the administration’s policies—but not against Dr. Belkin himself—during the rabbinic ordination celebrations of April 1970 unless of course, the administration showed real signs of changing its course.⁵¹

For the most responsible student protestors, even this well-tempered approach was cause for some intensive soul-searching. All their lives they had been taught to respect religious authority. And Dr. Belkin was “their Rosh Yeshiva.” They could not see themselves questioning his prerogatives. Still, voices told them that this great leader was ultimately wrong. As one activist of those times remembered it: “the spirit of the times was for demonstrating,” if those who led did not respond adequately. But the ambivalence did not end with that. Many did not know how to manage a protest, even as they took notes on what went on “at Columbia” while swearing that their statements would not be like all the others. Their demonstration would be one “for Torah.”

To be sure, the CSC fellows were buoyed significantly by the sometimes active, oftentimes tacit support given them by their rabbinical teachers. Some of these instructors, like the students they inspired and influenced, expressed their long-standing disapproval of the “secular” ways of Yeshiva. For them, charter revision was no

negative potential of the plan. And they were worried about Yeshiva's relationship with Albany. Ultimately, however, the most thoughtful CSC people realized that, to insure the viability of their protests both personally and tactically, they needed the approval of Rabbi Soloveitchik.⁵²

The Rov's approval would grant their acts the legitimacy they so badly needed. They also knew that if the Rov firmly opposed their views or methods, his censure would effectively end their activities. Neither they, nor anyone else at Yeshiva, would deign to even contemplate ignoring the words of the man who ultimately set the

ke All Other Universities?

243

ut would also make the strongest possible statement to the Yeshiva Administration.

The feeling on campus as the days before the ordination celebration approached was that the Rov's sympathies were basically with the dissenters. On the other hand, it was also clear that throughout the conflict, the Rov retained his longtime, high regard both for his president and his work. He, too, it seemed, did not want Yeshiva's clock turned back. Nor could he conceive that his friend, Dr. Belkin, was disingenuous in his acts. What concerned Rabbi Soloveitchik most were questions pertaining to the future: the fate of his yeshiva in a post-Belkin era. Still it pained him to think that his students might be taken to the streets, even in the most responsible manner, and thereby in danger, even if inadvertently, the good name of Yeshiva.⁵³

Ultimately the Rov, on the very day of the ceremony, decided that the charter revisions would have to be called back, but at a public demonstration, even in support of what was right and just, was wrong at Yeshiva. He informed his disciples—some of whom were the leaders of the CSC—that he would champion their cause, but that street action would have to be called off. He decided that he would speak strongly from the heart for them, when called upon to speak during that afternoon's convocation.

The students in the Rov's classes, his immediate and close

Yeshiva and Stern students, placards in hand, marched in the streets. The Rov ascended the rostrum upstairs.

In a tension filled room, the Rov spoke in a hushed voice of the “skeletons or ghosts” of nonsectarianism within the walls of the beloved Yeshiva. He then announced that the concerns of the CSC were his—particularly what would happen after Dr. Belkin, even as he asserted that he had called off the protest. At that moment he was interrupted by a voice from the back of the hall. One of his students shouted, “Rebbe, there are hundreds of students in the streets,” leaving a surprised but unshaken Rabbi Soloveitchik to admit, “It is -

244

Like All Other Universities?

dramatic events, a meeting of minds was reached between the Rov and Dr. Belkin. The demands of the CSC were to be taken seriously. Mechanisms were to be developed to insure both that the university not appear ambiguous in its intentions and that its religious character would always be maintained. It was agreed that Rabbi Soloveitchik would play an essential role in insuring the latter. In addition, many of the peripheral issues of the CSC would be placed under advisement and ultimately implemented. A new spiritual advisor would be appointed to counsel Yeshiva students and upgrade the tone of Jewish life on campus. An improved religious studies curriculum would be adopted at SCW. Teachers of Talmud, the very souls of the institution, would be accorded higher salaries. And the concerns of those earliest involved in the secularization question would be addressed. The Belfer Graduate School and its building would be totally shut during the Sabbath and holidays.⁵⁵

But in the late spring and summer of 1970 Yeshiva moved ever so slowly in implementing those reforms, which, for the next generation of Yeshiva students, would be an unquestioned part of their campus existence. In this respect, the Belkin administration was acting very much like its old-line downtown yeshiva antecedent. And Yeshiva University was also performing like so many good colleges at the time. One could ask Vietnam War protesters around the coun-

trust, and latitude. Rabbi Soloveitchik seemed to agree. He would not confront Dr. Belkin publicly again. The most responsible leaders of the CSC followed suit. One former CSC member said that he took to heart the advice given him by one of Dr. Belkin's right-hand men. The young graduate was told that if he truly wanted to see Yeshiva maintain its traditions, he was obliged, as a loyal alumnus, regardless of what a catalog might say, to monitor from within and without the character of his alma mater. That was the message he needed to hear. Besides, by that time his energies had been dissipated by the close of the semester. And the next fall he was off on other pursuits.⁵⁶

Like All Other Universities?

245

turned ugly and personal. Dr. Belkin was reported to be pained that he and all he had sought to build were being held up to scorn by irresponsible critics who cared little for his or Yeshiva's good name. It remained for the students themselves to demand that this nihilistic crusade end. In a strongly worded, front-page editorial in the student newspaper, almost two years after others had given up the fight—or regained their trust in their school—the student body was called upon to unite . . . to finally end the destructive influence that (has been) exerted on this school." Students themselves, it was continued, "must make it clear" that attacks against Dr. Belkin "will no longer be tolerated." "After two years of accepting, for the sake of fair play," unconscionable acts, "the time has finally come to demand action." His last statement of loyalty from students may have served as partial consolation for the rapidly aging President as he led Yeshiva through the final years of his administration.⁵⁷

286

11. Like All Other Universities?

11. LIKE ALL OTHER UNIVERSITIES?

1. We have estimated that by 1960 a full one-third of the Yeshiva student body came in with other than day school backgrounds. Documents from the files of the Yeshiva University Office of Admissions indicate that in the early 1960s (1960–1964), the percentage of public school youngsters entering YC ranged from between 24–33 percent of the total. By 1967–68 the percentage had dropped to 18 percent and from then through the 1970s the percentage never exceeded 25 percent in any given year. By 1981 the percentage had dropped to approximately 12 percent of the total. In 1984 it hit an all-time low of 7 percent.

2. In 1964 the TI student council president upbraided the critics of his classmates for creating a “religious curtain” at the school. See *Hame.*, (Sivan 5724), June 1964, p. 2. For the full report on the survey of religious attitudes, see *Comm.*, May 23, 1972, p. 4.

3. On the 4D dilemma at YC, see *Pulse*, September 18, 1969, p. 1; February 27, 1969, p. 2; January 3, 1969, pp. 1–2. On the multitude of draft dodges used in the 1960s and 1970s, see Lawrence M. Baskir and William A. Strauss, *Chance and Circumstance: The Draft, the War and the Vietnam Generation* (New York: Random House, 1978), pp. 6–7, 19–25, 27–32, 36, 64–65. On the experiences of one Orthodox student in a yeshiva draft school, see interview with N. D. Gurock, June 1, 1986.

4. Thomas Powers, *The War at Home: Vietnam and the American People* (New York: Grossman, 1973), pp. 138–163; Stokely Carmichael and Charles V. Hamilton, *Black Power: The Politics of Liberation in America* (New York: Random House, 1967), pp. 34–56, 161; Alexander Kendrick, *The Wound Within* (Boston and Toronto: Little, Brown, 1974), pp. 206–207, 224–225, 239–240.

5. Nat Hentoff, ed., *Black Anti-Semitism and Jewish Racism* (New York:

189–191, 195, 318; Kendrick, *The Wound Within*, p. 250, 523–545.

7. On Jewish responses to the crisis of Vietnam, see the range of opinions in *Judaism* (Winter 1969), pp. 17–29; *The Reconstructionist*, December 12, 1969, pp. 4–5; *Jewish Life* (September–October 1969), pp. 22–29; *Jewish Observer*, May 8, 1970, pp. 8–9.

8. On Dr. Revel and his “Bundism,” see chapter 4.

9. *Pulse*, October 24, 1968, p. 2.

10. *Pulse*, September 26, 1968, p. 1; October 17, 1968, p. 2; March 6, 1969, p. 3. On early, sometimes turbulent Jewish-Irish relations in that neighborhood, see Ronald Bayor, *Neighbors in Conflict: The Irish, Germans, Jews and Italians of New York City, 1929–1941* (Baltimore: Johns Hopkins University Press, 1968, pp. 150–153. On the problem of muggings in Washington Heights in the late 1960s. see *Comm.*

11. Like All Other Universities?

287

action in response to the Biafra crisis, see *Pulse*, December 5, 1968, p. 1; September 18, 1968, p. 1; October 17, 1968, p. 2.

14. *Comm.*, April 28, 1966, p. 6. See also *Comm.*, May 21, 1966, for Greenberg’s response to criticism of his original article.

15. *Pulse*, November 7, 1968, p. 1. For the JDL’s own authorized version of their early history see Meir Kahane, *The History of the Jewish Defense League* (Radnor, Pa.; Chilton, 1974).

16. *Pulse*, November 14, 1968, p. 2.

17. *Comm.*, December 6, 1972, p. 2.

18. *Hame.*, December 1969, p. 3. See also, *Pulse*, May 27, 1969, p. 2.

19. *Comm.*, June 2, 1966, p. 7.

20. In truth, the Yeshiva campus was first caught up in the question of Vietnam about 1967 when the issue of chaplaincy was first raised. Few students were ready to enter military service as rabbis. For Yeshiva officials, this reluctance was a touchy moral and patriotic question. Here scholars were receiving pre-ministry deferments (4Ds), but were unwilling to pay Uncle Sam back. Accordingly, they instituted a semi-official draft lottery for chaplains. Of course, students questioned the policy, reflecting not only their opinions of the war but also the question of how to be a *ben-torah* away from shul, friends, and colleagues in this secularized environment. See, on this issue, *Hame.*, March 9, 1967, pp. 5, 6, 8; November 1, 1967, p. 1.

21. *Hame.*, (Teveth 5730), January 1970; *Comm.*, November 26, 1969, p. 5; interview with Steven Bayme, April 7, 1986.

22. *Comm.*, April 28, 1966, p. 6.

23. *Comm.*, October 30, 1969, pp. 1, 6.

24. *Comm.*, November 13, 1969, p. 1.

25. *Comm.*, November 26, 1969, pp. 3, 5, 7; see also *Comm.*, December

1969, p. 7.

28. Interview with Steven Bayme, April 7, 1986; interview with Gary Rubin, April 10, 1986.

29. *Comm.*, October 30, 1969, p. 6; interview with Shalom Carmy, April 7, 1986.

30. Interview with Shalom Carmy, April 7, 1986.

31. *Comm.*, May 27, 1970; *Hame.*, (Iyar, 5730), May 1970, p. 3; interview with Gary Rubin, April 7, 1986.

32. *Hame.*, (Iyar 5730), May 1970, p. 4; *Comm.*, May 27, 1970, p. 8.

33. *Comm.*, October 30, 1969, p. 7.

34. *Comm.*, May 27, 1970, p. 8. See also *Hame.*, December 28, 1967, pp. 1 3 9 10. (Nissan 5730) April 1970 p. 6.

288

11. Like All Other Universities?

37. *Comm.*, October 30, 1969, pp. 3, 7.

38. *Hame.* (January 1966), p. 2; flyers of the Negotiating Committee of the Concerned Students Coalition, April 17, 1970, in the possession of Heshie Billet.

39. *Comm.*, November 11, 1969, pp. 1, 6; *Hame.*, September 30, 1968, p. 4; interview with Mordecai Feuerstein, May 20, 1986; David Ribner, April 9, 1986.

40. *Comm.*, November 11, 1969, pp. 1, 6; *Hame.*, January 1966, p. 2; *Pulse*, October 31, 1968, p. 1.

41. *JSS Report: Part II*, May 1969, pp. 1, 2.

42. *Hame.*, January 1966, p. 2; flyers of the Negotiating Committee.

43. *Hame.*, December 28, 1967, p. 2; October 10, 1966, pp. 4, 6.

44. *Hame.*, September 30, 1968, p. 5.

45. *Comm.*, November 11, 1969, pp. 1, 6; interviews with Heshie Billet, May 8, 1986; Mordecai Feuerstein, May 20, 1986; and David Ribner, April 9, 1986.

46. *Comm.*, February 19, 1970, pp. 1, 5; see also *Hame*, December 1969, p. 2.

47. *Hame.*, December 1969, pp. 1, 2; *Comm.*, February 19, 1970, p. 8; March 5, 1970, p. 1; *Hame.*, March 1970, p. 2.

48. "Report of a Meeting at Dr. Belkin's House," March 5, 1970, typescript copy of minutes of meeting between student representatives and administration representatives in the possession of Heshie Billet; *Comm.*, May 5, 1970, pp. 1, 4; February 19, 1970, pp. 1, 5.

49. *Hame.*, December 1969, pp. 1, 2; *Comm.*, December 24, 1969, p. 2; *Hame.*, March 1970, p. 2; *Comm.*, March 5, 1970, pp. 1, 5; interviews with Heshie Billet, May 8, 1986; David Ribner, April 9, 1986; Mordecai Feuerstein, May 20, 1986; and Eliezer Diamond, May 26, 1986.

50. *Comm.*, February 19, 1970, pp. 1, 5; December 24, 1969, p. 2; May 15,

were far from totally sympathetic. In fact, one might speak of *Commentator* as supporting the Belkin administration while *Hamevaser* backed the dissenters.

51. *Hame.*, March 1970, p. 2; *Comm.*, March 5, 1970, pp. 1, 5; interviews with Eliezer Diamond, May 26, 1986; and Mordecai Feuerstein, May 20, 1986.

52. Interviews with Heshie Billet, May 8, 1986; David Ribner, April 9, 1986; and Mordecai Feuerstein, May 20, 1986.

53. *Comm.*, April 15, 1970, pp. 1, 5; interview with Mordecai Feuerstein, May 20, 1986.

54. *Comm.*, April 15, 1970, pp. 1, 5; *Hame.*, April 1970, p. 2; interviews with David Ribner, April 9, 1986; Heshie Billet, May 8, 1986; and Mordecai Feuerstein, May 20, 1986.

55. *Flyer of the Negotiating Committee: Hame.* May 1970, pp. 1, 6.

12. Toward a Second Century

289

57. *Comm.*, December 16, 1970, pp. 1, 6; March 22, 1972, pp. 1, 6. These protestors adopted a subtle name change. They now called themselves alternately "The New Students Coalition" or the "Semicha Students Coalition." They published and distributed broadsides against Dr. Belkin at a variety of public functions. See, as an example of these documents, the undated flyer "Did You See the Belfer Dedication, Sunday?"

12. TOWARD A SECOND CENTURY

1. "Dr. Samuel Belkin Named Chancellor of Yeshiva University"; undated YUPR, September 1975?; *New York Times*, April 19, 1976.

2. "Dr. Samuel Belkin" undated YUPR; "Dr. Norman Lamm, Author, Philosopher and Teacher," undated YUPR (August 1976). Yeshiva press reports have it that fifty candidates were considered during the six-month process.

3. "Norman Lamm," *Current Biography* (1978), pp. 27–30; "Dr. Lamm, Author," undated YUPR.

4. "Yeshiva University President Urges Orthodox Community," undated press release, Union of Orthodox Jewish Congregations of America; Norman Lamm, "Modern Orthodox Identity Crisis," *Jewish Life*, May-June 1969, p. 7, quoted in William Helreich, *The World of Yeshiva: An Intimate Portrait of Orthodox Jewry* (New York: Free Press, 1982), p. 230.

5. "New York's Newest School, Benjamin N. Cardozo School of Law Opens September 8," YUPR, September 3, 1976; Benjamin N. Cardozo School of Law Opens with 303 Students," YUPR, September 13, 1976; *Benjamin N. Cardozo School of Law-Yeshiva University*, undated pamphlet (1980?).

6. *New York Daily News*, February 2, 1982, "What the High Court's 'Ye-

as a religious teacher, albeit one who is Americanized and even secularized, while union forces had as their basic frame of reference the situation at other colleges.

7. Linda Yellin Fisch, "Patterns of Religious and Feminist Socialization Among Jewish-College Women" (Ed.D. dissertation, Columbia University Teachers College, 1983), pp. 40, 42, 48, 70, 80–82.

8. Interview with Judy Paikin, June 4, 1986; Helmreich, *The World of Yeshiva*, pp. 227–228. Interestingly, the battlegrounds for student recruitment involving Yeshiva admissions officers are often Israeli yeshivas that offer one-year programs for American high school graduates. After that year, the question is whether the study of Torah will continue at Yeshiva or at another yeshiva which deemphasizes the secular, or will the year constitute the end of intensive Jewish study, and off to Queens College or Columbia.

9. Helmreich, *The World of Yeshiva*, p. 228.

10. Marianne R. Sauna, "The Beginning of Our Redemption: Stages in the Development of Jewish Life at Princeton University" (seminar paper, Jewish Theological Seminary of America, 1985). Statistics on kosher food on campus are derived from

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 200

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 12

Monday, May 11, 2020

Features

9

The Ghosts Have Become Alive: Yeshiva University and the Future of Religiously Affiliated Higher Education in America

By MICHAEL J. BROYDE

Forward

Thank you, dear reader, for letting me share my thoughts on the legal status dilemmas that Yeshiva University faces concerning its charter as a secular institution during these complex and unusual times. I know that we are in the middle of a pandemic and there are much more important short-term concerns — numerous essential worries for Yeshiva and for us all — but I am confident that this pandemic crisis shall pass. “The sun will come out tomorrow” seems clear and when the sun shines again (in just a few short weeks, we all hope and pray) the same important problems brewing for many months about YU’s legal status will return to the forefront, maybe even with greater speed and urgency, having been put on hold for some time. Yeshiva will need to be prepared for that moment, and I publish this piece now — written many months ago — in that spirit. Finally, in the name of full disclosure, I reveal my biases here: I am not some neutral academic writing on some random “law and religion topic” of professional interest. I am a loyal YU alumnus — having graduated from MTA, YC, and RIETS (twice) — and a deep supporter of Yeshiva and its Modern Orthodox vision. One of my children is a fourth-generation alumnus and I hope to have grandchildren who are fifth-generation graduates in many years to come.

The current legal environment seems to me to challenge or even threaten the future, and I share my thoughts in the hopes that we can find the best way forward for YU.

Introduction

During the Spring of 1970, the deeply rational Rabbi Dr. Joseph B. Soloveitchik *zt”l* spoke of ghosts. At the triennial ordination ceremony at Yeshiva University, the Rav — the leading Talmudic authority in America at the time, scion of a multi-generational rabbinic dynasty, and the person who signed the ordination certificates soon to be given — warned the president of Yeshiva, Rabbi Dr. Samuel Belkin (his friend and co-signer on the ordination certificates), not to change the legal charter of Yeshiva University from a religious institution to a secular one. Rabbi Soloveitchik — ever a visual speaker — claimed that he “saw ghosts.” Harvard, Yale and Princeton “all began as divinity schools,” he warned, “and Yeshiva, Heaven forbid, could also go the way of all these great and early citadels of American higher education”

and become a secular institution, having lost its moorings as a religious institution.¹

So far, Rabbi Soloveitchik (d. 1993) has not been correct in his prediction of the future. For 50 years, Yeshiva managed to function as a religious undergraduate college with a dual curriculum of Jewish studies and secular studies, just like the model Rabbi Dr. Belkin had proposed: a secular college affiliated with a religious seminary, with the deep religious and ethical vision flowing from the seminary to the university. While only the seminary was formally exempt from the non-discrimination rules, both the college and the seminary functioned as if they were one — for example, almost all the students were traditional Orthodox Jews, an apparent violation of Title VII as well as many other statutes that govern secular institutions.

Yeshiva University avoided the many complexities in its undergraduate institutions that essentially serve a religious community² by employing a number of strategies (some of which I will outline below). Such cannot be said with regard to the graduate schools of Yeshiva University, which are (or were, in the case of the Albert Einstein College of Medicine, formerly Yeshiva’s medical school) essentially secular in their student body and academic orientation and never had either a critical mass of traditional Jewish students or a commitment to any significant study of Jewish law or text or values.³ Other than Revel, all of Yeshiva’s graduate schools are indisputably secular in their orientation. They allow social, religious and student affinity clubs and organizations that no Orthodox Jewish organization would allow, and they have students with no connection to Judaism but who attend merely because of the lofty academic quality of the institution. When Yeshiva University sought to restrict the right to housing for married students at Einstein and not allow students in a same-sex relationship to have housing for the student and their partner, the New York Courts ruled that Yeshiva would be in violation of the New York City ordinances⁴ that legally mandated that housing be given to such students.⁵ With some squealing and moaning, handwringing and kvetching, Yeshiva complied with the mandate of the court and allowed housing in the Einstein dorms for same-sex couples who were not married.⁶

The Present

Others have raised the concern in the years since the Rav did, since it was growing progressively harder to be both secularly chartered and religiously affiliated. As Rabbi

Chaim Dov Keller, a prominent rabbi and an alumnus wrote in 1995 in a public letter to the president of Yeshiva at that time, Rabbi Dr. Norman Lamm: “Are your undergraduate colleges, Yeshiva College and Stern College for Women, not under the same nondenominational charter? Sooner or later you will have to face the problem of gay students in these schools. How will you avoid the problem there? Whatever means you are presently using will soon become obsolete, if you are true to your duty as the head of a non-denominational institution to ‘conform to the secular law.’”⁷ I myself wrote to Rabbi Lamm⁸ *Shlita* about this in 2002 at some length as did many others.

Instead, beset by financial problems after the recession, Yeshiva continued to define itself as a secular institution as a matter of law, mostly to allow them to remain eligible for a great variety of financial assistance provided by the state and national government. When tensions arose (as they occasionally did), they were addressed in a discrete way without publicity or legal challenge. We all knew that this situation was both somewhat disingenuous and legally tenuous, since Yeshiva was not secular like NYU or Columbia or even Emory — its legal status did not reflect its seemingly discriminatory practices in admission or the conduct of its undergraduate colleges.

So how did Yeshiva’s undergraduate colleges manage to avoid the kinds of challenges its graduate divisions confronted? To answer this question, four historical realities are worth noting.

First, LBGTQ rights were less clearly established until recently — no one was exactly certain how they would interact with religious institutions or even secular institutions with a religious history. At the beginning of the LBGTQ movement, there was little stomach for that fight and much bigger — and clearly secular — fish to fry.⁹ That era is over; the bigger fish are fried, and now the little fish are being primed for the fryer.

Second, Yeshiva University undergraduate colleges — Yeshiva College, Stern College and the Sy Syms School of Business — employed tight admission standards that selected only students who were deeply interested in an Orthodox life and lifestyle in a gender-separated institution. With a robust dual curriculum of morning Talmud study and required Bible, Hebrew and Jewish history coursework in its colleges, few applied who did not fit in. Furthermore, there was an admissions process that informally weeded out students who were a bad fit for

the religious mission of the undergraduate colleges. Yeshiva managed to discriminate without engaging in overtly discriminatory practices.

Third, until recently, the Orthodox community that attended YU treated the LBGTQ community as far outside its boundaries. The students who were LBGTQ stayed deeply in the closet, either due to their own choice or due to communal pressure (or both). This era too is over. Many in the Modern Orthodox community are comfortable with the political agenda of the LBGTQ community’s call banning discrimination based on sexual orientation and the extension of Title VII to prohibit such (I am, as I note here¹⁰) while exempting religious institutions from Title VII obligations. Furthermore, there is much more tolerance and sympathy regarding the LBGTQ movement within the Orthodox community now.

Fourth, Yeshiva College has expanded its admission base so that it has admitted many more students who are less committed to a complete and full Orthodox life than in other eras.¹¹ The number of students who are not Sabbath observant has gone up, and the number of male students who do not wear the customary head covering has increased as well. The number of hours of Jewish studies required per student has gone down, and there is a greater variety of programs for both men and women that are not classical text study. Furthermore, there are many more programs that compete with Yeshiva for classically yeshiva-trained students, decreasing the number of those who end up going to YU. These trends have brought to YU a higher percentage of students who are not traditionally “Orthodox.”

Of course, lurking in the background of all of this is the secular truth: the diverse pluralistic society that America has become has little tolerance for discrimination based on sexual orientation, and New York City’s Commission on Human Rights has flatly prohibited such discrimination for secular educational institutions.

The Reality

All of these trends culminated in a student’s recent request to form a “gay-straight” alliance club at YU, as well as the filing of a civil rights complaint against Yeshiva with the City of New York Commission on Human

Continued on Page 10

¹ For more on this, see Rabbi Zevulun Charlop, “The Rav and Dr. Belkin,” in *Mentor of Generations: Reflections on Rabbi Joseph B. Soloveitchik*, ed. Zev Eleff (Jersey City: Ktav, 2008), 85 and Andrew Geller, “Rav Responds to Secularization; Sympathizes with Student Rally,” *The Commentator* 35, no. 13 (April 15, 1970):. For a thoughtful discussion of this in the context of the times, see Jeffrey S. Gurock, “The Men and Women of Yeshiva” (Columbia University Press, 1988) at pages 236-245. In the course of writing this article, Yosef Lemel of The Commentator shared with me that *The [Stern College] Observer* published what seems to be close to a transcription of Rabbi Soloveitchik’s remarks on April 15, 1970 in an article entitled “Rav Soloveitchik Speaks Out on YU Crisis” (This article is found in volume 12, issue 12 of *The Observer*, dated Wednesday, April 15, 1970).

² I hesitate to compare the approach YU has taken to this topic with many Christian universities nationwide, as both New York State and New York City law and funding play an important role here. It is worth noting that St. John’s University and Fordham University are both still religious corporations, as Yeshiva was up until 1970. Indeed, one is hard-pressed to find a Catholic institution that adopted the legally secular path chosen by Yeshiva. This could also be explained by the unique difficulties of running a medical school, a dilemma that is no longer part of the YU calculus.

³ Rather, the graduate schools merely accommodated traditional Jewish practice by providing kosher food and scheduling class around the vacation days of both the Jewish and the secular holidays. For more on this, and Rabbi Soloveitchik’s observations about why this is proper, see the remarks of Rabbi Soloveitchik entitled “On the Creation of Yeshiva University’s Albert Einstein College of Medicine found at Rabbi Joseph B. Soloveitchik, “Community, Covenant and Commitment: Selected Letters and Communications” pages 85-92 (Nathaniel Helfgot, editor) (Ktav, 2005).

⁴ Basically, secular institutions in New York City could not discriminate against same-sex unmarried couples in 2000 based on the combination of three laws: (1) NY Roommate Law (Real Property Law, section 235(f)); (2) New York City Human Rights Law sections 296(2-a), 296(4) and 296(5); (3) New York City Administrative Code 8-197(5). The law has changed slightly since the legalization of same sex marriage, but the differences are not important in this context.

⁵ *Levin v. Yeshiva University* 96 N.Y.2d 484 (NY Ct of Appeals 2001). (In New York, the Court of Appeals is the highest court in the State.) For a popular recounting of the win by the students, see “Yeshiva Lesbians Win Ok To Sue Over Dorms” NY Post July 3, 2001 at <https://nypost.com/2001/07/03/yeshiva-lesbians-win-ok-to-sue-over-dorms/>

⁶ See Adam Dickter “Yeshiva University Changes Housing Policy: Medical School To Allow Same-Sex Couples To Share Housing” (August 16, 2002) in *Voices of New York* at https://voicesofny.org/2002/08/nycma-voices-31-news-news_2/.

⁷ See Rabbi Chaim Dov Keller, “A Letter That Should Never Have Been Published” *The Jewish Observer* pages 31-32 (Summer 1995) also found at <https://agudah.org/wp-content/uploads/2016/08/JO1995-V28-N05.pdf>.

⁸ May the One Above comfort Rabbi Lamm and his family for the recent sad loss of his wife Mindella as well as grant Rabbi Lamm himself a full and complete recovery.

⁹ It could be that the reason for this was even more profound. There might have been an implicit understanding that religious institutions could be officially nonsectarian and still impose religious values indirectly, and it was also in the interest of the city and state to host such institutions. The consensus perhaps has changed in regard to LBGTQ issues and religiously affiliated but legally secular institutions.

¹⁰ See Michael J. Broyde, “The Equality Act Is Good For The Jews” *The Jewish Press*, 3 July 2019 at <https://www.jewishpress.com/indepth/opinions/>

point-counterpoint-2/2019/07/03/

¹¹ See for example “How Bare Heads Are More Than Just Bare Heads, and Why It Matters for YU” which notes “Indeed, Yeshiva University accepts students spanning a wide range of religious commitment and does not enforce any religious observance on its students. It is an open institution that welcomes non-religious students who want to connect to and learn from Judaism in their own way, allowing everyone to feel comfortable in his own level of observance.” at <https://yucommentator.org/2018/10/bare-heads-just-bare-heads-matters-yu/> and <https://yucommentator.org/2018/10/response-ask-bareheaded-students-wear-kippot/>. This is a far cry from the historical policies and social practices of many other eras of YU.

¹² See the Sexual Orientation Non-Discrimination Act (SONDA) which is New York law that prohibits discrimination on the basis of actual or perceived sexual orientation in employment, housing, public accommodations, education, credit, and the exercise of civil rights. Let me add that this complaint and the general focus on Yeshiva in the LBGTQ world is coordinated and not coincidental, as is noted in many places. This means that these matters will not go away.

GHOSTS,
continued from Page 9

Rights. This complaint notes a violation of the New York City Human Right Law, which certainly on its face applies to secularly chartered Yeshiva.¹²

The New York Jewish Week reported simply: “The move intensifies a long-simmering battle for gay recognition at Modern Orthodoxy’s flagship institution . . . The complaint, filed last week, states that YU has ‘refused to allow an official LGBTQ student group’ over the course of many years, and has ‘suppressed LGBTQ-themed events.’ The complaint also stated that a senior vice president at the university ‘tried to pressure student council leaders to reject’ the club’s second bid for approval in two consecutive years . . . **Though it is easy to ‘feel like the underdogs,’ Alberstone said, he is confident that the grassroots student club has the upper hand. YU is a non-sectarian institution, with no legal basis for discriminating against LGBTQ students.’**”¹³ (emphasis added)

What should Yeshiva University do in this situation? Yeshiva simply cannot view same-sex relations as consistent with Jewish law as it understands it,¹⁴ and yet the New York City law directly denies secular institutions the right to engage in the religiously driven LGBTQ discrimination.

Possible Responses by Yeshiva

In response to this dilemma, Yeshiva University has four reasonable options and one unreasonable option, as I will describe below.

First, it can allow such clubs to open and permit students to conduct themselves in a manner not consistent with Jewish law. This approach is not only consistent with their secular charter but also legally the easiest to do. This was the action that Rabbi Soloveitchik feared the most when he spoke 50 years ago.¹⁵ It would mean the abandonment of the historical mission of Yeshiva University — to meld the best of Western culture with traditional Jewish law and run an educational institution that was consistent with both the vision of Harvard and Volozhin.¹⁶

Second, it can seek to continue its current policy of being nominally secular while acting functionally like an Orthodox Jewish institution. It can double down on its practice of adopting *pro forma* secular policies that comply with the law’s calls for neutrality while functionally reinforcing YU’s religious mission. For example, it could prohibit all student clubs that are not academic in nature

and not under the aegis of an academic department in order to prevent the opening of a “gay-straight alliance” club. It could tighten its enrollment policies to reduce the likelihood of students being interested in these clubs, and it could raise the threshold of student signatures needed to form a social club to such a high number so as to reduce the likelihood of such a club being able to be formed consistent with the neutral secular rules as they exist now. Religious student clubs could be re-chartered under RIETS, the religious seminary generally exempt from these laws. The advantages of this approach are three-fold. It is a tried and true method that YU has employed before, and all of its administrators are familiar with it. It continues to allow access to the pools of money provided to secularly chartered institutions. Finally, it seems at first glance to be ideologically more consistent with the basic message of a yeshiva that is a university, which is that one can be both. One can be both an Orthodox Jew and a secular person.

If Yeshiva does not act, it will have its religious agenda determined by a secular court and not by its own religious sensibilities.

The third approach is to recharter the undergraduate colleges or even the whole university as a religious institution and seek shelter from the Human Rights Laws of New York City in that way, which explicitly do not apply to religious institutions.¹⁷ The advantages of this approach are clear: they allow a direct and unmanipulated assertion of the values of Yeshiva University untampered by the New York Human Rights Law. The law school and other secular divisions could remain with their secular charter, but any divisions that are intended to serve Orthodox Jews will clearly be defined as religious. The disadvantages are also clear: as a religious institution, Yeshiva will lose access to a few pots of money only granted to secular intuitions — the exact reason Rabbi Dr. Belkin sought a secular charter to begin with.

Let me add that it is clear that this chartering as a religious institution is not an “all or nothing activity”; rather, this needs to be done with a great deal of care so as to accomplish two central goals. First, leave those parts of Yeshiva that are secular as secular. Nothing is gained by chartering the law school (for example) as religious. Division by division, Yeshiva needs to examine itself to honestly determine which portions have central religious values and which merely adhere to the Jewish holiday calendar and

provide kosher food. Only the former should have a religious charter. Second, enough of the university needs to be left secular to allow for robust access to those benefits uniquely provided to secular programs. A close look at what the Dormitory Authority of the State of New York calls the “Touro College and University System” reveals that Touro has a complex corporate structure with many distinctly different corporate statuses and corporate forms in order to address these issues well.¹⁸ Countless “religious institutions” have learned to do this, as anyone can see from the diverse institutional bond-issuing practices of the New York Dormitory Authority.

The fourth approach is to fight: Yeshiva can argue for an extension of the basic holding of *Hobby-Lobby* and argue that religiously influenced secular institutions should be granted exceptions from secular laws that are contradictory to their religious traditions, just as individuals are granted such exemptions.¹⁹ In its weak form, it would argue that

resistance to oppressive laws with a great deal of success. New York State could imprison Yeshiva’s president for contempt of court, but it would create a “prisoner of conscience” in that act. The British lost India to a resistance movement that never fired a shot — religious sacrifice is a compelling narrative.²¹

Related to this approach (but very different) is another option: YU can close its doors in a grand way, sell its New York City assets, and move to a more sympathetic jurisdiction like Israel or New Jersey or Utah. In this approach, it would announce to the community that the ideas and ideals that Yeshiva University was crafted around — that the best of secular culture and Orthodox Judaism actually can co-exist in a yeshiva which is a university — can still be done, but it cannot be done in New York City anymore. Like the legendary Volozhin Yeshiva of lore,²² which was putatively forced by the government in Czarist Russia to offer secular studies and choose to close rather than comply, YU can announce that in light of the oppressive attacks on its religious values, it will cease to function in New York City.

So, What Would I Recommend?

Yeshiva has positioned itself uniquely inadequately for the current legal reality. It is a secularly chartered but religiously affiliated institution, a status both unrecognized by secular law and unprotected by the rights granted to religious institutions. Furthermore, it is in a city with a vibrant Human Rights Commission dedicated to making secular institutions comply with the letter and spirit of the Human Rights law. I think that resistance is an awful idea, even as it has some emotional appeal. While the aphorism of “it is better to die on your feet than living on your knees” sounds courageous, it actually is mistaken in this case, since there are many other standing opportunities. The costs of litigation — social, economic and practical — will be high, and the likelihood of vindication is low. Thus, I am opposed to a policy of resistance and litigation.

Along the same lines, I am opposed to the policy of continuing to thread the needle of being nominally secular while actually being substantively religious. I think too many people are watching closely for YU to have an announced policy at tension with its implemented policy.²³ Of course, it could

Continued on Page 11

¹³ The Jewish Week, LGBTQ Students File Complaint Against Yeshiva U: Battle for gay rights intensifies as students take discrimination grievance to NYC Human Rights Commission. (Feb 18, 2010) also at <https://jewishweek.timesofisrael.com/battle-for-gay-recognition-intensifying-at-yeshiva-u/>. See also <https://nypost.com/2020/03/07/lgbtq-students-file-discrimination-complaint-against-yeshiva-university/>.

¹⁴ This is not the place to address this issue in detail. See for example “Statement of Principles on the Place of Jews with a Homosexual Orientation in Our Community” at <https://statementofprinciplesnysa.blogspot.com/> or Michael J. Brody and Shlomo Brody “Homosexuality And Halacha: Five Critical Points” at <http://text.rcarabbis.org/homosexuality-and-halakha-in-tradition-and-beyond/> or many other fine articles written.

¹⁵ See note 1.

¹⁶ What exactly is this mission is beyond the scope of this short note. My favorite short essays that encapsulate the Yeshiva University experience can be found in essays by Rabbi Aharon Lichtenstein and Rabbi Norman Lamm at Menachem Butler and Zev Nagel (editors) “My Yeshiva College: Seventy-Five Years of Memories.” Rabbi Lamm’s essay is entitled

“There is only One Yeshiva College (pages 219-225) and Rabbi Lichtenstein’s essay is entitled “Looking Before and After” (pages 231-239). I have an essay in that volume entitled “Truth Seeking as the Mission” (pages 325-328).

¹⁷ As the New York State Attorney General notes simply:

Some exemptions that preexisted SONDA — and apply to discrimination on any of the grounds listed in the law, not only sexual orientation — affect SONDA’s application. A “religious or denominational institution,” or an “organization operated for charitable or educational purposes” that is “operated, supervised or controlled by or in connection with a religious organization,” may:

1. Limit employment, sales or rental of housing accommodations, and admission to persons of the same religion.
2. Give preferences to persons of the same religion or denomination; and
3. Take “such action as is calculated by such organization to promote the religious principles for which it is established or maintained.”

<https://ag.ny.gov/civil-rights/sonda-brochure>

¹⁸ Yeshiva needs to examine in more detail what Touro does and why, as well as deeply understand

how to do this. This is discussed in not enough detail later in this letter.

¹⁹ In its strongest form, it is an argument that the majority decision by Justice Scalia in *Employment Division v. Smith* (1990) is wrong, and in its weaker forms it is an argument that Religious Land Use and Institutionalized Persons Act (RLUPA) should apply to such institutions. This is not the place to review all such plausible arguments other than to note that the consensus is that the argument that the New York City Human Rights Law does not apply to secularly chartered, but religiously valued institutions is not generally considered the state of the law now. See also note 18 confirming that this is the opinion of the NY Attorney General.

²⁰ Related to this, of course, is seeking special legislative status or exemption from the State of New York. Since I see this approach as practically unlikely, I will not address this here. I do see the possibility that if (big word) we all supported a “fairness for all” type of proposal, maybe these proposals would exempt even religiously affiliated secular institutions, and maybe Congress would also preempt local increases. None of this will help Yeshiva in the short term.

²¹ For an example of a fight, see <https://www.evangelifcalfellowship.ca/Resources/Court-cases/2018/>

Trinity-Western-University-School-of-Law-2013-201, although this is in Canada.

²² For a more historically accurate portrayal of why the Yeshiva in Volozhin closed, see Jacob J. Schacter “Haskalah, Secular Studies and the Close of the Yeshiva in Volozhin in 1892” in *Torah Umaddah* 1:76-133 (1990) or see Shaul Stampfer, *Lithuanian Yeshivas of the Nineteenth Century. Creating a Tradition of Learning* Translated by Lindsey Taylor-Guthartz. Oxford: Littman Library of Jewish Civilization, 2007.

²³ In addition, this type of policy has internal social costs of some complexity as. Even at the time of the 1970 events “Rav Lichtenstein voiced the problem of presenting one image to the outside world while trying to preserve another general direction” (as mentioned in *The Observer* article cited in note 1) as an ethical issue. Indeed, in conversation with people about this topic over many years, this has been a common ethical theme. Dr. Zev Eleff notes this as well in his alternate history “What if Rav Aharon Had Stayed? A Counter-History of PostWar Orthodox Judaism in the United States” at <http://www.thelehrhaus.com/scholarship/2017/3/9/what-if-rav-aharon-had-stayed-a-counter-history-of-postwar-orthodox-judaism-in-the-united-states>.

Monday, May 11, 2020

Features

11



YESHIVA UNIVERSITY

The Rav outlined the many dangers of secularization in his “Ghosts” speech.

*GHOSTS,
continued from Page 10*

have a set of actual policies that reduce this issue (such as “no social clubs at all”), but I suspect that these matters will not go away in the current environment. So too, changing enrollment policies might or might not be a good idea, but doing so to address this issue seems unwise and economically untenable.

So, I see only two real options for Yeshiva: re-charter it as a religious institution in part

or move to more hospitable jurisdiction (or both). The economic costs of having a religious charter are complex and require a very tight and detailed look at the various losses and gains suffered by that chartering. Calculating this is complex, since sometimes the gains and losses are subtle.²⁴ Moving the institution out of New York would be difficult, heart-rending, and dislocating for the legions of students, faculty and staff at Yeshiva. However, it might be the approach most consistent with its mission, actually. Having defined itself as an institution committed to the harmonization of Torah values

and Western ideal, when one is living in a place where that is not possible, one looks for a new place to live.²⁵

In summary: Yeshiva University seems to need (if it wishes to preserve its Orthodox Jewish identity) to re-charter some of itself as a sectarian or religious corporation,²⁶ rather than remain a completely non-sectarian or secular institution, and Yeshiva should even consider moving to a more legally friendly jurisdiction. If it does neither of these, it is going to have a very rough ride preserving the status quo. Or even

worse, if Yeshiva does not act, it will have its religious agenda determined by a secular court and not by its own religious sensibilities.

Michael J. Broyde is a Professor of Law at Emory University and the Projects Director in the Center for the Study of Law and Religion. In the past, he has been the Rabbi of the Young Israel in Atlanta, the Rosh Kollel of the Atlanta Torah Mitzion Kollel and the Director of the Beth Din of America.

²⁴ It is clear to me that the real issue is hardly “Bundy Money,” which has gone down every year since 1990 and is now a total allocation of only \$35M to a slightly less than 100 schools. For more on this, see <https://www.cicu.org/legislation-policy/state-aid-programs/direct-institutional-bundy-aid>. (I was told that Fordham was approved for Bundy money in 1970, although I have not been able to verify that.) The much more complex issue is access to the bond-issuing authority of the New York State Dormitory Authority to issue tax-free bonds as well as other state

and federal funding. For example, see this \$90M bond issued just by Yeshiva University. I have not been able to get a complete picture of the bond issuances of Yeshiva, but since 2010, it seems that Yeshiva has issued only that one bond. Let me add that it is clear that there is a mechanism for parochial colleges to receive funding from the authority, as both St. Joseph’s College and St John’s University have been funded. Unlike Yeshiva, they do not define themselves as non-sectarian. This is a crucially important issue, and further research is required. Indeed, the Touro

College and University System has the practice of having multiple units apply, only some of which are secularly chartered; that is clearly acceptable. Let me add that being religiously chartered has many advantages that need to be factored in as well. For example, a religious charter allows the granting of parsonage to many more people, which both saves on payroll taxes and increases take-home pay while also reducing costs. So too, religious institutions have a less robust regulatory environment allowing for a smaller administrative staff. They are less open

to legal claims, allowing a smaller General Counsel’s office and so on. Each and every upside and downside needs to be calculated closely.

²⁵ Let me add, as one early reader noted, that Manhattan real estate is still very expensive. Yeshiva could sell its holding and relocate to a much more idyllic location and rebuild its depleted endowment.

²⁶ See the paragraph accompanying note 19.

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 201

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 13



Empowering our clients to change the world

Perlman+Perlman
ATTORNEYS AT LAW LLPARIZONA
1855 W. Baseline Road, Suite 250
Mesa, Arizona 85202-9012
480|699.8270 phone
480|699.8271 fax

February 15, 2018

Department of Law
Charities Bureau - Registration Section
120 Broadway
New York, NY 10271Re: **Yeshiva University**
EIN: 13-1624225

Dear Sir/Madam:

Please be advised that Yeshiva University is an educational institution, which under the State of New York's statutes, is eligible to be exempt from Charitable Licensing registration. Please find enclosed the following items for your review and consideration:

- Completed Schedule E Form
- New York Board of Regents Educational Charter
- IRS 990 and Audited Financial Statement for the Fiscal Year Ended June 30, 2016
- IRS Determination Letter

- Bylaws

Please confirm, in writing, that the assumption that our client is exempt from registration is correct.

If you have any questions or should you require further information, please do not hesitate to contact me at the address above. Thank you.

Sincerely,

Rolando Melgar Jr.
Compliance Specialist

Schedule E (Form CHAR410, CHAR410-A or CHAR410-R) Must be attached to form CHAR410, CHAR410-A or CHAR410-R	Request for Registration Exemption for Charitable Organizations New York State Department of Law (Office of the Attorney General) Charities Bureau - Registration Section 120 Broadway New York, NY 10271 www.charitiesnys.com	Open to Public Inspection
Full Name of Organization Yeshiva University		Fed. employer ID no. (EIN) 13-1624225
NY State registration no. 44-10-46		
<i>If your organization is not claiming exemption from registration under either or both Article 7-A or the EPTL, do not complete Schedule E and do not submit a blank Schedule E. An exemption request that is not accompanied by all required documentation as listed below and in CHAR410, CHAR410-A or CHAR410-R Part D (Attachments) will not be considered. Do not request exemptions that cannot be supported by the documentation required. An exemption request has not been granted unless you receive a letter confirming your organization's exemption.</i>		
Indicate whether you are claiming an exemption from the EPTL or Article 7-A or both. Complete the corresponding exemption request questions.		
EPTL <input type="checkbox"/> ⇔ Complete Part I (EPTL), skip Part II (Article 7-A). Article 7-A <input type="checkbox"/> ⇔ Complete Part II (Article 7-A), skip Part I (EPTL). Both EPTL and Article 7-A <input checked="" type="checkbox"/> ⇔ Complete Part I (EPTL) and Part II (Article 7-A). If you complete one but not both exemption request parts, your organization may be exempted under only one law and registered under the other law, in which case your organization would be required to file annually with the Charities Bureau.		
Part I: EPTL Exemption Request		
Registration exemption claim (check all that apply)		Required additional documentation (in addition to attachments listed in CHAR410, CHAR410-A or CHAR410-R Part D)
<input type="checkbox"/> 1. Organization is not charitable		None
<input type="checkbox"/> 2. Organization does not conduct activity in NY State		If your organization lists a New York address in either question 3 (Mailing address) or question 4 (Principal NYS address) of CHAR410, CHAR410-A or CHAR410-R Part A, attach a detailed explanation of why the organization has a New York address but claims not to conduct activity in NY State
<input type="checkbox"/> 3. Organization is a government agency or is controlled by a government agency		For organizations controlled by a government agency, attach a description of the relationship between your organization and the government agency and either: • a copy of the letter from the Charities Bureau confirming the government agency exemption of that other organization, or • a copy of the government agency's charter and , if applicable, IRS tax exemption determination letter
<input type="checkbox"/> 4. Organization reports annually to either the U.S. Congress or the NY State Legislature		Attach a copy of either: • the most recent annual report filed with the U.S. Congress or the NY State Legislature, as the case may be; or • a letter from such legislative body confirming that your organization reports annually to it
<input type="checkbox"/> 5. Organization is incorporated under the religious corporations law or is another type of organization with a religious purpose or is operated, supervised or controlled by or in connection with a religious organization		• Attach a copy of listing in official denominational directory (for example, "Blue Directory"), if applicable; and • For organizations operated, supervised or controlled by or in connection with another organization that is exempt from registration as religious, attach a description of the relationship between your organization and that other organization and either: - a copy of the letter from the Charities Bureau confirming the religious exemption of that other organization, or - a copy of that other organization's certificate of incorporation, by-laws, trust agreement and/or other organizational document and amendments, and , if applicable, IRS tax exemption determination letter
<input checked="" type="checkbox"/> 6. Organization is an educational institution, museum or library incorporated under the NY State Education Law or by special act		None
<input type="checkbox"/> 7. Organization is a hospital, skilled nursing facility or diagnostic/treatment center		Attach a copy of your organization's operating certificate from the NY State Department of Health
<input type="checkbox"/> 8. Organization is a membership organization (fraternal, patriotic, social, student, alumni, veterans)		None
<input type="checkbox"/> 9. Organization is a volunteer firefighters or volunteer ambulance service organization		None
<input type="checkbox"/> 10. Organization is a historical society chartered by the Board of Regents of the State University of New York		Attach a copy of the organization's charter from the Board of Regents of the State University of New York
<input type="checkbox"/> 11. Organization is a cemetery corporation subject to the provisions of Article 15 of the NY State Not-For-Profit Corporation Law		None
<input type="checkbox"/> 12. Organization is the NY State parent teachers association ("PTA") or any PTA affiliated with an educational institution subject to the jurisdiction of the NY State Education Department		Attach a copy of both: • the educational institution's charter from the NY State Education Department; and • a description of the relationship between the organization and the educational institution
<input type="checkbox"/> 13. Organization is incorporated under Article 43 of the NY State Insurance Law		None

Part II: Article 7-A Exemption Request	
Registration exemption claim (check all that apply)	Required additional documentation (in addition to attachments listed in CHAR410, CHAR410-A or CHAR410-R Part D)
<input type="checkbox"/> 1. Organization does not solicit or receive any contributions from NY State (including residents, foundations, corporations, government agencies, etc.)	None
<input type="checkbox"/> 2. Organization solicits and receives gross contributions from NY State (including residents, foundations, corporations, government agencies, etc.), but organization's gross contributions are less than and will continue to be less than \$25,000 per year <u>and</u> organization does not and will not use the services of a professional fund raiser or fund raising counsel	None
<input type="checkbox"/> 3. Organization receives all or substantially all of its contributions from a single government agency to which it submits annual financial reports similar to those required by Article 7-A <u>and</u> organization's gross contributions from all other NY State sources, including other government agencies, do not and will not exceed \$25,000 per year	Attach a copy of the organization's most recent IRS Form 990, 990-EZ or 990-PF, including Schedule B, filed with the IRS
<input type="checkbox"/> 4. Organization receives an allocation from a federated fund, United Way or incorporated community appeal <u>and</u> organization's gross contributions from all other sources do not and will not exceed \$25,000 per year <u>and</u> organization does not and will not use the services of a professional fund raiser or fund raising counsel	Attach a copy of the organization's most recent IRS Form 990, 990-EZ or 990-PF, including Schedule B, filed with the IRS
<input type="checkbox"/> 5. Organization is incorporated under the religious corporations law <u>or</u> is another type of organization with a religious purpose <u>or</u> is operated, supervised or controlled by or in connection with a religious organization	<ul style="list-style-type: none"> Attach a copy of listing in official denominational directory (for example, "Blue Directory"), if applicable; <u>and</u> For organizations operated, supervised or controlled by or in connection with another organization that is exempt from registration as religious, attach a description of the relationship between your organization and that other organization <u>and</u> either: <ul style="list-style-type: none"> a copy of the letter from the Charities Bureau confirming the religious exemption of that other organization, <u>or</u> a copy of that other organization's certificate of incorporation, by-laws, trust agreement and/or other organizational document and amendments, <u>and</u>, if applicable, IRS tax exemption determination letter
<input type="checkbox"/> 6. Organization is an educational institution that confines its solicitation to its student body, alumni, faculty and trustees and their families	Attach a copy of the organization's charter from the NY State Department of Education, Board of Regents of the State University of New York or similar government agency
<input checked="" type="checkbox"/> 7. Organization is an educational institution or museum that files annual financial reports with the Board of Regents of the State University of New York as required by the NY State Education Law or with an agency having similar jurisdiction in another state	Attach a copy of either: <ul style="list-style-type: none"> the most recent annual financial report filed with the Board of Regents of the State University of New York or other similar government agency; <u>or</u> a letter from such government agency confirming that your organization reports annually to it
<input type="checkbox"/> 8. Organization is a library that files annual financial reports as required by the NY State Education Department	Attach a copy of either: <ul style="list-style-type: none"> the most recent annual financial report filed with the NY State Education Department; <u>or</u> a letter from the NY State Education Department confirming that your organization reports annually to it
<input type="checkbox"/> 9. Organization is a membership organization (fraternal, patriotic, social or alumni) that confines its solicitation of contributions to its membership	None
<input type="checkbox"/> 10. Organization is a law enforcement support organization that confines its solicitation of contributions to its membership	None
<input type="checkbox"/> 11. Organization is a historical society chartered by the Board of Regents of the State University of New York that confines its solicitation of contributions to its membership	Attach a copy of the organization's charter from the Board of Regents of the State University of New York
<input type="checkbox"/> 12. Organization is the NY State parent teachers association ("PTA") or any PTA affiliated with an educational institution subject to the jurisdiction of the NY State Education Department	Attach a copy of both: <ul style="list-style-type: none"> the educational institution's charter from the NY State Education Department; <u>and</u> a description of the relationship between the organization and the educational institution
<input type="checkbox"/> 13. Organization is a chartered local post, camp, chapter or county unit of a bona fide veterans' organization, a bona fide organization of volunteer firefighters, a volunteer ambulance service organization, or a bona fide auxiliary or affiliate of such an organization <u>and</u> organization's fund raising is done by its members without direct or indirect compensation	For veterans' organizations, attach a copy of the organization's charter from a bona fide veterans' organization
<input type="checkbox"/> 14. Organization is a police department, sheriff's department or other governmental law enforcement agency	None
<input type="checkbox"/> 15. Organization is a government agency or is controlled by a government agency	For organizations controlled by a government agency, attach a description of the relationship between your organization and the government agency <u>and</u> either: <ul style="list-style-type: none"> a copy of the letter from the Charities Bureau confirming the government agency exemption of that other organization, <u>or</u> a copy of the government agency's charter <u>and</u>, if applicable, IRS tax exemption determination letter

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 202

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 14

NEW ISSUE



\$90,000,000
DORMITORY AUTHORITY OF THE STATE OF NEW YORK
YESHIVA UNIVERSITY REVENUE BONDS
SERIES 2011A

Dated: Date of Delivery

Due: November 1, as shown on inside cover

Payment and Security: The Yeshiva University Revenue Bonds, Series 2011A (the "Series 2011A Bonds") are special obligations of the Dormitory Authority of the State of New York (the "Authority") payable solely from and secured by a pledge of (i) certain payments to be made under the Loan Agreement (the "Loan Agreement"), dated as of June 22, 2011, between Yeshiva University (the "University") and the Authority, and (ii) all funds and accounts, except the Arbitrage Rebate Fund, established in connection with the Series 2011A Bonds under the Authority's Yeshiva University Revenue Bond Resolution, adopted June 24, 2009 (the "Resolution") and the Series Resolution Authorizing Up To \$90,000,000 Yeshiva University Revenue Bonds, Series 2011A, adopted June 22, 2011 (the "Series 2011A Resolution" and, together with the Resolution, the "Resolutions").

The Loan Agreement is a general, unsecured obligation of the University and requires the University to pay, in addition to the fees and expenses of the Authority and the Trustee, amounts sufficient to pay, when due, the principal, Sinking Fund Installments, if any, and Redemption Price of and interest on the Series 2011A Bonds.

The Series 2011A Bonds will not be a debt of the State of New York (the "State") and the State will not be liable on the Series 2011A Bonds. The Authority has no taxing power.

Description: The Series 2011A Bonds will be issued as fully registered bonds in denominations of \$5,000 or any integral multiple thereof. Interest due November 1, 2011 and each May 1 and November 1 thereafter will be payable by check or draft mailed to the registered owners of the Series 2011A Bonds at their addresses as shown on the registration books held by the Trustee or, at the option of a holder of at least \$1,000,000 in principal amount of Series 2011A Bonds, by wire transfer to the holder of such Series 2011A Bonds, each as of the close of business on the fifteenth day of the month next preceding an interest payment date. The principal or Redemption Price of the Series 2011A Bonds will be payable at the principal corporate trust office of U.S. Bank, National Association, the Trustee and Paying Agent or, with respect to Redemption Price, at the option of a holder of at least \$1,000,000 in principal amount of Series 2011A Bonds, by wire transfer to the holder of such Series 2011A Bonds as more fully described herein.

The Series 2011A Bonds will be issued initially under a Book-Entry Only System, registered in the name of Cede & Co., as nominee for The Depository Trust Company ("DTC"). Individual purchases of beneficial interests in the Series 2011A Bonds will be made in Book-Entry form (without certificates). So long as DTC or its nominee is the registered owner of the Series 2011A Bonds, payments of the principal, Redemption Price and Purchase Price of and interest on such Series 2011A Bonds will be made directly to DTC or its nominee. Disbursement of such payments to DTC Participants is the responsibility of DTC and disbursement of such payments to the beneficial owners is the responsibility of DTC Participants. See "PART 3 - THE SERIES 2011A BONDS - Book-Entry Only System" herein.

Redemption or Purchase: The Series 2011A Bonds are subject to redemption or purchase prior to maturity as more fully described herein.

Tax Exemption: *In the opinion of each of Squire, Sanders & Dempsey (US) LLP and KnoxSeaton, Co-Bond Counsel, under existing law, (i) assuming continuing compliance with certain covenants and the accuracy of certain representations, interest on the Series 2011A Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, and (ii) interest on the Series 2011A Bonds is exempt from personal income taxes imposed by the State of New York and political subdivisions thereof, including The City of New York and the City of Yonkers. Interest on the Series 2011A Bonds may be subject to certain federal taxes imposed only on certain corporations, including the corporate alternative minimum tax on a portion of that interest. For a more complete discussion of the tax aspects, see "PART 11 - TAX MATTERS" herein.*

The Series 2011A Bonds are offered when, as, and if issued and received by the Underwriters. The offer of the Series 2011A Bonds may be subject to prior sale, or withdrawn or modified at any time without notice. The offer is subject to the approval of legality by Squire, Sanders and Dempsey (US) LLP, New York, New York, and KnoxSeaton, New York, New York, Co-Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for the University by Andrew J. Lauer, Vice President for Legal Affairs, Secretary and General Counsel of the University, and by the University's special counsel, Orrick, Herrington & Sutcliffe LLP, New York, New York. Certain legal matters will be passed upon for the Underwriters by their counsel, Fulbright & Jaworski L.L.P., New York, New York. The Authority expects to deliver the Series 2011A Bonds in definitive form in New York, New York, on or about September 28, 2011.

Morgan Stanley

Goldman, Sachs & Co.

J.P. Morgan

Barclays Capital

Ramirez & Co. Inc.

September 21, 2011

YU01244

Redacted
DORMITORY AUTHORITY OF THE STATE OF NEW YORK
YESHIVA UNIVERSITY REVENUE BONDS
SERIES 2011A

Redacted

<u>Due</u> <u>November 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u> <u>Number</u> ¹	<u>Due</u> <u>November 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u> <u>Number</u> ¹
---------------------------------	-----------------------------------	--------------------------------	--------------	--	---------------------------------	-----------------------------------	--------------------------------	--------------	--

Redacted

* Priced at the stated yield to the November 1, 2021 optional redemption date at a redemption price of 100%.

¹ CUSIP numbers have been assigned by an independent company not affiliated with the Authority and are included solely for the convenience of the holders of the Series 2011A Bonds. Neither the Authority nor the Underwriters are responsible for the selection or uses of the CUSIP numbers and no representation is made as to their correctness on the Series 2011A Bonds or as indicated above. CUSIP numbers are subject to being changed after the issuance of the Series 2011A Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such Series 2011A Bonds or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of the Series 2011A Bonds.

Redacted

[THIS PAGE INTENTIONALLY LEFT BLANK]

TABLE OF CONTENTS

	<u>Page</u>
PART 1 INTRODUCTION	1
PURPOSE OF THE OFFICIAL STATEMENT	1
PURPOSE OF THE ISSUE	1
AUTHORIZATION OF ISSUANCE	1
THE AUTHORITY	1
THE UNIVERSITY	2
THE SERIES 2011A BONDS	2
PAYMENT OF THE SERIES 2011A BONDS	2
SECURITY FOR THE SERIES 2011A BONDS	2
THE 2011 PROJECT	2
PART 2 SOURCE OF PAYMENT AND SECURITY FOR THE SERIES 2011A BONDS	2
PAYMENT OF THE SERIES 2011A BONDS	2
SECURITY FOR THE SERIES 2011A BONDS	3
EVENTS OF DEFAULT AND ACCELERATION	3
ISSUANCE OF ADDITIONAL BONDS	4
GENERAL	4
PART 3 THE SERIES 2011A BONDS	4
DESCRIPTION OF THE SERIES 2011A BONDS	4
REDEMPTION AND PURCHASE IN LIEU OF REDEMPTION PROVISIONS	5
BOOK-ENTRY ONLY SYSTEM	8
PRINCIPAL, SINKING FUND INSTALLMENTS AND INTEREST REQUIREMENTS	10
PART 4 - THE REFUNDING PLAN	12
PART 5 THE 2011 PROJECT	12
PART 6 - ESTIMATED SOURCES AND USES OF FUNDS	12
PART 7 THE UNIVERSITY	12
GENERAL INFORMATION	12
HISTORY AND GENERAL DESCRIPTION	12
ACADEMIC PROGRAMS	13
RELATED ENTITIES	13
AFFILIATED ORGANIZATIONS	14
AFFILIATION AGREEMENTS	14
UNIVERSITY LIBRARIES	14
RESEARCH ACTIVITIES	14
GOVERNANCE	14
ADMINISTRATION	16
OPERATING INFORMATION	17
STUDENTS	17
TUITION AND FEES	18
FINANCIAL AID	18
FACULTY	18
FINANCIAL STATEMENT INFORMATION	19
UNIVERSITY FINANCES	19
MANAGEMENT'S DISCUSSION	20
UNIVERSITY INVESTMENTS	22
ENDOWMENT AND SIMILAR FUNDS	25
STATE AID	25
PRIVATE GIFTS AND BEQUESTS	25

Page

GRANTS AND CONTRACTS	26
EMPLOYEE RELATIONS	27
RETIREMENT PLANS.....	27
OUTSTANDING LONG-TERM DEBT AND OTHER OBLIGATIONS OF THE UNIVERSITY	27
LITIGATION AND ADDITIONAL PROCEEDINGS.....	28
PART 8 - THE AUTHORITY	28
BACKGROUND, PURPOSES AND POWERS.....	28
OUTSTANDING INDEBTEDNESS OF THE AUTHORITY (OTHER THAN INDEBTEDNESS ASSUMED BY THE AUTHORITY)	29
OUTSTANDING INDEBTEDNESS OF THE AGENCY ASSUMED BY THE AUTHORITY.....	30
GOVERNANCE	30
CLAIMS AND LITIGATION	35
OTHER MATTERS.....	35
PART 9 - LEGALITY OF THE SERIES 2011A BONDS FOR INVESTMENT AND DEPOSIT	35
PART 10 - NEGOTIABLE INSTRUMENTS	36
PART 11 - TAX MATTERS.....	36
ORIGINAL ISSUE DISCOUNT AND ORIGINAL ISSUE PREMIUM	37
PART 12 - STATE NOT LIABLE ON THE SERIES 2011A BONDS	38
PART 13 - COVENANT BY THE STATE	38
PART 14 - LEGAL MATTERS	38
PART 15 - UNDERWRITING	39
PART 16 - CERTAIN RELATIONSHIPS.....	39
PART 17 - CONTINUING DISCLOSURE.....	39
PART 18 - RATINGS.....	41
PART 19 - MISCELLANEOUS.....	41
APPENDIX A □ CERTAIN DEFINITIONS	A-1
APPENDIX B □ CONSOLIDATED FINANCIAL STATEMENTS OF YESHIVA UNIVERSITY AND RELATED ENTITIES AND INDEPENDENT ACCOUNTANTS' REPORT	B-1
APPENDIX C □ SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT	C-1
APPENDIX D □ SUMMARY OF CERTAIN PROVISIONS OF THE RESOLUTION.....	D-1
APPENDIX E □ FORM OF APPROVING OPINIONS OF CO-BOND COUNSEL	E-1



DORMITORY AUTHORITY - STATE OF NEW YORK
PAUL T. WILLIAMS, JR. - PRESIDENT

515 BROADWAY, ALBANY, NY 12207
ALFONSO L. CARNEY, JR., ESQ. - CHAIR

OFFICIAL STATEMENT RELATING TO

\$90,000,000

DORMITORY AUTHORITY OF THE STATE OF NEW YORK
YESHIVA UNIVERSITY REVENUE BONDS
SERIES 2011A

PART 1 - INTRODUCTION

Purpose of the Official Statement

The purpose of this Official Statement, including the cover page and appendices, is to provide information about the Authority and the University, in connection with the offering by the Authority of \$90,000,000 aggregate principal amount of its Yeshiva University Revenue Bonds, Series 2011A (the "Series 2011A Bonds").

The following is a brief description of certain information concerning the Series 2011A Bonds, the Authority and the University. A more complete description of such information and additional information that may affect decisions to invest in the Series 2011A Bonds is contained throughout this Official Statement, which should be read in its entirety. Certain terms used in this Official Statement are defined in Appendix A hereto.

Redacted

The University

The University is an independent, coeducational, nonsectarian, not for profit institution of higher education accredited by the Middle States Association of Colleges and Schools. The University is located on four campuses in New York City. See “PART 7 - THE UNIVERSITY” and “Appendix B – Consolidated Financial Statements of Yeshiva University and Related Entities and Independent Accountants’ Report.”

REDACTED

Redacted

Redacted

Redacted

Redacted

Redacted

Redacted

Redacted

Redacted

Redacted

REDACTED

PART 7 - THE UNIVERSITY**GENERAL INFORMATION****History and General Description**

Yeshiva University (the “University”) originated in New York City in 1886 within the Rabbi Isaac Elchanan Theological Seminary (“RIETS”), with which it is still affiliated, and was chartered as a separate university on November 16, 1945. The University brings together the heritage of Western civilization and the ancient traditions of Jewish law and life. A total of approximately 6,500 undergraduate and graduate students study at the University. The University has four New York City campuses: the Wilf Campus (consisting of several buildings in the Washington Heights section of Manhattan), the Israel Henry Beren Campus (consisting of several buildings in the Murray Hill section of Manhattan), the Brookdale Center (consisting of a building and a nearby housing facility in the Greenwich Village section of Manhattan), and the Jack and Pearl Resnick Campus (consisting of several buildings in the Bronx). The Wilf Campus, Israel Henry Beren Campus and the Brookdale Center comprise the Manhattan Campuses. The University also conducts the S. Daniel Abraham Israel Program in Israel. The University’s undergraduate education offers a dual program comprised of liberal arts courses and Jewish studies. Its graduate and professional schools include Albert Einstein College of Medicine (“Einstein”), Benjamin N. Cardozo School of Law (“Cardozo”), Wurzweiler School of Social Work (“Wurzweiler”), Ferkauf Graduate School

of Psychology (“Ferkau”), Azrieli Graduate School of Jewish Education and Administration (“Azrieli”), and Bernard Revel Graduate School of Jewish Studies (“Revel”)

School/ Program, Year of Founding and Campus Location

Isaac Breuer College of Hebraic Studies (1917) – Wilf Campus
 Yeshiva Program/Mazer School of Talmudic Studies (1917) – Wilf Campus
 Yeshiva College (1928) – Wilf Campus
 Bernard Revel Graduate School of Jewish Studies (1935) – Wilf Campus
 Azrieli Graduate School of Jewish Education and Administration (1945) – Wilf Campus
 Stern College for Women (1954) – Beren Campus
 Albert Einstein College of Medicine (1955) – Resnick Campus
 James Striar School of General Jewish Studies (1956) – Wilf Campus
 Ferkau Graduate School of Psychology (1957) – Resnick Campus
 Sue Golding Graduate Division of Medical Sciences (1957) – Resnick Campus
 Wurzweiler School of Social Work (1957) – Wilf and Beren Campuses
 Benjamin N. Cardozo School of Law (1976) – Brookdale Center
 Sy Syms School of Business (1987) – Wilf and Beren Campuses
 Irving I. Stone Beit Midrash Program (1995) – Wilf Campus
 S. Daniel Abraham Israel Program (1999)
 The Graduate Program for Women in Advanced Talmudic Studies (2000) – Beren Campus

Academic Programs

The University’s academic programs offer students the opportunity to pursue studies in the arts, sciences, humanities, business and management, medicine, law, social work, psychology, Judaic studies and Jewish education and administration. On the undergraduate level, the University awards the B.A. and B.S. degrees. The graduate and professional schools offer degrees at the Master’s and Doctoral levels, and professional degrees in the fields of law at Cardozo and medicine at Einstein. The Sue Golding Graduate Division of Medical Sciences provides advanced study and research training leading to the Ph.D. degree.

The University is accredited by the Middle States Association of Colleges and Schools, Einstein is accredited by the Council on Medical Education of the American Medical Association and Cardozo is accredited by the American Bar Association. The other academic programs are accredited by appropriate state and professional accrediting agencies and associations.

The University also conducts combined and/or joint degree programs with, among others, Columbia University (Engineering and Occupational Therapy); New York University (Nursing, Occupational Therapy and Dental Medicine); and State University of New York (Optometry and Engineering).

Related Entities

There are several entities (the “Related Entities”) that are controlled by the University and for which the University provides various administrative services. The financial results of the Related Entities are consolidated within the financial results of the University for financial statement reporting purposes.

The Albert Einstein College of Medicine Staff Housing Co., Inc. (the “Housing Company”) owns and operates a 635-unit, limited profit housing project under the supervision of the Housing Development Corporation of the City of New York through the Mitchell-Lama Housing Program. The Housing Company, a not-for-profit entity, provides housing primarily for Einstein students.

The Yeshiva Endowment Foundation, Inc. was formed in 1927 as a separate not-for-profit corporation organized for the benefit of the University and RIETS. Control of the Foundation is vested in a Board of Trustees, all of whom are currently officers of the University.

The University owns several entities that provide, among other things, housing for University-affiliated individuals and others. See “PART 7 – THE UNIVERSITY – FINANCIAL STATEMENT INFORMATION – Outstanding Long-Term Debt and Other Obligations of the University” below.

Affiliated Organizations

RIETS and the Yeshiva University High Schools (the “High Schools”, and collectively with RIETS, the “Affiliates”) are independently incorporated not-for-profit institutions separately chartered by the Board of Regents of the State of New York. The University provides various administrative services to each Affiliate. Control of each Affiliate is vested in its respective board of trustees, a minority of whose members also serve on the University’s Board of Trustees. The financial results of these Affiliates are not included in the University’s consolidated financial statements.

Affiliation Agreements

Einstein has long-standing affiliation agreements with the New York City Health and Hospitals Corporation (“HHC”) and with several area hospitals including Jacobi Medical Center (“Jacobi”), North Shore-Long Island Jewish Health Systems, Maimonides Medical Center, Beth Israel Medical Center, Bronx Lebanon Hospital, and Montefiore Medical Center (“Montefiore”). Under the terms of these agreements, the affiliated institutions provide a clinical training site for Einstein’s students and Einstein pays a limited amount for the supervision and direction of its students provided by the affiliated institutions. In addition, Einstein provides certain professional and related supporting services in exchange for payment by the affiliated institutions of certain direct contract and overhead costs incurred by Einstein in connection with graduate educational programs and research programs conducted at the affiliated institutions. From time to time, Einstein subcontracts with researchers or physicians at the affiliated institutions to conduct research for Einstein in connection with Einstein’s grants from the National Institutes of Health (“NIH”); in such instances Einstein reimburses those researchers or physicians in accordance with the budget approved by NIH. Additional information is set forth in the University’s consolidated financial statements included in Appendix B of this Official Statement.

University Libraries

The University’s four-campus library system offers a broad range of collections and services, both traditional and current. The libraries hold in excess of 1.16 million physical volumes and provide access to more than 393,000 electronic books. Approximately 65,700 journals, most in electronic format and spanning the disciplines, support study and research at the University. The internationally recognized Jewish Studies research collections focus especially upon Rabbinics, Bible, Jewish history, Jewish philosophy and Sephardic studies, and include rare books, manuscripts, and archival documents. The libraries offer general undergraduate collections and extensive collections in psychology and social work. Research collections in health sciences and law are provided at Einstein and Cardozo, respectively, with access offered University wide as feasible. The library system is a selective depository for United States government publications.

Research Activities

The University’s research programs are broadly based, including disciplines of the physical sciences, life sciences, social sciences and humanities, and medical sciences.

In the most recently-completed federal fiscal year, Einstein was awarded approximately \$214 million in federal grants and contracts, approximately \$199 million of which was directly from NIH. The 2010 Association of American Medical Colleges report ranks Einstein 38th among the nation’s 128 reported medical schools included in direct Federal Research Grants and Contracts Recorded.

Governance

In accordance with the Charter of the University, the governing body of the University is its self-perpetuating Board of Trustees, presently consisting of 41 members, with a maximum of 50, which is responsible for the direction of the affairs of the University, including academic policies, University development and financial matters. The Board of Trustees’ Governance Committee acts as the Nominating Committee for Trustees who may be elected for terms of one, two, three or four years. Trustees are eligible for re-election without limitation. During the intervals between meetings of the Board of Trustees, the Executive Committee may meet and exercise the powers of the Board of Trustees granted to it by the By-Laws.

In accordance with its By-Laws, the Board of Trustees elects the President of the University, currently Richard M. Joel. The President is the Chief Corporate and Executive Officer of the University and is, ex-officio, a voting member of the Board of Trustees.

UNIVERSITY BOARD OF TRUSTEES

<u>Name</u>	<u>Year Term Expires</u>	<u>Occupation</u>
Redacted		

REDACTED

Administration

The President of the University, as Chief Corporate and Executive Officer, is responsible for the administration, operation and the educational policies of the University. Executive and administrative officers of the University include:

<u>Name</u>	<u>Position</u>
Richard M. Joel	President
Dr. Norman Lamm	Chancellor
Dr. Morton Lowengrub	Provost and Senior Vice President for Academic Affairs
Dr. Allen M. Spiegel	Vice President for Medical Affairs
J. Michael Gower	Vice President for Business Affairs and CFO
Andrew J. Lauer	Vice President for Legal Affairs, Secretary and General Counsel

Richard M. Joel is the fourth President of the University and the Bravmann Family University Professor. Prior to his appointment as President of the University in 2003, President Joel served as the President and International Director of Hillel: The Foundation for Jewish Campus Life. President Joel received his B.A. and J.D. from New York University, where he was a Root-Tilden Scholar. He then served as an Assistant District Attorney and Deputy Chief of Appeals in Bronx, NY, following which he served first as the University's Director of Alumni Affairs and, at Cardozo, as an Associate Dean and Professor of Law.

Dr. Norman Lamm became Chancellor of the University in May 2003, having served as President since 1976. He has occupied the Erna and Jakob Michael Chair in Jewish Philosophy, a University professorship, since 1966, having first been appointed to the faculty in 1959. He received his B.A. from Yeshiva College; rabbinic ordination from RIETS; and Ph.D. in Jewish Philosophy from Revel. Dr. Lamm serves on the Boards of the United Jewish Appeal-Federation of Jewish Philanthropies of New York and the American Zionist Youth Foundation.

Dr. Morton Lowengrub became the University's Vice President for Academic Affairs in 1999 and Provost and Senior Vice President for Academic Affairs in 2007. Dr. Lowengrub received his B.A. from New York University, M.S. from California Institute of Technology, and Ph.D. in Mathematics from Duke University. He has taught at Duke University, Wesleyan University and, from 1967 until 1999, at Indiana University. At Indiana, he served as the Chair of the Mathematics Department, Dean for Research and Graduate Studies, and Dean of the College of Arts and Sciences. Dr. Lowengrub continues to teach as a Professor of Mathematics at the University.

Dr. Allen M. Spiegel became the Dean of Einstein and Vice President for Medical Affairs of the University in 2006. Prior thereto, Dr. Spiegel was Director of NIH's National Institute of Diabetes & Digestive Diseases & Kidney Diseases (NIDDK). During nearly 35 years at NIH, Dr. Spiegel served as an Endocrinology Clinical Associate, a Senior Investigator in Metabolic Diseases, Chief of Molecular Pathophysiology, Chief of the Metabolic Diseases Branch, and then Director of the NIDDK's Division of Intramural Research. A member of the

Institute of Medicine of the National Academy of Sciences, Dr. Spiegel earned his B.A. from Columbia University and M.D. from Harvard Medical School

J. Michael Gower has been the Vice President for Business Affairs and Chief Financial Officer (CFO) of the University since July 2008. Prior thereto, Mr. Gower was VP for Finance & Administration and Treasurer at the University of Vermont. Previously, Mr. Gower served as a higher education management consultant for PricewaterhouseCoopers and held various positions at Duke University Medical Center, including Assistant VP for Finance, Associate CFO of the School of Medicine, and Director of Financial Planning & Systems. Earlier, he served in accounting roles at Duke and Cornell University. He also serves on the Board of Directors for the Eastern Association of College and University Business Officers. Mr. Gower has an A.B. and M.B.A. from Duke University.

Andrew J. Lauer has been the Vice President for Legal Affairs, Secretary and General Counsel of the University since March 2008, and is the University's Chief Legal Officer. Mr. Lauer also serves as counsel to the President of the University. Prior to his appointment at the University, Mr. Lauer was a partner at the international law firm of Thelen Reid Brown Raysman and Steiner LLP. Mr. Lauer received his B.A. from City University of New York, Queens College, J.D. from Brooklyn Law School, and L.L.M. from New York University School of Law. Mr. Lauer is admitted to the Bar in the States of New York and New Jersey as well as various federal courts, including the United States Supreme Court.

REDACTED

Tuition and Fees

Redacted

Faculty

Redacted

Redacted

FINANCIAL STATEMENT INFORMATION

University Finances

Redacted

Summary of Consolidated Statements of Activities
Fiscal Years Ended June 30,
(In Thousands)

Redacted

Redacted

Management's Discussion

Results of Recent Years

Redacted

Redacted

Fiscal Year 2011 Results

Redacted

Fiscal Year 2012 Financial Plan

Redacted

Redacted

University Investments

Redacted

Redacted

Fair Value of Investments

Redacted

Redacted

Redacted

Endowment and Similar Funds

Redacted

State Aid

Redacted

Private Gifts and Bequests

Redacted

Redacted

Grants and Contracts

Redacted

Employee Relations

Redacted

Retirement Plans

Redacted

Outstanding Long-Term Debt and Other Obligations of the University

Redacted

Redacted

LITIGATION AND ADDITIONAL PROCEEDINGS

Redacted

PART 8 - THE AUTHORITY

Background, Purposes and Powers

Redacted

Redacted

Outstanding Indebtedness of the Authority (Other than Indebtedness Assumed by the Authority)

Redacted

<u>Public Programs</u>	<u>Bonds Issued</u>	<u>Bonds Outstanding</u>	<u>Notes Outstanding</u>	<u>Bonds and Notes Outstanding</u>
	Redacted			

<u>Non-Public Programs</u>	<u>Bonds Issued</u>	<u>Bonds Outstanding</u>	<u>Notes Outstanding</u>	<u>Bonds and Notes Outstanding</u>
	Redacted			

Outstanding Indebtedness of the Agency Assumed by the Authority
Redacted

Governance
Redacted

Redacted

Redacted

Redacted

Redacted

Redacted

Claims and Litigation

Redacted

Other Matters

Redacted

PART 9 - LEGALITY OF THE SERIES 2011A BONDS FOR INVESTMENT AND DEPOSIT

Redacted

Redacted

PART 10 - NEGOTIABLE INSTRUMENTS

Redacted

PART 11 - TAX MATTERS

Redacted

Redacted

Original Issue Discount and Original Issue Premium

Redacted

Redacted

PART 12 - STATE NOT LIABLE ON THE SERIES 2011A BONDS

Redacted

PART 13 - COVENANT BY THE STATE

Redacted

PART 14 - LEGAL MATTERS

Redacted

PART 15 - UNDERWRITING

Redacted

PART 16 - CERTAIN RELATIONSHIPS

Redacted

PART 17 - CONTINUING DISCLOSURE

Redacted

Redacted

Redacted

PART 18 - RATINGS

Redacted

PART 19 - MISCELLANEOUS

Redacted

Redacted

The execution and delivery of this Official Statement by an Authorized Officer have been duly authorized
by the Authority

**DORMITORY AUTHORITY OF THE
STATE OF NEW YORK**

By: /s/ Authorized Officer
Authorized Officer

[THIS PAGE INTENTIONALLY LEFT BLANK]

**SUMMARY OF CERTAIN PROVISIONS
OF THE LOAN AGREEMENT**

[THIS PAGE INTENTIONALLY LEFT BLANK]

Appendix C

SUMMARY OF CERTAIN PROVISIONS OF THE LOAN AGREEMENT

The following is a brief summary of certain provisions of the Loan Agreement. This summary does not purport to be complete and reference is made to the Loan Agreement for full and complete statements of such and all provisions. The headings below are not part of the Loan Agreement but have been added for ease of reference. Defined terms used herein shall have the meaning ascribed to them in Appendix A.

REDACTED

Redacted

Appendix C

Redacted

Redacted

Additional Representations and Covenants

Consent to Pledged and Assignment

Redacted

Tax-Exempt Status

Redacted

Appendix C

Redacted

Securities Acts Status

Redacted

Maintenance of Corporate Existence

Redacted

Environmental Review and Historic Preservation

Redacted

Appendix C

REDACTED

Restrictions on Religious Use

The University agrees that with respect to the Project or portion thereof, so long as the Project or portion thereof exists and unless and until the Project or portion thereof is sold for the fair market value thereof, the Project or any portion thereof shall not be used for sectarian religious instruction or as a place of religious worship or in connection with any part of a program of a school or department of divinity for any religious denomination; **provided, however,** that the foregoing restriction shall not prohibit the free exercise of any religion; and **provided, further,** that if at any time after the date of the Loan Agreement, in the opinion of Bond Counsel, the then applicable law would permit the Project or a portion thereof to be used without regard to the above stated restriction, said restriction shall not apply to the Project and each portion thereof. The Authority and its agents may conduct such inspections as the Authority deems necessary to determine whether the Project or any portion of real property thereof financed by Series 2011A Bonds is being used for any purpose proscribed by the Loan Agreement. The University further agrees that prior to any disposition of any portion of the Project for less than fair market value, it shall execute and record in the appropriate real property records an instrument subjecting, to the satisfaction of the Authority, the use of such portion of the Project to the restriction that (i) so long as such portion of the Project (and, if included in the Project, the real property on or in which such portion of the Project is situated) shall exist and (ii) until such portion of the Project is sold or otherwise transferred to a person who purchases the same for the fair market value thereof at the time of such sale or transfer, such portion of the Project shall not be used for sectarian religious instruction or as a place of religious worship or used in connection with any part of the program of a school or department of divinity of any religious denomination. The instrument containing such restriction shall further provide that such restriction may be enforced at the instance of the Authority or the Attorney General of the State, by a proceeding in any court of competent jurisdiction, by injunction, mandamus or by other appropriate remedy. The instrument containing such restriction shall also provide that if at any time thereafter, in the opinion of Bond Counsel, the then applicable law would permit such portion of the Project, or, if included in the Project, the real property on or in which such portion is situated, to be used without regard to the above stated restriction, then said restriction shall be without any force or effect. For the purposes of the Loan Agreement an involuntary transfer or disposition of the Project or a portion thereof, upon foreclosure or otherwise, shall be considered a sale for the fair market value thereof.

(Section 20)

REDACTED

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 203

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 15

Grant Application

Homeland Security Non Profit Grant

Project No

HS21-1403-E00

Grantee Name

Yeshiva University

04/22/2021

Project Title: FY2021 NSGP-UA

Contacts	
<p>Mr. Paul Murtha Director Of Security 500 West 185Th Street New York, NY 10033 Phone:646-592-4480, Ext:6200 Fax: Email:murtha@yu.edu</p>	<p>Project Start: 10/01/2021 Project End: 09/30/2024 Project Period Years 3 Months 0 Submission Date 04/15/2021</p>
<p>Mr. Cristobal Hiraldo Physical Security Manager 500 West 185Th Street New York, NY 10033 Phone:212-960-5221, Ext:5481 Fax:212-960-0072 Email:hiraldo@yu.edu</p>	<p>EIN: 13-1624225 Municipality No: Dun & Bradstreet No: 071036636 Charities Registration No: <input checked="" type="checkbox"/> Not For Profit <input type="checkbox"/> Sectarian Entity</p>
<p>Ronald Nahum Director of Finance and Administration 500 W 185th St New York, NY 10033 Phone:646-592-4002, Ext: Fax: Email:nahum@yu.edu</p>	<p>County: New York Region: New York City</p>
<p>Randy Apfelbaum Director of University Operations 500 West 185th Street New York, NY 10033 Phone:646-592-4113, Ext: Fax: Email:randy.apfelbaum@yu.edu</p>	<p>BUDGET SUMMARY Grant Funds: \$150,000.00 100.00% Matching Funds \$0.00 0.00% Total Funds \$150,000.00</p>



YU01084

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

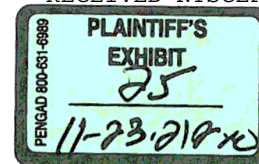
NYSCEF DOC. NO. 204

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 16

Client Abuse Form



Certification Regarding Substantiated Cases of Client Abuse or Neglect

The City requires each organization with which it contracts for the provision of human client services to:

1) certify that no substantiated case of client abuse or neglect by any person acting during his/her performance as an employee (including a foster parent, if applicable) of the organization occurred during the latest 12 month period

OR

2) disclose each such substantiated case and provide a brief description of the case, the date of occurrence, level of severity and the case disposition, including an explanation of the action taken against the offender(s) and, if applicable, the organization. Complete the form below to certify or disclose, as applicable.

☒ This is to certify that no substantiated case of client abuse or neglect by any person acting during his/her performance as an employee (including foster parents) of the organization named below occurred during the latest 12 month period.

OR

☐ This is to disclose that ___ case(s) of client abuse or neglect by a person(s) acting during his/her performance as an employee (including foster parents) of the organization named below was/were substantiated as having occurred during the latest 12 month period. An attachment to this form provides for each such substantiated case: a brief description of the case, the date of occurrence, level of severity and the case disposition, including an explanation of the action taken against the offender(s) and, if applicable, the organization.

Name of Organization (Print) Yeshiva University

Name of Authorized Representative (Print) Danielle F. Wozniak

Title of Authorized Representative (Print) Dean, Wurzweiler School of Social Work

Signature of Authorized Representative [Signature]

Date 2/11/2019

THIS AGREEMENT, effective July 1, 2018, between the City of New York ("City") acting by and through its Department of Health and Mental Hygiene ("Department") having its principal office located at 42-09 28th Street, Long Island City, New York 11101, and Yeshiva University ("Contractor"), a not-for-profit corporation having its principal office located at 500 West 185th Street, Belfer Hall Suite 1200, New York, New York 10033.

RECITALS

WHEREAS, Contractor is a community-based not-for-profit corporation or other public service organization; and

WHEREAS, Contractor relies on funding from various sources in order to support its operations; and

WHEREAS, pursuant to Procurement Policy Board Rules § 1-02(e), the City Council has appropriated Discretionary Funds to be applied for the enhancement of the services Contractor provides; and

WHEREAS, Contractor is ready, willing and able to use these Discretionary Funds to enhance its services;

NOW, THEREFORE, the parties agree as follows:

ARTICLE 1. TERM

The term of this Agreement shall be from July 1, 2018 through June 30, 2019. The Department shall have the right to terminate this Agreement without cause provided that written notice of termination is given at least thirty (30) days prior to the effective date of the proposed termination.

ARTICLE 2. SCOPE OF SERVICES

A. Contractor shall provide services in the manner and at the levels set forth in the attached Annex A (Scope of Services). Contractor shall submit to the Department, within thirty (30) days of completion of all services under this Agreement, a final report summarizing the services performed under this Agreement, including cumulative quantitative and qualitative data relative to the objectives and general operations of Contractor paid for through this Agreement.

B. Contractor's provision of services under this Agreement shall not include any partisan political activity or any activity to further the election or defeat of any candidate for public, political, or party office, nor shall any of the funds provided under this Agreement be used for such purposes. There shall be no religious worship, instruction or proselytizing as part of or in connection with Contractor's provision of services under this Agreement, nor shall any of the funds provided under this Agreement be used for such purposes.

C. Contractor further represents and warrants that no clients or participants shall be charged a fee or required to make any other payment or purchase or participate in any activity designed to raise funds as a condition of eligibility for or participation in the services funded through this Agreement, unless a waiver of this provision is approved in writing by the Department. Waivers may be considered under the following conditions: (i) Contractor's total costs for the services set forth in the Scope of Work exceed the total value of the Agreement; (ii) Contractor's fees for services and/or the arrangements made to include those participants unable to pay such fees are deemed reasonable and appropriate by the Department; and (iii) the fees are set at a level that does not discourage or impede participation by members of the community to be served by the services.

ARTICLE 3. FINANCIAL PROVISIONS**A. Maximum Reimbursable Amount**

The Maximum Reimbursable Amount for this Agreement shall not exceed **Seventy Five Thousand Dollars (\$75,000.00)** inclusive of out of pocket expenses, in accordance with the budget contained in the attached **Annex B (Budget)**. No liability shall be incurred by the City beyond the amount of such monies.

B. Invoices

Invoices shall be submitted no more frequently than once every 30 days. The invoices shall be in a form established by the Commissioner and shall be accompanied by appropriate supporting documentation and any other information deemed necessary by the Department. Upon receipt and approval of an invoice, the Department shall remit to Contractor a payment of its approved charges in accord with the budget contained in **Annex B (Budget)**. The City may disallow for payment any expenses or charges which were not authorized or documented in accord with the terms of this Agreement or for failure to deliver any required service or work product to the satisfaction of the Department. Payment for the last month of the Agreement shall be contingent upon approval of the final report and bill by the Department.

(1) Request for Payment.

All invoices and request for payment hereunder shall be in writing and directed to the Department as follows;

New York City Department of Health and Mental Hygiene
DOHMH / Office of Fiscal Management
P.O. Box 8400
Long Island City, NY 11101-8400
Attention: Invoice Processing Unit

C. Advances

The Department shall advance up to a maximum of 50% of the Maximum Reimbursable Amount for contracts of \$10,000 or more, or up to 100% for contracts less than \$10,000, in accordance with the Department's Fiscal Manual. The funds shall be used exclusively for the payment of expenditures and obligations authorized by and properly incurred pursuant to the budget.

D. Audit

All receipts, management and disbursement of funds provided by the City pursuant to this Agreement, and the books, records and accounts evidencing such receipts, management and disbursements, are subject to audit by the City, including the City Comptroller, pursuant to the powers and responsibilities conferred upon the City by the New York City Charter and Administrative Code (the "Charter" and "Administrative Code," respectively), as well as all orders and regulations promulgated pursuant thereto.

ARTICLE 4. INDEMNIFICATION AND INSURANCE**A. Indemnification**

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City, including its officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the City, its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of Contractor and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with law or any of the requirements of this Agreement. Insofar as the facts or law relating to any of the foregoing would preclude the City, its officials or employees from being completely indemnified by Contractor, the City and its officials and employees shall be partially indemnified by Contractor to the fullest extent permitted by law.

B. Workers' Compensation, Employer's Liability, and Disability Benefits**1. Workers' Compensation, Employer's Liability, and Disability Benefits.**

Contractor shall maintain Workers' Compensation Insurance, Employer's Liability Insurance, and Disability Benefits Insurance, in accordance with the laws of the State of New York on behalf of, or in regard to, all employees providing services under this Agreement.

2. Proof of Insurance.

Prior to or upon execution of this Agreement, Contractor shall submit proof of Contractor's Workers' Compensation Insurance and Disability Benefits Insurance or a Certificate of Attestation of Exemption to the Department in a form approved by the New York State Workers' Compensation Board. ACORD forms are not acceptable proof of such insurance.

[NOTE: THE AGENCY MAY WAIVE PARAGRAPH C FOR CONTRACTS LESS THAN \$25,000.]

C. Commercial General Liability Insurance and Commercial Automobile Insurance**1. Commercial General Liability Insurance.**

Contractor shall maintain Commercial General Liability Insurance in the amount of at least One Million Dollars (\$1,000,000) per occurrence for bodily injury (including death) and property damage, One Million Dollars (\$1,000,000) for personal and advertising injury (unless waived in writing by the Department), and One Million Dollars (\$1,000,000) in the aggregate, covering operations under this Agreement. Coverage shall be at least as broad as the coverage provided by the most recently issued Insurance Services Office ("ISO") Form CG 00 01, and shall be "occurrence" based rather than "claims-made." Such Commercial General Liability Insurance shall include the City, together with its officials and employees, as an Additional Insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26.

2. Commercial Automobile Liability Insurance.

If vehicles are used in the provision of services under this Agreement, Contractor shall maintain Commercial Automobile Liability Insurance in the amount of at least One Million Dollars (\$1,000,000) each accident combined single limit for liability arising out of ownership, maintenance or use of any

owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA 00 01.

3. Requirements.

The policies of insurance required under this Article 4(C) shall be provided by companies that may lawfully issue such policies and have an A.M. Best rating of at least A- / VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department. All such insurance shall be primary (and non-contributing) to any insurance or self-insurance maintained by the City.

4. Waiver.

Contractor waives all rights against the City, including its officials and employees, for any damages or losses that are covered by Commercial General Liability Insurance (whether or not such insurance is actually procured or claims are paid thereunder) or any other liability insurance applicable to the operations of Contractor and/or its subcontractors in the performance of this Agreement.

5. Proof of Insurance.

Prior to or upon execution of this Agreement, Contractor shall provide the following proof of Commercial General Liability Insurance and, if vehicles are used in the provision of services under this Agreement, Commercial Automobile Insurance:

- a. A certificate of insurance, the required additional insured endorsement for the Commercial General Liability Insurance policy, and a completed "Certification by Insurance Broker or Agent" in the form contained in Exhibit C; or
- b. A copy of the Commercial General Liability Insurance and, if applicable, Commercial Automobile Insurance policies as certified by an authorized representative of the issuing insurance carrier.

6. Demand for Policy. Contractor shall provide the City with a copy of the Commercial General Liability Insurance policy or the Commercial Automobile Insurance policy or both upon demand by the Commissioner or the New York City Law Department.

ARTICLE 5. CONFLICTS

A. Procurement of Agreement

Contractor represents and warrants that Contractor is in compliance with the requirements of the New York City and New York State Lobbying Laws (Administrative Code § 3-211 *et seq.* and Legislative Law § 1-a *et seq.*, respectively) and that any individual or organization who conducted any lobbying on Contractor's behalf in order to solicit or secure this Agreement or the funding for this Agreement is disclosed on the attached Exhibit B. Contractor makes such representations and warranties to induce the City to enter into this Agreement and the City relies upon such representations and warranties in the execution of this Agreement.

B. Conflict of Interest

1. Contractor represents and warrants that neither it nor any of its directors, officers, members, partners, or employees, has any interest nor shall they acquire any interest, directly or indirectly, which conflicts in any manner or degree with the performance of this Agreement. Contractor further represents and warrants that no person having such interest or possible interest shall be employed by or connected with Contractor in the performance of this Agreement.

2. Consistent with Charter § 2604 and other related provisions of the Charter, the Administrative Code and the New York State Penal Law, no elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or in part, from the City Treasury, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or other entity in which he or she is, directly or indirectly, interested; nor shall any such official, officer, employee, or person have any interest in, or in the proceeds of, this Agreement. This Article 5(B)(2) shall not prevent directors, officers, members, partners, or employees of Contractor from participating in decisions relating to this Agreement where their sole personal interest is in Contractor.

3. Contractor shall not employ a person or permit a person to serve as a member of the Board of Directors or as an officer of Contractor if such employment or service would violate Chapter 68 of the Charter.

4. Except as provided in Article 5(B)(5) below, Contractor's employees and members of their immediate families, as defined in Article 5(B)(6) below, may not serve on the Board of Directors of Contractor ("Board"), or any committee with authority to order personnel actions affecting his or her job, or which, either by rule or by practice, regularly nominates, recommends or screens candidates for employment in the program to be operated pursuant to this Agreement.

5. If the Board has more than five (5) members, then Contractor's employees and members of their immediate families may serve on the Board, or any committee with authority to order personnel actions affecting his or her job, or which, either by rule or by practice, regularly nominates, recommends or screens candidates for employment in the program to be operated pursuant to this Agreement, provided that (i) Contractor's employees and members of their immediate families are prohibited from voting and being present during deliberation and/or voting on any such personnel matters, including but not limited to any matters directly affecting their own salary or other compensation, and shall fully disclose all conflicts and potential conflicts to the Board, and (ii) Contractor's employees and members of their immediate families may not serve in the capacity either of Chairperson or Treasurer of the Board (or equivalent titles), nor constitute more than one-third of either the Board or any such committee.

6. Without the prior written consent of the Commissioner, no person may hold a job or position with Contractor over which a member of his or her immediate family exercises any supervisory, managerial or other authority whatsoever whether such authority is reflected in a job title or otherwise, unless such job or position is wholly voluntary and unpaid. A member of an immediate family includes: husband, wife, domestic partner, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, niece, nephew, aunt, uncle, first cousin, and separated spouse. Where a member of an immediate family has that status because of that person's relationship to a spouse (e.g., father-in-law), that status shall also apply to a relative of a domestic partner. For purposes of this Article 5(B)(6), a member of the Board is deemed to exercise authority over all employees of Contractor.

C. Conflict of Interest Policy

1. If required by Not-for-Profit Corporation Law § 715-a(a), Contractor shall maintain a Conflict of Interest Policy that includes, at a minimum, the following provisions:

- a. A definition of the circumstances that constitute a conflict of interest;
- b. Procedures for disclosing a conflict of interest;
- c. A requirement that the person with the conflict of interest not be present at or participate in Board or committee deliberation or vote on the matter giving rise to such conflict;
- d. A prohibition against any attempt by the person with the conflict to influence improperly the deliberation or voting on the matter giving rise to such conflict;
- e. A requirement that the existence and resolution of the conflict be documented in Contractor's records, including in the minutes of any meeting at which the conflict was discussed or voted upon;
- f. Procedures for disclosing, addressing, and documenting Related Party Transactions, as defined below, in accordance with Not-for-Profit Corporation Law §715; and
- g. A requirement that each director annually submit the statement required pursuant to Article 5(C)(2), below.

2. The Conflict of Interest Policy shall require that prior to the initial election of any director, and annually thereafter, such director shall complete, sign and submit to the Board Secretary or a designated compliance officer a written statement identifying, to the best of the director's knowledge, any entity of which such director is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which Contractor has a relationship, and any transaction in which Contractor is a participant and in which the director might have a conflicting interest. The Board Secretary or designated compliance officer shall provide a copy of all completed statements to the chair of the audit committee or, if there is no audit committee, to the Board Chairperson.

3. The following definitions apply to this Agreement:

a. "Related Party" means any person associated with Contractor who is covered by the definition of "related party" in Not-for-Profit Corporation Law § 102. Related parties do not include City officials and employees acting within the scope of their official governmental duties.

b. "Related Party Transaction" means any transaction, agreement, or any other arrangement in which a Related Party has a financial interest and in which Contractor or any affiliate of Contractor is a participant that is covered by the definition of "related party transaction" in Not-for-Profit Corporation Law § 102.

ARTICLE 6. ASSIGNMENT, SUBCONTRACTING, AND USE OF CONSULTANTS

A. This Agreement shall not be assigned by Contractor in whole or in part without the prior express written consent of the Department. Contractor shall not enter into any subcontract for the performance of its obligations, in whole or in part, under this Agreement without the prior approval by the Department of the subcontractor. Contractor shall not employ any consultant (whether or not such consultant is a subcontractor) using funds obtained, in whole or in part, under this Agreement without the prior approval by the Department of the consultant. All subcontracts and consulting agreements paid for with funds obtained in whole or in part

under this Agreement must be in writing.

B. Contractor must specifically identify in the scope of services and budget attached to this Agreement as annexes A and B, the nature and value of any subcontract or consultant intended to be paid for with funds obtained, in whole or in part, under this Agreement. Contractor must supply a signed Disclosure and Compliance Certification form for each such subcontractor or consultant, in the form of Exhibit A to this Agreement. Prior to entering into any additional subcontract or consulting agreement intended to be paid for with funds obtained in whole or in part under this Agreement, Contractor shall submit a written request for the approval of the proposed subcontractor or consultant to the Department, giving the name and address of the proposed subcontractor or consultant and the nature and value of the services that it is to perform and furnish, along with a signed Disclosure and Compliance Certification form. At the request of the Department, a copy of the proposed subcontract or consulting agreement shall be submitted to the Department. For subcontracts (including consultants who are subcontractors), the proposed subcontractor's VENDEX Questionnaire must be submitted, if required, within thirty (30) days after the ACCO has granted preliminary approval of the proposed subcontractor. Upon the request of the Department, Contractor shall provide any other information demonstrating that the proposed subcontractor or consultant has the necessary facilities, skill, integrity, past experience and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The Department shall make a final determination in writing approving or disapproving the subcontractor or consultant after receiving all requested information. For proposed subcontracts and consultant agreements that do not exceed Twenty-five Thousand Dollars (\$25,000), the Department's approval shall be deemed granted if the Department does not issue a written approval or disapproval within forty-five (45) days of the Department's receipt of the written request for approval (including the signed Disclosure and Compliance Certification form) or, if applicable, within forty-five (45) days of the Department's acknowledged receipt of fully completed VENDEX Questionnaires for the subcontractor.

C. Nothing contained in the agreement between Contractor and the subcontractor or consultant shall impair the rights of the City. Nothing contained in the agreement between Contractor and the subcontractor or consultant, or under the Agreement between the City and Contractor, shall create any contractual relation between the subcontractor or consultant and the City. All subcontractors and consultants shall be specifically bound by Article 1 of Rider 1 attached to this Agreement; the City may enforce such provisions directly against the subcontractor or consultant as if the City were a party to the subcontract or consulting agreement.

D. For determining the value of a subcontract or consulting agreement, all subcontracts and consulting agreements with the same individual or entity shall be aggregated.

E. The Department may revoke the approval of a subcontractor or consultant granted or deemed granted pursuant to Paragraphs (A) and (B) of this Article 6 if revocation is deemed to be in the interest of the City in writing on no less than ten (10) days' notice unless a shorter period is warranted by considerations of health, safety, integrity issues, or other similar factors. Upon the effective date of such revocation, Contractor shall cause the subcontractor (including any consultant that is a subcontractor) to cease all work under the Agreement. The City shall not incur any further obligation for services performed by such subcontractor pursuant to this Agreement beyond the effective date of the revocation. The City shall pay for services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.

F. Individual employer-employee contracts are not subcontracts or consultant agreements subject to the requirements of this Article 6.

ARTICLE 7. MISCELLANEOUS**A. Independent Contractor Status**

Contractor and the Department agree that Contractor is an independent contractor, and not an employee of the Department or the City of New York.

B. Employees of Contractor

All experts or consultants or employees of Contractor who are employed by Contractor to perform work under this Agreement are neither employees of the City nor under contract to the City, and Contractor alone is responsible for their work, direction, compensation, and personal conduct while engaged under this Agreement.

C. Non-Discrimination

Contractor agrees not to engage in any unlawful discriminatory practice as defined and pursuant to the terms of Title VIII of the Administrative Code, the New York State Human Rights Law, and Federal law.

D. Compliance with Law

Contractor shall render all services under this Agreement in accordance with the applicable provisions of Federal, State, and local laws, rules, and regulations as are in effect at the time such services are rendered, including all applicable provisions pursuant to the New York Non-Profit Revitalization Act of 2013, as amended.

E. Retention of Records; Inspection; Observation

1. In addition to any other records required to be maintained and/or provided for inspection pursuant to this Agreement, Contractor shall maintain and make available to the Department for inspection, upon reasonable request, the following documents: tax returns (not including Schedule B to IRS Form 990); audit reports; all programmatic records and accounts maintained in connection with this Agreement; publications, program research, and other reports prepared in connection with this Agreement; all financial books, records and accounts reflecting payments made by Contractor for petty cash expenditures in connection with this Agreement; all applicable licenses and permits; Board member lists and all minutes and attendance sheets (dated and signed) for meetings of the Board and any of its committees responsible for the oversight of the program(s) funded under this Agreement; governing documents (e.g., by-laws); all other contracts related to providing services under this Agreement, to which Contractor is a party and the contract terms coincide, in whole or in part, with the term of this Agreement; and any other records or materials reasonably requested at such reasonable times and places and as often as may be reasonably requested. Upon request by the Department of a record that contains protected personally identifiable information as such phrase is defined in Administrative Code § 10-501 or a record that if disclosed would constitute a waiver of a legal privilege or violate the law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession's services in New York State, Contractor may redact such personally identifiable or privileged information or other

information that if disclosed would violate the law or such professional code. In addition, Contractor may, upon request to and written approval from the Department, which approval may not be unreasonably denied or delayed, withhold from disclosure to the Department certain categories of documents that are not protected by a legal privilege or other law but where Contractor reasonably believes that disclosure of such documents would interfere with or impair the provision of services under this Agreement.

2. Contractor shall permit the Department and its authorized representatives including the Department's Inspector General, the Comptroller, the New York City Department of Investigation, or their designees, or other interested federal, State or City agency representatives, to attend all meetings of the Board of Directors and to be present at the program site(s) to observe the work and activities being performed in connection with this Agreement. If observation of particular work or activity would constitute a waiver of a legal privilege or violate the law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession's services in New York State, Contractor shall promptly inform the Department or other entity seeking to observe such work or activity. Such restriction shall not act to prevent government representatives from inspecting the provision of services in a manner that allows the representatives to ensure that services are being performed in accordance with this Agreement.

F. Conflict of Laws/Forum

All disputes arising out of this Agreement shall be interpreted and decided in accordance with the laws of the State of New York. Contractor agrees that any and all claims asserted by or against the City arising under this Agreement shall be heard or determined either in the Federal or State courts located in the City and County of New York.

G. PPB Rules

This Agreement is subject to the Rules of the Procurement Policy Board of the City of New York, Rules of the City of New York, Title 9, §1-01 *et seq.* ("PPB Rules"). In the event of a conflict between the PPB Rules and a provision of this Agreement, the PPB Rules shall take precedence.

H. Additional Applicable Laws and Provisions

This Agreement is subject to the Investigations Clause, the additional provisions set forth in the attached Rider I, and the Department's Fiscal Manual, available on-line at <https://www1.nyc.gov/assets/doh/downloads/pdf/acco/fiscal-manual-for-human-services.pdf>. In addition, Contractor shall complete and execute the attached Tax Affirmation.

I. Notices

All notices and requests hereunder by either party shall be in writing and directed to the address of the parties as follows:

City Contact:

New York City Department of Health
and Mental Hygiene
42-09 28th Street
Long Island City, New York 11101
Attn.: Jue Zhang
Title: Director of Contracts

Contractor Contact:

Yeshiva University
500 West 185th Street, Belfer Hall Suite 1200
New York, New York 10033
Attn: Joseph Horowitz
Title: Associate General Counsel

J. Merger

This written Agreement contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

ARTICLE 8. DISPUTE RESOLUTION

All disputes between the City and Contractor that arise under, or by virtue of, this Agreement shall be finally resolved in accordance with the provisions of PPB Rules § 4-09. The procedure for resolving all such disputes set forth in PPB Rules § 4-09 shall be the exclusive means of resolving any such disputes. The dispute resolution provisions of this article and PPB Rules § 4-09 shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules or to disputes involving patents, copyrights, trademarks, or trade secrets (as interpreted by the courts of New York State) relating to proprietary rights in computer software.

EXHIBITS


- Rider I, including New York City Food Standards;
- Exhibit A — Conflict of Interest Disclosure and Compliance Certification Form;
- Exhibit B — Lobbying Certification Form;
- Exhibit C — Certification by Insurance Broker or Agent;
- Exhibit D — Emergency Contraception Rider;
- Exhibit E — Rider to Human Services Contracts: Access to Non-Public Areas;
- Annex A — Scope of Work; and
- Annex B — Budget

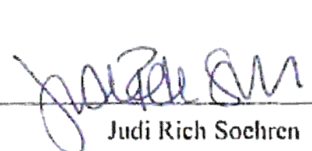
No further text on this page.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date first above written.

Yeshiva University

The City of New York Department of
Health and Mental Hygiene

BY: 

BY: 

Authorized Agent:

Judi Rich Soehren
Agency Chief Contracting Officer and
Assistant Commissioner

Andrew J. Lauer
Name (Print)

01/25/19
Date

Vice President & General Counsel
Title (Print)

2/18/2019
Date

13-1624225
Fed. Employer I.D. No.

81619L0077001
Department Contract Number (EPIN#)

Approved as to Form and
Certified as to Legal Authority

Acting Corporation Counsel

ACKNOWLEDGEMENT BY CITY

STATE OF NEW YORK)

ss:

COUNTY OF QUEENS)

On this 25th day of February, 20 19, before me personally came Judi Rich Soehren, to me known and known to me to be the Agency Chief Contracting Officer and Assistant Commissioner of the NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, the person described in and who is duly authorized to execute the foregoing instrument on behalf of the Commissioner, and she acknowledged to me that she executed the same for the purpose therein mentioned.

Deshonda M. Straws
 Notary Public, State of New York
 No. 01ST6377408
 Qualified in Bronx County
 Commission Expires July 2, 2022

Deshonda Straws
 Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT OF CONTRACTOR IF A CORPORATION

State of New York County of New York ss:

On this 18th day of February, 20 19 before me personally came Avram J. Lawr, to me known, who, being by me duly sworn did depose and say that he/she resides at [REDACTED]; that he/she is the Vice President & General Counsel of Yeshiva University, the corporation described in and which executed the foregoing instrument; and that he signed his name to the foregoing instrument by order of the directors of said corporation as the duly authorized and binding act thereof.

Joseph L Horowitz
 Notary Public or Commissioner of Deeds

Joseph L. Horowitz
 Notary Public, State of New York
 No. 02MO4873930
 Qualified in Westchester County
 Commission Expires Oct. 31, 20 22

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 204

INDEX NO. 154010/2021

RECEIVED NYSCEF: 12/17/2021

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 205

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 17



LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, N. Y. 10007
(212) 566-2503

DENNIS deLEON
Senior Assistant Corporation Counsel

MEMORANDUM

TO: Fritz Schwarz

FROM: Dennis deLeon *DD*
Martha Mann *MM*

DATE: April 30, 1984

RE: ARGUMENTS AGAINST CITY COUNCIL INTRODUCTORY
NO. 513 AND RESPONSES

We have analyzed all the points made by opponents to City Council Introductory No. 513. The following is a list of objections and our suggested responses.

1. Opponents argue that there is no need for this legislation because club membership is not an important factor contributing to success in business.

Several points must be made in answer to this argument.

First, many witnesses, including speakers from NOW Legal Defense and Education Fund, the NAACP, the NAACP Legal Defense and Education Fund, and the American Jewish Congress, testified to the Committee that women and minorities are seriously harmed by continuing discrimination in clubs. They stated that such discrimination is not only an affront to persons excluded; it causes them economic injury because it impedes their career advancement. Congresswoman Geraldine Ferraro stated

that women who are denied access to clubs which play a major role in the business world are denied an equal right to make a living and succeed in their professions. A spokesperson for the American Jewish Congress said that an employer may think twice before hiring someone who would not have access to clubs where his or her professional peers gather. Other witnesses noted that exclusion from clubs poses a significant barrier to persons trying to obtain information about high level job opportunities.

Second, it is clear that employers consider club membership to be important. They know that contacts made in clubs can lead to new business. For this reason they often pay for their employees' club memberships. A New York Times Survey of 400 major corporations showed that nearly half of the corporations provided luncheon and country club membership for their executives. Another survey conducted by the United States Senate Committee on Banking found that 58% of banks paid membership dues for employees. Numerous examples of important meetings and business functions held at clubs which exclude women were described at the Committee hearing.

Third, clubs themselves acknowledge that a significant amount of club activity is business-related. In a 1980 letter the President of the University Club stated that nearly 40% of the club's receipts were paid by checks drawn on business accounts. He estimated that, including expenses reimbursed to members by their employers, employers were the source of well over 50% of dues and fees. And he recognized that excluding women from membership denies them "the opportunity to participate in political, business and professional discussions that are fostered in a club such as ours." The President of the National Club Association, who testified before the City Commission on Human Rights in 1973, described clubs as a "vital business mechanism." He stated that:

"It is vital for an executive for example to belong, and it is oftentimes vital to belong to become an executive. To the extent you are excluded, you are disadvantaged."

2. Opponents say that a law prohibiting discrimination by clubs interferes with constitutional rights of privacy and association. They argue that the club is an "extension of the home" which should be free from governmental interference.

Prominent legal authorities say that the law does not violate the Constitution. The New York Civil Liberties Union, which is well-known for its defense of the rights of privacy and association, is in favor of the bill. Other supporters include the American Bar Association, the State Attorney General, and the State Human Rights Commissioner. The Corporation Counsel has thoroughly researched the legal issues and determined that the bill is lawful.

The supporters of this bill also believe that privacy and association are extremely important rights. However, these constitutional guarantees do not include a right to discriminate in places where business is conducted. The United States Supreme Court said in Norwood v. Harrison that invidious private discrimination has never been accorded affirmative constitutional protection.

As to the argument that clubs are extensions of members' homes, one federal court has aptly stated, "To have their privacy protected, clubs must function as extensions of members' homes and not as extensions of their businesses. Racial prejudice will not be permitted to infect channels of commerce under the guise of 'privacy.'" And the President of the National Club Association who testified before the Human Rights Commission in 1973 recognized the appropriateness of governmental regulation of clubs where business activity is prevalent when he said,

"[P]rivate clubs are not just an extension of family living, a harmless extension, as they say, of the living room. They go beyond that. Clubs include memberships paid for by an employer or by a bank or law firm. * * * Some members deduct dues as business expenses, or at least they seek to do so. Some members seek business at clubs, further their business associations at clubs and consummate business deals at clubs."

3. Opponents say that the City Council shouldn't act until the United States Supreme Court decides Gomez Bethke v. United States Jaycees.

In the Jaycees case, plaintiffs are appealing a determination by the Court of Appeals for the Eighth Circuit that the Minnesota Human Rights Commission may not require the Jaycees to cease discriminating against women. Although the case presents some of the issues involved in our legislation, the Supreme Court will probably decide the case on narrow grounds and may leave the Constitutional questions open. It is important to note that the District Court in that case found in favor of the State Human Rights Commission, and stated that the State's interest in prohibiting discrimination in access to public accommodations overrides any right of association the clubs may have. In reversing the lower court, the Court of Appeals found the Jaycees had an association interest which could not be overcome by a state interest in "freedom from discrimination in public accommodations generally." However, the Court stated that it might uphold a statute that forbade membership discrimination in groups of more than a certain size that derived a substantial amount of support from business. Thus the language of both lower court rulings in the Jaycees case supports the validity of our legislation.

4. Opponents say that the legislation will place an onerous burden of record keeping on clubs. They say the bill unfairly places the burden of proof on clubs which claim to be

exempt from the law. And they fear that government could use records obtained from the clubs to the detriment of groups holding unpopular views.

First, the provisions concerning burden of proof merely codify existing case law. Organizations which claim to be exempt from anti-discrimination requirements because they are distinctly private have always been required to provide that they qualify for this exemption. The reason for this requirement is that the clubs are in the best position to have evidence about their own policies and practices.

Second, clubs are already required by regulations of the Internal Revenue Service to keep records which could be used by the Commission to enforce the proposed law. Those regulations require that whenever club facilities are used by a group of nine or more people, of whom 25% or more are not members, the club must keep a record containing the following information: (1) the date, (2) the total number in the party, (3) the number of nonmembers therein, (4) the total charges, (5) the charges attributable to nonmembers, and (6) the charges paid by nonmembers. If a member pays all or part of the charges attributable to nonmembers, there must be a statement signed by the member indicating whether he or she has been or will be reimbursed for such nonmember use and, if so, the amount of the reimbursement. Further, where a member's employer reimburses the member or makes direct payment to the club for the charges attributable to nonmembers, there must be a statement signed by the member indicating the name of the employer, the amount of the payment attributable to the nonmember use, the nonmember's name and business or other relationship to the member, and the business, personal, or social purpose of the member served by the nonmember use. If a nonmember (other than a member's employer) makes payment to the club or reimburses a member and a claim is made that the amount was paid gratuitously for the benefit of a member, there must be a statement signed by the member indicating the donor's name and relationship to the member and

containing information to substantiate the gratuitous nature of the payment or reimbursement.

Finally, there is no reason to believe that the Commission would abuse its powers under the proposed law to conduct investigations in bad faith to harass groups for their unpopular views. Certainly the NYCLU, which has represented victims of such abuse in the past, and the NAACP, one of the victims, would not support the bill if they believed this could happen.

5. Opponents say that the proposed law would cause clubs to go out of business because many members objecting to its requirements would resign.

On the contrary, this bill should actually help improve club business. Many clubs are being boycotted by employers who have implemented a policy not to reimburse employees for expenses at clubs which have discriminatory policies. The boycott would of course be ended when the clubs ceased discriminating. There should also be an increase in applications from persons who had not been eligible for membership in the past. Thus, demand for club facilities should rise because of this bill.

Clubs which have voluntarily abandoned their old discriminatory policies have not suffered from the change. Albert Blumenthal, who testified in opposition to the bill, admitted that in clubs which have made the transition there has been no real effect on operations or loss of membership.

6. Opponents say the bill arbitrarily exempts clubs with one hundred members or less, and clubs formed under the Benevolent Orders Law or the Religious Corporations Law. They

also argue that there is no standard for determining how much income a club must receive from nonmembers before it is subject to the requirements of the law.

The bill states that a club is not entitled to an exemption from anti-discrimination law unless it is "distinctly private." In a club with a membership exceeding one hundred, one is not likely to find that all members have the intimate relationship with each other that would merit the characterization of "distinctly private." However, size is not the only criteria needed to show that a club is not "distinctly private." The club must also provide regular meal service and regularly receive payment from nonmembers in furtherance of trade or business. The Human Rights Commission will determine in regulations what constitutes "regular receipt" of such payment. The bill is aimed at clubs where it has been demonstrated that business activity regularly occurs and where discriminatory membership practices harm the career advancement and business opportunities of women and minorities. In focusing on such clubs rather than benevolent orders or religious corporations the Council is making a rational distinction.

7. Opponents say that the City Council does not have power to enact this law because it conflicts with State law as recently interpreted by the New York State Court of Appeals in United States Power Squadrons v. State Human Rights Appeal Board.

State law, like the City's Human Rights Law, exempts clubs which are "distinctly private" from anti-discrimination requirements. The term "distinctly private" is not defined in either the State or the local law. However, in the United States Power Squadrons case, the Court of Appeals said that the exemption is a narrow one. The Court also said that clubs which are "distinctly private" are run "solely for the benefit and pleasure of the members" and they limit use of their facilities to "members and their bona fide guests." Clubs where nonmembers regularly make payments in furtherance of trade or

business do not meet these criteria. The State Attorney General has submitted a statement to the Committee in support of the bill, and the Assistant Attorney General who argued the case before the Court of Appeals testified before the Committee that the proposed bill is consistent with State law. Moreover, the City has a proud history of being a leader in civil rights legislation, and this would not be the first occasion when the City went beyond existing State regulation to protect its citizens from discrimination. Discrimination by city contractors was prohibited seven years before the State made discrimination an unlawful employment practice, and the city regulated housing discrimination four years before the State entered that field.

8. Some opponents agree that discrimination in clubs ought to be eliminated. Their principal argument is that clubs should decide for themselves to change their ways, and government should not try to change things by regulation.

There are in fact some clubs in the City which have determined on their own to reform their admissions policies. Others have considered changing but have continued to discriminate. Women and minorities have waited long enough for change to occur from within the clubs. It is time for government, which is responsible for insuring equal opportunity for all, to act.

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 206

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 18

1988 WL 1026276 (U.S.) (Appellate Brief)
Supreme Court of the United States.

NEW YORK STATE CLUB ASSOCIATION, INC., Appellant,

v.

THE CITY OF NEW YORK, The Mayor of The City of New York, The City Human Rights
Commission and The Members of The City Human Rights Commission, Appellees.

No. 86-1836.
October Term, 1987.
January 13, 1988.

On Appeal from the Court of Appeals of the State of New York

Brief for Appellee

Peter L. Zimroth, Corporation Counsel of the City of New York, Attorney for Appellees, 100 Church Street, New York, New York 10007, (212) 566-4338 or 4330

Leonard J. Koerner, Fay Leoussis, Peter H. Lehner, Martha Mann, of Counsel.

***i QUESTIONS PRESENTED**

Local Law 63 brought certain large downtown businessmen's clubs within the scope of New York City's Human Rights Law and thereby prohibited these clubs from discriminating against women and minorities. The questions presented are these:

1. Does appellant have standing to assert the alleged constitutional rights of individual club members when the appellant is an association of clubs and not an association of the individuals whose alleged rights are being asserted?
2. Should this Court consider appellant's claim that Local Law 63 is unconstitutionally overbroad when appellant has refused to supply factual information upon which the validity of the claim can be judged?
3. Is Local Law 63 overbroad and therefore unconstitutional on its face when it is extremely unlikely that the Law would reach constitutionally-protected conduct and when, in any event, state law provides ample opportunity for particular litigants to demonstrate, if they can, that Local Law 63 should not be applied to them because such applications would be unconstitutional?
4. Does the exclusion of religious corporations and benevolent orders from the scope of Local Law 63 violate the Equal Protection Clause when the exclusion is based on the City Council's study of extensive materials which did not indicate that these organizations presented the same "evil" as the clubs covered by the Law?

***ii TABLE OF CONTENTS**

QUESTIONS PRESENTED	i
TABLE OF CONTENTS	ii
TABLE OF AUTHORITIES	iv
STATEMENT	1
A. History of Local Law 63	2
B. Legislative Findings	8

C. Local Law 63	9
D. Enforcement of Local Law 63	11
1. Procedure under the City's Human Rights Law	12
2. The four proceedings under Local Law 63	13
E. The Parties	15
F. Proceedings Below	16
SUMMARY OF ARGUMENT	18
POINT I	
APPELLANT LACKS STANDING BECAUSE IT IS AN ASSOCIATION OF CLUBS AND NOT OF THE INDIVIDUALS WHOSE ALLEGED RIGHTS ARE BEING ASSERTED	20
POINT II	
LOCAL LAW 63 IS CONSTITUTIONAL ON ITS FACE AND IS NOT OVERBROAD	23
A. Appellant's claim of overbreadth is based on unsubstantiated assertions about the effect of Local Law 63	23
B. Local Law 63 is constitutional on its face and not overbroad because its criteria respond directly to the constitutional concerns articulated by this Court in <i>Roberts</i> and <i>Rotary</i> . It is therefore very unlikely that there would be a substantial number of unconstitutional applications of the Law	24
1. The right of association—"intimate" and "expressive"	25
2. The criteria of Local Law 63	28
*iii C. No club is prohibited from attempting to show that it is entitled to constitutional protection, and therefore exempt from the coverage of the City Human Rights Law, even though the club meets the criteria of Local Law 63	31
POINT III	
THE EXEMPTION IN LOCAL LAW 63 FOR RELIGIOUS CORPORATIONS AND BENEVOLENT ORDERS DOES NOT VIOLATE THE EQUAL PROTECTION CLAUSE	33
CONCLUSION	40

*iv TABLE OF AUTHORITIES

Federal Cases:

<i>Bell v. Burson</i> , 402 U.S. 535 (1971)	32
<i>Board of Directors of Rotary International v. Rotary Club of Duarte</i> , ... U.S., 107 S. Ct. 1940 (1987)	U.S., 107 S. Ct. 1940 (1987) 19,21,24,25,27,28,30,32
<i>Broadrick v. Oklahoma</i> , 413 U.S. 601 (1973)	23,24,30,34,37
<i>Buckley v. Valeo</i> , 424 U.S. 1 (1976)	28
<i>City of Houston, Texas v. Hill</i> , ... U.S., 107 S. Ct. 2502 (1987)	U.S., 107 S. Ct. 2502 (1987) 23,30
<i>Cleveland Board of Education v. LaFleur</i> , 414 U.S. 632 (1974)	32
<i>Heart of Atlanta Motel, Inc. v. United States</i> , 379 U.S. 241 (1964)	29,37
<i>Hishon v. King & Spalding</i> , 467 U.S. 69 (1984)	27,29,30
<i>Hunt v. Washington State Apple Advertising Commission</i> , 432 U.S. 333 (1977)	21,22
<i>International Union, United Automobile Aerospace and Agricultural Implement Workers of America v. Brock</i> , 477 U.S. 274, 106 S. Ct. 2523 (1986)	21,22
<i>Katzenbach v. McClung</i> , 379 U.S. 294 (1964)	29
<i>Kelley v. Johnson</i> , 425 U.S. 238 (1976)	27
<i>Members of the City Council v. Taxpayers for Vincent</i> , 466 U.S. 789 (1984)	24,30
<i>Minnesota v. Clover Leaf Creamery Co.</i> , 449 U.S. 456 (1981)	34
<i>Moose Lodge No. 107 v. Irvis</i> , 407 U.S. 163 (1972)	27
<i>NAACP v. Alabama ex. rel. Patterson</i> , 357 U.S. 449 (1958) .	22,27
<i>NAACP v. Button</i> , 371 U.S. 415 (1963)	28
<i>NAACP v. Claiborne Hardware Co.</i> , 458 U.S. 886 (1982) ...	27
<i>New York v. Ferber</i> , 458 U.S. 747 (1982)	18,24,29,30,31,36

<i>New York City Transit Authority v. Beazer</i> , 440 U.S. 568 (1979)	36
*v <i>New York ex. rel. Bryant v. Zimmerman</i> , 278 U.S. 63 (1928)	36,38,39
<i>Ohio Civil Rights Commission v. Dayton Christian Schools</i> , 477 U.S. 619, 106 S.Ct. 2718 (1986)	12,32
<i>Ohralik v. Ohio State Bar Ass'n</i> , 436 U.S. 447 (1978)	29
<i>Penn Central Transportation Co. v. New York</i> , 438 U.S. 104 (1978)	26
<i>Plyler v. Doe</i> , 457 U.S. 202 (1981)	35
<i>Railway Express Agency, Inc. v. New York</i> , 336 U.S. 106 (1949)	36
<i>Railway Mail Ass'n v. Corsi</i> , 326 U.S. 88 (1945)	27
<i>Roberts v. United States Jaycees</i> , 468 U.S. 609 (1984)	3,9,17,19,24,25,27,28,29,32
<i>Runyon v. McCrary</i> , 427 U.S. 160 (1977)	27
<i>Stanley v. Illinois</i> , 405 U.S. 645 (1972)	32
<i>Sullivan v. Little Hunting Park Inc.</i> , 396 U.S. 229 (1969)	27
<i>Terminiello v. Chicago</i> , 337 U.S. 1 (1949)	31
<i>Tillman v. Wheaton-Haven Recreational Ass'n</i> , 410 U.S. 431 (1973)	27
<i>United States v. Raines</i> , 362 U.S. 17 (1960)	35
<i>United States Department of Agriculture v. Murry</i> , 413 U.S. 508 (1973)	32
<i>The University Club and The Union League Club v. The City of New York</i> , 86 Civ. 2343 (GLG) (S.D.N.Y. Mar. 17, 1987), app. pending, Nos. 87-7312, 7372 (2d Cir.)	13,22
<i>Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.</i> , 454 U.S. 464 (1982) ..	23
<i>Village of Arlington Heights v. Metropolitan Housing Development Corp.</i> , 429 U.S. 252 (1977)	20
<i>Village of Belle Terre v. Borass</i> 416 U.S. 1 (1974)	26
<i>Village of Euclid v. Ambler Realty Corp.</i> , 272 U.S. 365 (1926)	26
<i>Village of Hoffman Estates v. The Flipside, Hoffman Estates, Inc.</i> , 455 U.S. 489 (1982)	31
*vi <i>Vlandis v. Kline</i> , 412 U.S. 441 (1973)	32
<i>Warth v. Seldin</i> , 422 U.S. 490 (1975)	22
State Cases:	
<i>Johnston v. Hughes</i> , 112 App. Div. 524, 98 N.Y.S. 525 (1st Dept., 1906), rev'd on other grounds, 187 N.Y. 446, 80 N.E. 373 (1907)	37
<i>New York State Club Association v. City of New York</i> , 69 N.Y.2d 211, 513 N.Y.S.2d 349, 505 N.E.2d 915 (1986)	11,16,17,18,31,33
<i>United States Power Squadrons v. State Human Rights Appeal Board</i> , 59 N.Y.2d 401, 465 N.Y.S.2d 871, 452 N.E.2d 1199 (1983)	17
<i>American Committee on Africa v. The New York Times</i> , No. 5787-PA (N.Y.C. Comm. on Hum. Rgts, July 19, 1974), vacated on other grounds sub nom. <i>The New York Times Co. v. City of New York Commission on Human Rights</i> , 79 Misc.2d 1046, 362 N.Y.S.2d 321 (Sup. Ct. N.Y. Co. 1974), aff'd, 49 A.D.2d 851, 374 N.Y.S.2d 9 (1st Dept. 1975) (per curiam), aff'd, 41 N.Y.2d 345, 393 N.Y.S.2d 312, 361 N.E.2d 963 (1977)	12,32
<i>Cruz v. Blecher</i> , No. 016585 (N.Y.C. Comm. on Hum. Rgts, Feb. 3, 1987)	12,32
Statutes:	

Title II of Civil Rights Act of 1964, 42 U.S.C. § 2000a(e) (1982)	2
Internal Revenue Code, 26 U.S.C § 162(a) (1982)	7
N.Y. Benevolent Order Law §§ 1 <i>et seq.</i> (McKinney 1951) ..	38
N.Y. Civil Rights Law § 53 (McKinney 1976)	38
N.Y. Educ. Law § 5001(2)(c) (McKinney 1981)	38
N.Y. Executive Law § 292 (McKinney 1982)	2
N.Y. Executive Law § 296 (McKinney 1982)	2
N.Y. Insurance Law § 4501(a) (McKinney 1985)	37
N.Y. Religious Corp. Law §§ 1 <i>et seq.</i> (McKinney 1952)	38
N.Y. Religious Corp. Law § 2 (McKinney 1952)	37
N.Y. State Admin. Proc. Act (McKinney 1984)	32
*vii Administrative Code of the City of New York, Title 8 (1986)	
§ 8-102(9) (Local Law 63)	<i>passim</i>
§ 8-105(5)	12
§ 8-107	2
§ 8-109	12,13
§ 8-110	13
§ 8-111	13
45 Fed. Reg. 4954 (Jan. 22, 1980)	7
Miscellaneous:	
Burns, <i>The Exclusion of Women from Influential Men's Clubs: The Inner Sanctum and the Myth of Full Equality</i> , 18 Harv. C.R.-C.L. L. Rev. 321 (1983)	3,5
Ginsburg, <i>Women as Full Members of the Club: An Evolving American Ideal</i> , 6 Human Rights 1 (1977)	4
Hymowitz & Schellhardt, <i>The Glass Ceiling</i> , Wall St. J., Mar. 24, 1986	4
Karst, <i>The Freedom of Intimate Associations</i> , 89 Yale L.J. 624 (1980)	26
E. Lynton, <i>Behind Closed Doors: Discrimination by Private Clubs</i> (May 1975)	3,4,6,7
Schafran, <i>Private Clubs, Women Need Not Apply</i> , Foundation News (Jan/Feb 1982)	6
Schafran, <i>Welcome to the Club! (no women need apply)</i> , Women and Foundations/Corporate Philanthropy (1981)	3
L. Tribe, <i>American Constitutional Law</i> (1978)	27
Hearings Before the Committee on General Welfare, New York City Council, Dec. 22, 1983	3,4,5,6,7,8,10
Hearings Before the Committee on General Welfare, New York City Council, Sept. 10, 1984	10
<i>The All-Male Club: Threatened On All Sides</i> , Bus. Wk., Aug. 11, 1980	3,5

*1 STATEMENT

This case is about large downtown businessmen's clubs which style themselves "private" and thereby claim for themselves a constitutional right to discriminate against women and minorities. According to these clubs, the Constitution guarantees them the right to deny membership to women and minorities, shunt those attending professional and business meetings (as guests) into side corridors and back elevators, bar them from lounges and dining rooms, and otherwise treat them as inferior beings. The claimed right to practice this invidious discrimination is so strong, say the clubs, that this Court must nullify New York City's attempt-in Local Law 63-to prevent this discrimination.¹

*2 The clubs base their extraordinary claim entirely on their assertion-unsupported by anything in the record before this Court-that they are "private." But Local Law 63 does not cover clubs which are "private" in any constitutionally meaningful sense of that word. The Law covers only those clubs which, both individually and collectively, have an important impact on the economic

life of the City. By excluding women and minorities, these clubs effectively limit opportunities for advancement, especially in the businesses and professions which contribute so much to New York City's economic vitality-banking, financing, journalism, publishing, accounting, real estate development, law, and the management of many of the nation's significant corporations.

A. History of Local Law 63

Prior to the enactment of Local Law 63, the laws of New York City and State had prohibited invidious discrimination in places of public accommodation. *See* N.Y. Exec. Law § 292, 296 (McKinney 1982; N.Y.C. Admin Code, tit. 8 §§ 8-102(9), 8-107 (1986); *see also* A6a.² Both laws, however, had excluded from their coverage places that are “distinctly private.”³ This exemption permitted a claim by large downtown men's clubs that they could continue to exclude women, even though a not insubstantial part of the activities at the clubs related to the business lives of the members (and the City). Local Law 63 amended the City Administrative Code to provide criteria for determining whether a place of accommodation is “distinctly private” and brought *3 within the anti-discrimination provision these large all-male clubs.

The clubs covered by Local Law 63 are places where men regularly gather to dine or drink with other male business associates to discuss business, to conduct business meetings or to socialize for business purposes. These clubs provide entry into what is popularly known as the “Old Boy Network.”⁴ The exclusion of women has greatly hampered their ability to meet with other professionals and has limited the opportunity for lateral mobility or upward advancement.⁵ The humiliation experienced by women who have either been barred from membership or barred from entering these clubs, or have been permitted to enter but have been segregated into separate dining rooms, reinforces the anachronistic stereotype of inferiority which this Court has condemned. *Roberts v. United States Jaycees*, 468 U.S. 609, 625 (1984) (“*Roberts*”).

The City Council passed Local Law 63 only after careful hearings which focused on the extent to which these clubs are business-oriented and the effect on women of their exclusion from these clubs. In addition, the Council drew upon the growing number of studies and personal testimonials which had in the past decade begun to document the serious effect upon women of their exclusion from these clubs. For example, in November 1973, the New York City Commission on Human Rights held hearings investigating the existence and effect of discrimination against women in so-called “private clubs.”⁶ Nineteen witnesses testified *4 at that hearing. Club executives testified to the crucial importance of club membership to careers, and women testified to instances of exclusion and embarrassment.

In 1983, testimony before the City Council confirmed earlier findings and brought to light new examples of the impact of exclusion. The testimony indicated that club membership can be an important catalyst in a person's career, especially for those in the professions and service industries so important to New York's economy. As Judge, then-professor, Ruth Bader Ginsburg of the United States Court of Appeals for the District of Columbia Circuit explained, these clubs are “settings where individuals seeking career-building opportunities can display their talents and may be helped on their way.”⁷ The Bureau of Labor Statistics revealed that almost one-third of males get their jobs through personal contacts, and that figure is almost certainly higher for high-level jobs.⁸ Even if women get hired for low- or middle-level jobs without club membership, they will not “get into the corner offices where the real power is centered” unless they have access to the full breadth of the business world, including the clubs.⁹ For example, all the best opportunities for librarians are funneled through the Grolier Club which was until recently all-male.¹⁰

*5 Club membership also provides helpful business contacts throughout one's career. As Andrew Stein, City Council President, put it: “Business is transacted over lunch in the clubhouse dining room. Contacts and deals are made in the relative quiet of the clubhouse bar.”¹¹ Even Milton Meyer, Chairman of the Conference of Private Organizations who testified against Local Law 63, admitted that business is “carried out” at clubs.¹² Jack Greenberg, Director-Counsel of the NAACP Legal Defense and Educational Fund, stated that he went to meetings at these clubs perhaps once a month for almost 30 years and only two

were social; all the rest were related to business.¹³ Some clubs host such important business meetings that they are reported by the press, such as a meeting between the Chairman of the Hyatt Corporation and Braniff creditors concerning a \$35 million dollar investment,¹⁴ or monthly meetings of the Tax Forum, made up of the senior tax partners of the most prominent law firms in New York City.¹⁵

When women are denied membership in these clubs, they are denied the opportunity to make important business contacts or to attend meetings necessary for the development of their careers. Carol Lister, the New York Director of the Anti-Defamation League of B'nai B'rith, was barred from attending a briefing by a top White House official at a male-only club.¹⁶ Karen Kessler, the New York Executive Director of the Democratic National Committee, could not attend a meeting of the New York Public Affairs Professionals at the all-male Union League Club.¹⁷ Margaret Boepple, Vice Chancellor of the City University of New York, was unable to attend a meeting at an Albany men's club when she was the City's chief lobbyist.¹⁸ Women have been barred from industry meetings and excluded from training programs held at these clubs by Wall Street professionals.¹⁹ When a woman member of the executive committee of the Republican Party Caucus objected to its meetings at the all-male Century Association, "she was given the choice of shutting up or dropping out."²⁰ As Cyril Brickfield, then-President of the National Club Association concluded in 1973, "[i]t is oftentimes vital to belong [to a club] to become an executive. To the extent you are excluded, you are disadvantaged."²¹

Sometimes meetings are relocated so that women can attend, but it is awkward and humiliating for women to have to express their concern, persuade the organizer to change the location of the meetings, arrange for a new location, and notify the participants.²² When meetings that include women as guests are held at a club that discriminates, they are often convened in second-string dining and meeting rooms with less elegant service.²³ Women attending these professional business meetings are directed into side corridors and back elevators.²⁴

The City Council had before it studies showing that businesses understand just how powerful is this world of the "private" club. *7 The National Club Association estimated that 37% of its members' dues are paid directly by businesses.²⁵ A survey of 701 banks conducted by the Senate Committee on Banking, Housing and Urban Affairs showed that 60% of those banks regularly pay membership dues in private clubs and organizations for their employees.²⁶ A *New York Times* survey of 400 major corporations found that more than half provided club membership for their executives.²⁷

Testimony before the Council confirmed these studies. Martin Whitman, the president of a New York securities firm, stated that he used the clubs "almost solely for business meetings."²⁸ Robert Abrams, New York State Attorney General, informed the Council that many major companies require membership in such clubs.²⁹ In 1980, the then-president of the University Club wrote to its members that a:

recent analysis of dues and expense payments showed that nearly 40% of receipts were paid by checks drawn on business accounts; this is only a part of the total, since many persons pay on their own account and then obtain reimbursement from employers. It may be assumed conservatively that employers are the source of well over 50% of our dues and fees.³⁰

On the other hand, businesses rarely pay the dues for membership in women's clubs.³¹

Even the government has long recognized the business value of club activities and has allowed membership fees and expenses to be deducted as a business expense. See 26 U.S.C. § 162(a) *8 (1982). As the City Council heard, the public is actually subsidizing discrimination at clubs because of these deductions.³²

B. Legislative Findings

Based on these extensive materials, the City Council made legislative findings that are fully supported—indeed they were compelled—by the record before it. The Council found that the clubs' discriminatory practices did in fact impede the economic opportunity for women and minorities (JA 15):

One barrier to the advancement of women and minorities in the business and professional life of the city is the discriminatory practices of certain membership organizations where business deals are often made and personal contacts valuable for business purposes, employment and professional advancement are formed.

Although some of these clubs might “avowedly be organized for social, cultural, civic or educational purposes,” the Council could not ignore “the commercial nature of some of the activities occurring therein and the prejudicial impact of these activities on business, professional and employment opportunities of minorities and women” (JA 15). Specifically, the Council found that business activities often occur at the larger clubs which provide regular meal service (JA 15):

business activity often occurs at clubs having more than four hundred members which provide regular meal service allowing persons to discuss business. The dues and expenses of members at such organizations are often paid by their employers, because the employee's activities at the organization help to develop the employer's business. The organizations also rent their facilities through members for use as conference rooms for business meetings attended by nonmembers. Organizations where such practices occur provide benefits to business entities and persons other than members and thus are not in fact “distinctly private” in their nature.

*9 Finally the Council recognized that these clubs might perform valuable service to the community and that there was a legitimate interest in private association asserted by club members. Therefore the Council stated its intention that the regulation of the clubs be as narrow as possible to eliminate the invidious discrimination (JA 16):

It is not the Council's purpose to dictate the manner in which certain private clubs conduct their activities or select their members, except insofar as is necessary to ensure that clubs do not automatically exclude persons from consideration for membership or enjoyment of club accommodations and facilities and the advantages and privileges of membership, on account of invidious discrimination. Nor is it the Council's purpose to interfere in club activities or subject club operations to scrutiny beyond what is necessary in good faith to enforce the human rights law.

C. Local Law 63

Local Law 63 provides, in pertinent part, as follows (JA 17):

An institution, club or place of accommodation shall not be considered in its nature distinctly private if it [1] has more than four hundred members, [2] provides regular meal service and [3] regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business.

In enacting the law, the Council struck a sensitive balance between providing equal access to the economic and professional opportunities provided in many clubs and the interests asserted by club members. The legislation does not cover all so-called “private” clubs. There are several significant limitations. First, the law applies only to those clubs which can legitimately be termed “large,” so that claims of intimacy would not be very plausible. In fact, the number 400 was chosen after this Court's decision in *Roberts*, which characterized as “large” two local chapters of the Jaycees with 430 and 400 members, 468 U.S. at 621, and held *10 that they could be required to admit women in the face of claims of privacy and freedom to associate.³³

Second, not all large clubs are covered. Local Law 63 applies only to those large clubs which “provide[] regular meal service.” The Council had found, based on very substantial evidence, “that business activity often occurs at clubs having more than four hundred members which provide regular meal service allowing persons to discuss business” (JA 15).

Third, not even all large clubs which provide regular meal service are covered. These clubs must also “regularly receive[] payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business.”

Fourth, the Council legislated only in those areas where the legislation could be supported by substantial factual material. Because there was a paucity of factual material concerning benevolent orders and religious corporations, these associations were exempted from the Law. The Council invited and received extensive materials from both proponents and opponents of Local Law 63. Although the issue of benevolent orders and religious corporations was raised, the City Council heard only conclusory statements as to their similarity to the large downtown men's clubs sought to be regulated by Local Law 63.³⁴ Nor was any benevolent order or religious corporation identified which met the statute's criteria. The City Council was thus not presented with any facts from which to conclude that those organizations are, in fact, similar to the large downtown men's clubs or that religious or fraternal associations had a similar negative economic impact upon women and minorities in the City.³⁵ “Because small clubs, *11 benevolent orders and religious corporations have not been identified in testimony before the Council as places where business is prevalent, the Council has determined not to apply the law to such organizations” (JA 15).

Taken together, the three requirements of Local Law 63 were very responsive to legitimate associational concerns expressed at the hearings. To be covered, a club must be large; it must provide, on a regular basis, the opportunity to do business over meals; and it must in fact regularly accept money on behalf of nonmembers for business purposes. In these circumstances, it is quite unlikely that such a club could legitimately claim either that it was a very intimate association or that its predominant purpose was to express views and that it did not have a substantial business component. Indeed the Law itself provides a ready way for a club to remove itself from Local Law 63's presumption without compromising the alleged “private” social nature of the club. The club can simply stop accepting money on behalf of nonmembers for business purposes.

Finally, and contrary to the claims made throughout appellant's brief, Local Law 63 does not create what appellant calls an “irrebuttable presumption.” It does create a very strong presumption that if a club satisfies the three criteria, it “will be deemed to have lost the essential characteristic of selectivity and instead have become ‘affected with a public interest.’” *New York State Club Association v. City of New York*, 69 N.Y.2d 211, 221, 513 N.Y.S.2d 349, 354, 505 N.E.2d 915, 919 (1986) (A9a). But a club may still argue, and adduce proof, before the City Commission on Human Rights (“Commission”) or a court that because of the club's particular attributes it is entitled to constitutional protection in spite of its meeting the three-part test of Local Law 63.

D. Enforcement of Local Law 63

Appellant attacks Local Law 63 on its face and presents to this Court hypothetical accounts of how the Law might be applied and how it might affect many unnamed and undescribed clubs. *12 In fact, under the City Human Rights Law there can be no enforcement or sanctions against any particular club without that club first having the opportunity to test the applicability of the statute and any defenses, constitutional or otherwise, in lengthy administrative or judicial proceedings. There have been only four such proceedings commenced since the passage of Local Law 63. They give a more realistic picture of how the City's Human Rights Commission will apply the Law than does appellant's conjecture.

1. *Procedure under the City's Human Rights Law.* A proceeding before the Commission begins with a complaint, either by an individual or by the Commission's staff. N.Y.C. Admin. Code, tit. 8, § 8-109(1) (1986). Thereafter, the Commission investigates and determines whether probable cause exists. *Id.* § 8-109(2). The Commission may not require the production of names from a general membership list of any association. *Id.* § 8-105(5). If a probable cause determination is made, the Commission may attempt to settle the matter, but if a conciliation agreement is not reached, the organization charged is entitled to a formal

hearing. *Id.* § 8-109(2)(a), (b). At the hearing, the organization charged may be represented by counsel and present evidence. *Id.* § 8-109(2)(b). The Commission will consider constitutional defenses to the application of the anti-discrimination law. *See, e.g., Cruz v. Blecher*, No. 016585 (N.Y.C. Comm. on Hum. Rgts, Feb. 3, 1987) (considering constitutional defense to discrimination charge under different statute); *American Comm. on Africa, v. The New York Times*, No. 5787-PA (N.Y.C. Comm. on Hum. Rgts, July 19, 1974) (same), *vacated on other grounds sub nom., The New York Times Co. v. City of New York Commission on Human Rights*, 79 Misc. 2d 1046, 362 N.Y.S.2d 321, (Sup. Ct., N.Y. Co. 1974), *aff'd*, 49 A.D.2d 851, 374 N.Y.S.2d 9 (1st Dept., 1975) (per curiam), *aff'd*, 41 N.Y.2d 345, 393 N.Y.S.2d 312, 361 N.E.2d 963 (1977); *see also Ohio Civil Rights Commission v. Dayton Christian Schools*, 477 U.S. 619, ___, 106 S. Ct. 2718, 2724 (1986).

*13 If, after the hearing, the Commission makes a finding of an unlawful discriminatory practice, it may issue, among other things, a cease and desist order or an affirmative order requiring “the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons” and the evaluation of “applications for membership in a club that is not distinctly private without discrimination based on race, creed, color, national origin or sex.” N.Y.C. Admin. Code, tit. 8, § 8-109(2)(c). Any aggrieved organization may obtain judicial review of the Commission's findings. *Id.* § 8-110.

Only if an organization “wilfully” violates an order of the Commission may the violator be charged with a misdemeanor and, if found guilty, have criminal sanctions imposed against it. *Id.* § 8-111. Pursuing judicial review of a Commission order is specifically deemed to be not “wilful.” *Id.* Thus, an organization is not subject to any criminal penalties before the validity of the order has been judicially resolved. Also, no club can be forced, under threat of penalty, to change its practices without a prior judicial determination of the Law's applicability and the club's defenses.

2. *The four proceedings under Local Law 63.* The Commission's staff has instituted proceedings against four large all-male clubs—the New York Athletic Club (10,003 members), The University Club (4,329 members), the Century Association (1,900 members), and The Union League Club (1,600 members).³⁶ Even the smallest has four times the minimum number *14 of members required by Local Law 63. According to the complaints, all have regular meal service. All receive large amounts of income from nonmembers in furtherance of nonmembers' trade or business. As noted above, in 1980 the University Club estimated that 50% of dues and fees derive from nonmembers. In 1986, members of the club estimated that it received \$1.7 million per year from or behalf of nonmembers.³⁷ The Century Association estimated that it would cost over \$150,000 a year for the club to “go private.”³⁸ The New York Athletic Club encourages its members to use the club for business and chides them for not doing so even more often. In its newsletter, it writes to members: “many members are simply not using facilities that are critical to the club's stability and financial health. . . . Try to use the club at least once every month for a business lunch or dinner.” Similarly, the club notes: “[m]any of your fellow members sponsor their business outings at Travers Island [a club facility] year after year.”³⁹ All four clubs host a large number of important public events and business meetings, such as a testimonial dinner for the former Prime Minister of Ireland, a meeting between the New York Mets and the Montreal Expos involving the trade of Gary Carter, a meeting for chancellors of state and city universities, monthly dinner meetings of prominent trust and estates lawyers, or lunch meetings of the Association of Radio-Television New Analysts.⁴⁰

*15 E. The Parties

Appellant New York State Club Association, Inc. is a not-for-profit association in the State of New York. It is comprised not of individuals, but of private clubs and associations (JA 10, JA 32). Appellant's Certificate of Incorporation states that (JA 38): The purpose for which this association is formed is to promote the common business interests of its Members, consisting of social clubs, golf clubs, tennis clubs, yacht clubs, and other private clubs of the State of New York engaged in the operation of club facilities for the benefit of their respective membership

Appellant has asserted in these proceedings that the facilities of its members “are available solely to club members and *bona fide* guests . . . and . . . are not directed at the public at large” (App. Br. at 4-5); that its member clubs “have highly selective

membership practices” (*id.* at 25); and that they “may well exist primarily for purposes of espousing unpopular ethnic, racial or gender related positions” (*id.* at 34).

These assertions are without support in the record before this Court. Indeed, the record contains almost no information about appellant's member clubs—such as who they are; how many of them are in New York City; how large they are; what their *16 selection procedures and practices are; which ones, if any, claim to be associations of intimates; which ones, if any, are organized for the purpose of espousing views; and whether, and if so how much, business-related activity is conducted at the clubs. The emptiness of the record is attributable to appellant's adamant refusal to supply any of this information. In the proceedings below, appellant refused to respond to appellees' interrogatories requesting, among other things, the names of its member clubs, the selection process at its member clubs, or the by-laws of its member clubs which might reveal the clubs' purposes and activities. *See* JA 47, n.*; Plaintiff's Answer to Interrogatories Nos. 2(a), 3(n), and 3(d).

Appellees are The City of New York, the Mayor of The City of New York, The New York City Human Rights Commission and its members.

F. Proceedings Below

The day after the Mayor signed the bill into law, appellant commenced this action seeking a declaration that the law is inconsistent with the State Human Rights Law and is unconstitutional on its face and as applied (JA 9-13). Appellant also sought to enjoin enforcement of the Law (JA 13). In its answer, appellees asserted, *inter alia*, that appellant lacks standing to prosecute this action and that Local Law 63 is constitutional and not preempted by State law (JA 24-25).

Appellant sought preliminary relief to enjoin the Law's enforcement. The New York Supreme Court denied this relief and the Appellate Division affirmed (JA 44-46). The Supreme Court then granted summary judgment for appellees. The court found that appellant had standing, but that Local Law 63 was “constitutional and valid” (A25a-40a). The Appellate Division again affirmed (A16a-22a).

On February 17, 1987, the New York State Court of Appeals affirmed the grant of summary judgment in favor of appellees. Referring to the “extensive findings of the City Council . . . that *17 business activity pervades clubs which have more than 400 members and regularly provide meals during which business is conducted,” the Court unanimously sustained the constitutionality and validity of Local Law 63 (A2a-13a). In holding that Local Law 63 did not violate appellant's member clubs' rights to privacy, free speech and free association, the Court followed this Court's analysis in *Roberts*. The Court stated (A11a, quoting *Roberts*, 468 U.S. at 620-621):

The definition read into the City Human Rights Law under *Power Squadrons* of “distinctly private” and the three-prong test set forth in Local Law No. 63 itself, together adequately assess “objective characteristics” of the organizations at issue, including criteria such as their “size, purpose, policies, selectivity, congeniality, and other characteristics that in [this] particular case [are] . . . pertinent.” . . . [T]he law in effect deems a club that is large and where “much of the activity central to the . . . maintenance of the association involves the participation of strangers to that relationship” to have lost any claimed protection of intimate association (citations omitted).

In the course of its opinion, the Court of Appeals indicated that the three-part test of the local law was not exclusive but that the three criteria were, rather, “permissive factors” (A11a). That is, in appropriate cases other factors could be considered by the City Commission on Human Rights or a court in deciding whether a club is covered by the City Human Rights Law. In an earlier decision, the Court of Appeals had construed the State Human Rights Law's exemption for clubs that are “distinctly private” by setting out five factors that “may” be considered in making the determination. *United States Power Squadrons v. State Human Rights Appeal Board*, 59 N.Y.2d 401, 412, 465 N.Y.S.2d 871, 876, 452 N.E.2d 1199, 1204 (1983).⁴¹ In its *18 opinion in this case, the Court said that “Local Law No. 63 does not prohibit the City fact finder from considering the test of selectivity, or, indeed, any of the *Power Squadrons* factors” (A9a).

Thus contrary to appellant's repeated assertions in its brief, the New York Court of Appeals did not construe Local Law 63 as embodying the "irrebuttable presumption" imagined by appellant. Indeed, appellant recognizes that the Court of Appeals said that the criteria set forth in Local Law 63 were "permissive" (App. Br. at 23, n. 11). Appellant then makes the extraordinary assertion that the New York Court of Appeals "erred" in its interpretation of New York law. *Id.* Appellant apparently wants this Court to reject what the New York Court of Appeals said about New York law and reinterpret the New York statute so it more neatly fits into appellant's argument that the statute is invalid. *But see, e.g., New York v. Ferber*, 458 U.S. 747, 769 n.24 (1982).

SUMMARY OF ARGUMENT

In 1983, New York's City Council conducted extensive hearings to study the effect upon women and minorities of their exclusion from so-called "private" clubs. The Council found that in the large downtown men's clubs, a substantial amount of commercial activity occurred and that the exclusion of women and minorities had a serious and negative effect on the professional and business lives of the excluded groups (and therefore upon the City as well). The Council passed a law (Local Law 63) prohibiting these large clubs from continuing their invidious discrimination. The Council did so, however, in a restrained way. Not all clubs were covered but only those which, according to the extensive evidence before the Council, were likely to have a substantial commercial component and therefore were likely to present the evil which the Council wanted to ameliorate. In addition, the *19 Law does not purport to change any of the clubs' practices or admission procedures except their invidious discrimination.

Appellant's attack on Local Law 63 is phrased in several ways but comes down to the claim that the Law is overly broad and therefore unconstitutional on its face. The Court should not entertain this claim. Appellant is asserting the alleged rights of association of individual club members. Yet appellant lacks standing to do so because it is an association of clubs and not of the individuals whose alleged rights are asserted here. In addition, appellants have refused to supply any significant information about its member clubs. Because of this refusal, the Court does not have before it concrete facts upon which to judge the validity of appellant's constitutional claims.

In any event, the Law is constitutional on its face. In order to prevail on its facial attack, appellant must show that a substantial amount of constitutionally-protected activity is covered by the Law. In fact, the opposite is true. The criteria set forth in the Law are directly responsive to the constitutional concerns articulated by this Court in *Roberts* and recently reaffirmed in *Board of Directors of Rotary International v. Rotary Club of Duarte*, 481 U.S. 537, 107 S. Ct. 1940 (1987) ("*Rotary*"). Therefore, any club that meets these criteria is extremely unlikely to have a plausible claim for constitutional protection. In addition, contrary to appellant's repeated assertion, Local Law 63 does not create what appellant calls an "irrebuttable presumption." New York law provides ample opportunity, both in administrative and judicial proceedings, for any club to attempt to demonstrate that it is entitled to constitutional protection and therefore should be exempted from the coverage of the City Human Rights Law, even though the club meets the criteria of Local Law 63.

Finally, appellant attacks the exemption in Local Law 63 for religious corporations and benevolent orders as a violation of the Equal Protection Clause. This exemption, however, was based on the City Council's study of extensive materials which did not indicate that the excluded organizations presented the same evil as did the clubs covered by the Law. Although the question of *20 religious and benevolent organizations was raised at the hearings, there was no concrete evidence showing that they had a large commercial component or that any exclusionary practices had a substantial negative affect upon the economic or professional lives of women or minorities. It was rational, indeed prudent, for the Council to pass legislation covering the large downtown clubs (which clearly presented the evil to be ameliorated), and leave for another day the possibility of covering other kinds of associations if and when a showing was made that these other associations presented a similar evil.

POINT I

APPELLANT LACKS STANDING BECAUSE IT IS AN ASSOCIATION OF CLUBS AND NOT OF THE INDIVIDUALS WHOSE ALLEGED RIGHTS ARE BEING ASSERTED.⁴²

Appellant is an association of 125 clubs in New York State. On its own behalf and as a representative of its member clubs, appellant asserts a deprivation of its and their First Amendment rights (JA 11; *see also* App. Br. at 7, 8-10, 18-20, 32-35). But the arguments raised by appellant here and in the courts below do not concern appellant's own alleged First Amendment rights or even those of its member clubs. At issue here are the alleged rights of individuals to associate with each other. Appellant, however, is not an individual; it is an association of clubs which, in turn, are made up of individuals. In other words, appellant is twice removed from any individual and is attempting to assert the constitutional rights of these individuals, who are not themselves members of the appellant.

*21 Appellant's arguments are abstract largely because appellant is so far removed from the individuals whose alleged rights are at issue. Appellant makes claims about how Local Law 63 could or might infringe upon some hypothetical individual club member's First Amendment rights. However, there are no facts alleged from which any court can ascertain whether any real person's intimate or expressive associational relationships are being curtailed. These vague claims lack the requisite concreteness mandated by Article III of the Constitution.

No case has ever held that an organization may vicariously assert the rights of individuals twice removed. Indeed the most relevant case is to the contrary. *Rotary* involved a California statute, similar to the one at issue here, which prohibited the exclusion of women in clubs like the Rotary. The local chapter in Duarte complied with the statute and admitted women. Rotary International, which barred women, revoked Duarte's charter. Duarte sued to enjoin the revocation. International claimed that the California statute, under which Duarte had acted, violated the constitutional right of free association. Duarte urged, however, that International's arguments should not be entertained because International, which was made up only of local clubs and not of individuals, did not possess a sufficient interest in the asserted rights of association. *See* Brief for Appellees at 22-24, 29-65, *Rotary*. The Court accepted Duarte's argument (107 S. Ct. at 1945 n. 4):

[Rotary] International, an association of thousands of local Rotary Clubs, can claim no constitutionally protected right of private association. Moreover, its expressive activities are quite limited.

The Court went on to consider the merits of the case only because Duarte, the association of individuals, was a party.

The principle followed by this Court in *Rotary* is, in effect, one of standing and reaffirms prior holdings of this Court. *See International Union, United Automobile Aerospace and Agricultural Implement Workers of America v. Brock*, 477 U.S. 274, 106 S. Ct. 2543, 2528-29 (1986); *Hunt v. Washington State Apple *22 Advertising Commission*, 432 U.S. 333, 342 (1977); *Warth v. Seldin*, 422 U.S. 490, 511 (1975). An association may sue in its own right or as a representative of its members. *Warth*, 422 U.S. at 511. However, to meet the case-or-controversy requirement of Article III of the Constitution, an association, when suing as a representative of its members, must allege (1) "that its members, or any one of them, are suffering immediate or threatened injury as a result of the challenged action of the sort that would make out a justiciable case had the members themselves brought suit;" *Id.*, (2) "the interests it seeks to protect are germane to the organization's purpose;" and (3) "neither the claim asserted nor the relief requested requires the participation of individual members to the lawsuit." *Hunt*, 432 U.S. at 343. Appellant has failed to satisfy the first part of this test because it has not established that it or any of its member clubs have suffered any deprivation of their own First Amendment rights.

There is no reason for this Court to expand the rule of standing in this case. This is not a situation in which member clubs are unlikely to sue on behalf of their individual members out of fear of reprisal or lack of funding or because they lack expertise about material legal issues. *See International Union*, 477 U.S. at ___, 106 S. Ct. at 2532-33 (union with expertise and funding); *NAACP v. Alabama ex. rel. Patterson*, 357 U.S. 449, 459-60 (1958) (civil rights organization with expertise and funding and acting as a shield for reprisal against individual members). In fact, two of appellant's member clubs, The University Club and The Union League Club, have sued in federal court in their own names to enjoin enforcement of Local Law 63 against them

and have raised arguments identical to those asserted by appellant here. *The University Club and The Union League Club v. The City of New York*, 86 Civ. 2343 (GLG) (S.D.N.Y. Mar. 17, 1987), *app. pending*, Nos. 87-7312, 7372 (2d Cir.) (argument calendared for January 14, 1988).

The most appropriate way to test appellant's argument that Local Law 63 is overly broad is in lawsuits involving individual clubs. In such lawsuits, the court can determine whether the *23 statute reaches clubs or types of clubs which should be constitutionally protected. These would be real cases and would avoid appellant's tactic of making hypothetical assertions and then refusing to supply facts about individual clubs which could verify-or refute-the assertions. *See supra*, pp. 15-16. Appellant attempts vainly to put some substance into its abstractions by claiming that all its 125 clubs are "selective." However, because appellant has refused to provide details, there is no way to judge whether any of appellant's clubs are "selective" in any constitutionally meaningful sense. This Court should decline appellant's invitation to decide the issues presented here "in the rarified atmosphere of a debating society." *See Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 472 (1982).

Finally, no one is harmed by not deciding this question now. No club is subject to sanctions without first having an opportunity to test the applicability of the statute and assert any constitutional or other defenses in administrative and judicial proceedings.

POINT II

LOCAL LAW 63 IS CONSTITUTIONAL ON ITS FACE AND IS NOT OVERBROAD.

A. Appellant's claim of overbreadth is based on unsubstantiated assertions about the effect of Local Law 63.

Appellant's several abstract arguments say the same thing in different ways-that Local Law 63 is overbroad because it will subject to governmental regulation a substantial number of clubs which should enjoy a constitutional right to be free from this regulation. "Application of the overbreadth doctrine . . . is, manifestly, strong medicine. It has been employed by [this] Court sparingly and only as a last resort." *Broadrick v. Oklahoma*, 413 U.S. 601, 613 (1973). In order to prevail, appellant must show that the statute curtails a substantial amount of constitutionally-protected conduct. *24 *City of Houston, Texas v. Hill*, 482 U.S. 451, 107 S. Ct. 2502, 2508 (1987); *Members of the City Council v. Taxpayers for Vincent*, 466 U.S. 789, 799-800 (1984); *New York v. Ferber*, 458 U.S. at 769; *Broadrick*, 413 U.S. at 615.

Appellant cannot meet its heavy burden. Indeed, appellant has refused to supply facts upon which to judge the validity of its claims (JA47 n. *; *see supra*, pp. 15-16). For example, appellant asserts that its member clubs are "selective" (App. Br. at 22, 25, 33-35). That word, standing alone, has no constitutionally-significant meaning. The question is, what are the selection criteria for particular clubs? And on this, appellant tells nothing. Nor has appellant told anything about any of the factors which this Court has considered significant in determining whether clubs should be accorded constitutional protection-i.e., the size of the clubs, their purposes, their selection criteria, the degree of participation of nonmembers, and their actual practices. *Rotary*, 107 S. Ct. at 1946; *Roberts*, 468 U.S. at 620.

As this Court held in *Members of the City Council v. Taxpayers for Vincent*, 466 U.S. at 801: "[T]here must be a realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court for it to be facially challenged on overbreadth grounds." Appellant has failed to establish any "real" dangers to anyone; it has asserted only hypothetical ones based on unsupported statements.

B. Local Law 63 is constitutional on its face and not overbroad because its criteria respond directly to the constitutional concerns articulated by this Court in *Roberts* and *Rotary*. It is therefore very unlikely that there would be a substantial number of unconstitutional applications of the Law.

There is a good reason for appellant's failure to provide specific information about identifiable clubs. It is extraordinarily unlikely that any club meeting the criteria of Local Law 63 could make a plausible claim of constitutional protection. The City Council, after extensive hearings, passed a law that is directly *25 responsive to the constitutional concerns articulated by this Court in *Rotary* and *Roberts*.

1. The right of association—"intimate" and "expressive."

Contrary to the assumption which underlies appellant's argument (e.g. App. Br. at 11-17, 25, 35), this Court has never found a generalized constitutional "right of association." There is no constitutional right to associate with a select group of people, whatever the number of people or the purpose for which the people associate. This Court has held that there is a constitutional right only in two circumstances—when the association is "intimate" or when the association is for the purpose of expression. *Rotary*, 107 S. Ct. at 1945-47; *Roberts*, 468 U.S. at 617-618; 622-624.

"Intimate" associations that must, under the Constitution, be free from government interference are those "attend[ing] the creation and sustenance of a family—marriage, e.g. *Zablocki v. Redhail*, [434 U.S. 374, 383-386 (1978)]; childbirth, e.g., *Carey v. Population Services International*, [431 U.S. 678, 684-686 (1977)]; the raising and education of children, e.g., *Smith v. Organization of Foster Families*, [431 U.S. 816, 844 (1977)]; and cohabitation with one's relatives, e.g., *Moore v. East Cleveland*, [431 U.S. 494, 503-504 (1977)] (plurality opinion)." *Roberts*, 468 U.S. at 619. Although "intimate" association is not limited to family relationships, only relationships with the qualities inherent in the family "are likely to reflect the considerations that have led to an understanding of freedom of association as an intrinsic element of personal liberty." *Id.* 468 U.S. at 620. This Court defined those qualities of "intimacy" as "relative smallness, a high degree of selectivity in decisions to begin and maintain the affiliation, and seclusion from others in critical aspects of the relationship." *Id.* 468 U.S. at 620. Thus, "intimate" associations worthy of constitutional protection must evidence, among other things, caring and personal commitment to the relationship, informational privacy among the associates, and indicia of an *26 enduring relationship. See generally, Karst, *The Freedom of Intimate Association*, 89 Yale L.J. 624, 630-637 (1980). As one commentator observed: "Caring for an intimate requires taking trouble to know him and deal with him as a whole person, not just as the occupant of a role. This fact alone limits the number of intimate associations any one person can have at any one time, or even in a lifetime." *Id.* 89 Yale L.J. at 634-635 (footnotes omitted).

This Court has also recognized a second kind of claim, a claim of "expressive association." About "expressive association" appellant's argument seems to be this: When men decide to join exclusive clubs and when the members decide to exclude women or minorities, these members are engaging in acts of self-definition. They are attempting to control their environment, to make it more pleasant, and to define and reinforce "who they are." These acts of self-definition, the argument goes, are "expressive" and therefore deserve constitutional protection.

This argument is very dangerous. Almost all human conduct can, with some force, be called "self-defining." A husband and wife make a personal choice of design for their home. A real estate developer wants to build the tallest building in the world. A group of lawyers want to set up a law practice without women as partners. Workers join together as a labor union and choose to exclude blacks. A parent wants to send his child to a racially-segregated educational institution. A community establishes a recreational facility from which it wants to exclude blacks because the resident wish to recreate only with fellow whites. A person wants to wear his hair as long as he wishes even though he is a police officer. These choices, and an almost unlimited number of others, could be viewed, with justification, as symbolically "self-defining." Yet it is permissible for government to zone in order to regulate population density, bulk or aesthetics (*Penn Central Transportation Co. v. New York*, 438 U.S. 104 [1978]; *Village of Belle Terre v. Borass*, 416 U.S. 1 [1974]; *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 [1926]); or to prohibit labor unions or law firms from engaging in invidious discrimination (*Hishon v. King & Spalding*, 467 U.S. 69 [1984]; *Railway Mail Ass'n v. Corsi*, 326 U.S. 88 [1945]); or to prohibit parents from having their children educated in a racially-segregated school (*Runyon v. McCrary*, 427 U.S. 160 [1976]); or to prohibit a community from excluding blacks from its recreational facilities (*Tillman v. Wheaton-Haven Recreational Ass'n. Inc.*, 410 U.S. 431 [1973]; *Sullivan v. Little Hunting Park, Inc.*, 396 U.S. 229 [1969]); or to prohibit a police officer from determining every aspect of his personal appearance (*Kelley v. Johnson*,

425 U.S. 238 [1976]). Accepting appellant's argument would require a drastic reformulation of settled doctrine concerning the permissibility of government regulation of a wide variety of conduct which could be considered "self-defining." *See generally* Tribe, *American Constitutional Law*, § 12-23 at 700-703 (1978).

This Court has not accepted such a radical view of the First Amendment.⁴³ The right of expressive association is much more limited. Organizations that can legitimately claim such a right are those like the NAACP or political parties—ones whose purpose is to communicate to others in order to advance ideas or beliefs "pertain[ing] to political, economic, religious or cultural matters" *NAACP v. Alabama ex. rel. Patterson*, 357 U.S. at 460. *See NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 907-909 (1982) (The joining together to boycott businesses is *28 entitled to First Amendment protection because the purpose of the boycott was to express the idea and belief that civic and business leaders must stop discriminating on the basis of race.); *Buckley v. Valeo*, 424 U.S. 1, 15 (1975) (The freedom to associate means the ability to join with others for the common advancement of political beliefs and ideas.); *NAACP v. Button*, 371 U.S. 415, 429 (1963) (A group formed to promote civil rights through litigation is protected from governmental regulation by the First Amendment because the nature of the association is to promote ideas and beliefs of a minority group.). These "expressive" associations are quite different from the typical inward-looking downtown men's club.

2. The criteria of Local Law 63.

The criteria set forth in Local Law 63 respond very directly to the concern for "intimate" and "expressive" association articulated by this Court in *Rotary*, *Roberts*, and other cases. The Law applies only to clubs with more than 400 members. Size, of course, is directly related to "intimacy." The larger the group, the more attenuated the similarity to a family. How likely is it that 400 people will be "deeply attached" to each other or committed to a long-term relationship together? Is it likely that someone would be sharing the "distinctly personal aspects of one's life" with more than 399 other people? *See Roberts*, 468 U.S. at 619-620.

Local Law 63 does not apply unless a club meets two additional tests—the club must have regular meal service and it must regularly accept payments from or on behalf of nonmembers for use of club facilities in furtherance of a trade or business. These requirements add further assurance that a club covered by this Law will not be "intimate" in the constitutional sense. These two additional requirements also make it very likely that any club covered by the Law will not have as its sole or predominant purpose "expressive association." Indeed, the City Council found, after reviewing extensive material and testimony, that such clubs have a significant commercial purpose—one that *29 affects the economic life of the City (JA 15; *see supra*, pp. 2-9). This Court should not lightly reject the Council's judgment that significant commercial activity occurs at clubs covered by Local Law 63.⁴⁴

As this Court observed in *Roberts* with respect to the analogous Minnesota statute, laws like Local Law 63 (468 U.S. at 626): reflect[] a recognition of the changing nature of the American economy and of the importance, both to the individual and to society, of removing the barriers to economic advancement and political and social integration that have historically plagued certain disadvantaged groups, including women. . . . Assuring women equal access to such goods, privileges, and advantages clearly furthers compelling state interests.

Local Law 63 reaches only clubs with significant commercial purposes. Commercial association has been accorded far less constitutional protection than has expressive association. *See Hishon v. King & Spalding*, 467 U.S. at 78; *Ohralik v. Ohio State Bar Assn.*, 436 U.S. 447, 457, 459 (1978); *see also Roberts*, 468 U.S. at 631, 635 (O'Connor, J., concurring).

Moreover, even with respect to the clubs covered by the Law, which do not deserve constitutional protection, the Law is quite circumspect. The Law does not dictate the manner in which the clubs conduct their activities or select their members (JA 16). It does not, contrary to appellant's assertion (App. Br. at 34; *see also* 10, 35, 38, 40), force admission of persons who "espouse contrary views." Clubs covered by the Law may continue to *30 screen applicants for admission on any subjective ground that is not invidiously discriminatory.⁴⁵

Because the City Council so carefully shaped Local Law 63, it is difficult to imagine a club that is covered by the Law that still could plausibly make a constitutional claim. Nonetheless, one could admit of such a possibility (even though no such club has been identified) without casting doubt on the constitutionality of Local Law 63. This Court has often ruled that such idiosyncratic instances of hypothetical unconstitutionality are insufficient bases upon which to predicate a finding of facial unconstitutionality. See *City of Houston, Texas v. Hill*, 107 S. Ct. at 2508; *Members of the City Council v. Taxpayers for Vincent*, 466 U.S. at 800; *New York v. Ferber*, 458 U.S. at 772 n. 27; *Broadrick v. Oklahoma*, 413 U.S. at 618.⁴⁶

***31 C. No club is prohibited from attempting to show that it is entitled to constitutional protection, and therefore exempt from the coverage of the City Human Rights Law, even though the club meets the criteria of Local Law 63.**

Throughout its brief, appellant asserts that Local Law 63 creates an “irrebuttable presumption.” What appellant means by “irrebuttable presumption” is this: “Local Law 63 precludes a club from demonstrating that, as a result of its size, purpose, selectivity and the exclusion of others from critical aspects of the relationship, it is entitled to constitutional protection under the analysis set forth by this Court in [*Rotary and Roberts*].” (App. Br. at 7; see also 9-10, 23, 31-32, 33, 35, 37). Appellant is simply wrong. Clubs are not precluded from attempting such a demonstration.

In its decision below, the New York Court of Appeals characterized the criteria in Local Law 63 as “permissive” (A11a) and plainly stated that those criteria were not exclusive. “Local Law No. 63 does not prohibit the City fact finder from considering the test of selectivity or, indeed, any of the *Power Squadrons* factors.” (A9a). Appellant’s answer is that the state’s highest court “erred” in its interpretation of state law (App. Br. at 23, n.11). That answer ignores this Court’s clear doctrine that the interpretation of state laws are left to the state courts. *New York v. Ferber*, 458 U.S. at 767; 769 n. 24; *Village of Hoffman Estates v. The Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 494 n. 5 (1982); *Terminiello v. Chicago*, 337 U.S. 1, 5-6 (1949).

Appellant would be wrong even if the Court of Appeals had not said what it did about Local Law 63. Judges of the New York State courts and officials of the City Human Rights Commission are sworn to uphold the United States Constitution. Of course they would—they are obligated to—consider a claim that, in spite of meeting the criteria set forth in Local Law 63, a club “is entitled to constitutional protection under the analysis set forth by this Court in [*Rotary and Roberts*].” (App. Br. at 7). The City Human Rights Commission does, in fact, consider constitutional defenses by parties who would otherwise be covered by the *32 City Human Rights Law. E.g., *Cruz v. Blecher*, No. 016585 (N.Y.C. Comm. on Hum. Rgts, Feb. 3, 1987); *American Comm. on Africa v. The New York Times*, No. 5787-PA (N.Y.C. Comm. on Hum. Rgts, July 19, 1974), *vacated on other grounds sub. nom. The New York Times Co. v. City of New York Commission on Human Rights*, 79 Misc.2d 1046, 362 N.Y.S.2d 321 (Sup. Ct., N.Y. Co., 1974), *aff’d*, 49 A.D.2d 851, 374 N.Y.S.2d 9 (1st Dept., 1975), *aff’d*, 41 N.Y.2d 345, 393 N.Y.S.2d 312, 361 N.E.2d 963 (1977). As this Court said in *Ohio Civil Rights Commission v. Dayton Christian Schools, Inc.*, 477 U.S. at ___, 106 S. Ct. at 2724 (holding that the principle of *Younger* abstention applies to a state administrative proceeding):

[E]ven if Ohio law is such that the Commission may not consider the constitutionality of the statute under which it operates, it would seem an unusual doctrine . . . to say that the Commission could not construe its own statutory mandate in the light of federal constitutional principles.

Compare N.Y.S. Admin. Proc. Act (McKinney’s 1984) (no provision preventing City Commission on Human Rights from considering constitutional issues).

Of course, saying that clubs may have their claims heard says nothing about the ease or frequency with which such clubs will prevail. In fact, it is difficult to imagine a club which meets the criteria of Local Law 63 but which could still show it was “entitled to protection under the analysis set forth” in *Rotary and Roberts*. That, however, is not a cause for criticism. It is a tribute to the care taken by the City Council in addressing the constitutional concerns articulated by this Court.

In several cases, this Court has held that statutes violated the Due Process Clause because they created irrebuttable presumptions. *See, e.g., Cleveland Board of Education v. LaFleur*, 414 U.S. 632 (1974); *United States Department of Agriculture v. Murry*, 413 U.S. 508 (1973); *Vlandis v. Kline*, 412 U.S. 441 (1973); *Stanley v. Illinois*, 405 U.S. 645 (1972); *Bell v. Burson*, 402 U.S. 535 (1971). In each of those cases, the statutory *33 presumption bore no reasonable relationship to the ultimate fact to be proven, and there was no process by which the individual was permitted to establish facts particular to his or her case. In contrast, the criteria set forth in Local Law 63 are directly related to whether a club should be deemed not “distinctly private” within the meaning of the City Human Rights Law; and there are both judicial and administrative procedures in which a particular club can adduce evidence which it believes shows that it is unique and should be exempted from the application of the City Human Rights Law.⁴⁷

POINT III

THE EXEMPTION IN LOCAL LAW 63 FOR RELIGIOUS CORPORATIONS AND BENEVOLENT ORDERS DOES NOT VIOLATE THE EQUAL PROTECTION CLAUSE.

Appellant argues that, in order to sustain the constitutionality of Local Law 63, the City must carry the burden of showing that the distinction in the Law (exempting religious corporations and benevolent orders) is supported by a compelling state interest and that the Council used the least intrusive way to remedy the perceived evil (App. Br. at 41-42). This assertion is based on appellant's claim that the classification in the Law affects fundamental rights—namely the constitutional right to freedom of association. *34 *Id.* Appellant has urged upon this Court the wrong standard of review. In order to prevail, it is the appellant which must show that the classification in Local Law 63 is wholly irrational and does not serve any legitimate public purpose.

Appellant argues that Local Law 63 is underinclusive because, while it includes certain clubs (the typical downtown businessmen's club), it improperly excludes other associations “similarly situated” (religious corporations and benevolent orders).⁴⁸ As shown in Point II, any club that is covered by Local Law 63 is very unlikely to have a plausible claim for constitutional protection. Thus, whatever else may be said about the distinction between the type of club included in Local Law 63 and the excluded religious corporations and benevolent orders, the distinction does not affect any fundamental rights of the included clubs.

What appellant's equal protection argument comes down to is the more common assertion that there is no rational basis for the distinction made in the Law between the included clubs and others which are allegedly “similarly situated.” On this point, appellant clearly has the burden of persuading the Court. “States are not required to convince the courts of the correctness of their legislative judgments. Rather, ‘those challenging the legislative judgment must convince the court that the legislative facts on which the classification is apparently based could not reasonably be conceived to be true by the governmental decisionmaker.’” *Minnesota v. Clover Leaf Creamery Co.*, 449 U.S. 456, 464 (1981) (quoting *Lance v. Bradley*, 440 U.S. 93, 111 (1979)).

Here, as in Point II, appellant makes a purely hypothetical argument. Are there in fact “similarly situated” religious corporations or benevolent orders? Appellant has not pointed to one such real religious corporation or benevolent order in New York City—that is, one which has more than 400 members, regularly *35 serves meals and regularly receives payment from or on behalf of nonmembers in furtherance of trade or business. During the Council hearings, opponents of Local Law 63 raised the question of the exclusion of religious corporations and benevolent orders. Yet they did not point to one such organization in New York City that would meet the criteria of the Law. Similarly, from the beginning of these proceedings, appellant has maintained its equal protection challenge. Again, it has failed to adduce any evidence that its claim is more than hypothetical. It is not appropriate for this Court to decide appellant's equal protection claim in the absence of a concrete factual record. *See generally United States v. Raines*, 362 U.S. 17, 21 (1960) (The Court will not decide constitutional questions absent “actual controversies.”)⁴⁹

Even if this Court were to assume, without proof, that there are such “similarly situated” religious corporations and benevolent orders in New York City, the classification chosen by the Council would be entirely appropriate. Those similarly situated should be treated alike. But, as this Court said in *Plyler v. Doe*, 457 U.S. 202, 216 (1981):

“[t]he Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same.” *Tigner v. Texas*, 310 U.S. 141, 147 (1940). The initial discretion to determine what is “different” and what is “the same” resides in the legislatures of the States. A legislature must have substantial latitude to establish classifications that roughly approximate the nature of the problem perceived, that accommodate competing concerns both public and private, and that account for limitations on the practical ability of the State to remedy every ill.

*36 Moreover, legislation “does not violate the Equal Protection Clause merely because the classifications [it makes] are imperfect.” *New York City Transit Authority v. Beazer*, 440 U.S. 568, 592 n.39 (1979) (quoting *Dandridge v. Williams*, 397 U.S. 471, 485 [1970]). This Court does not lightly ignore legislative findings supporting a classification. *New York v. Ferber*, 458 U.S. at 758; *Railway Express Agency, Inc. v. New York*, 336 U.S. 106, 110 (1949).

In this case, the City Council had a sound basis for the exemption of religious corporations and benevolent orders. The hearings focused on the exclusion of women from private associations—specifically the affect of the exclusion upon the professional and economic lives of those excluded. The substantial evidence reviewed by the Council showed that exclusion from the downtown businessmen's clubs did have a very harmful effect. In particular, the Council found that business activity does, in fact, often occur at downtown men's clubs which have more than 400 members and which provide regular meal service allowing people to discuss business (JA 15). The Council also found that in New York City women and minorities are seriously disadvantaged in their business and professional careers by being excluded from these clubs.

The Council had no basis for making similar findings with respect to religious corporations and benevolent orders. Although the question of these organizations was raised during the hearings, *see supra*, p. 10, no concrete evidence was presented tending to show that these organizations in New York City had similar commercial purposes or economic impacts. Thus the Council found that because these organizations “have not been identified in testimony before the Council as places where business activity is prevalent, the Council has determined not to apply the requirements of this local law to such organizations” (JA 15).⁵⁰ In addition, the Council was quite sensitive to the constitutional issues raised by the legislation. The Council could well *37 have believed that an association organized for religious or benevolent purposes could have a more serious claim of “expressive association” than the typical downtown businessmen's club. In these circumstances it was entirely rational—indeed prudent—for the Council to cover only those kinds of clubs which, according to the record before it, did have substantial commercial purposes and economic impact. *Cf. Broadrick v. Oklahoma*, 413 U.S. at 607 n. 5 (“a State can hardly be faulted for attempting to limit” the reach of regulatory restrictions).

The Council's findings are supported as well by the separate bodies of law governing religious corporations and benevolent orders. Local Law 63 brings within the City Human Rights Law clubs which provide commercial services to members and nonmembers. However, “religious corporations” are defined as “corporation[s] created for religious purposes.” N.Y. Rel. Corp. Law § 2 (McKinney 1952). As the court explained in *Johnston v. Hughes*, 112 App. Div. 524, 526, 98 N.Y.S. 525, 527 (1st Dept. 1906), *rev'd on other grounds*, 187 N.Y. 446, 80 N.E. 373 (1907), a religious corporation would be either “an incorporated church created to enable its members to meet for divine worship or other religious observances,” or “an incorporated congregation, society, or other assemblage, accustomed to meet for the same purpose.” Religious corporations are not the type of organizations which engage in business activity for the benefit of nonmembers.

Similarly, benevolent orders (also referred to as beneficial associations, benefit societies, or fraternal or friendly societies) are, by statute, organizations which are formed for the protection or relief of their members or their dependents. Section 4501(a) of the New York Insurance Law (McKinney 1985) defines a fraternal benefit society as:

[A]n incorporated society, order or supreme lodge, without capital stock, *formed, organized and carried on solely* *38 *for the benefit of its members and of their beneficiaries* and not for profit, operating on a lodge system and having a representative

form of government, which obligates itself for the payment of insurance or annuity benefits or both in accordance with this article (emphasis supplied).

Moreover, religious corporations and benevolent orders are themselves the subject of separate bodies of legislative enactment, the Religious Corporations Law and the Benevolent Orders Law. The state legislature has thus indicated that these groups are subject to special, if not always different, treatment. Indeed, in other areas of legislation, benevolent orders have been singled out or exempted from legislative enactments. *E.g.*, N.Y. Educ. Law § 5001(2)(e) (McKinney 1981) (schools conducted by fraternal or benevolent orders not subject to state licensing requirements); N.Y. Civ. Rights Law § 53 (McKinney 1976) (benevolent orders exempt from registration and filing requirements applicable to membership and unincorporated associations).

Finally, the Council's classification is supported by a decision of this Court which, although decided in 1928, remains sound. *New York ex. rel. Bryant v. Zimmerman*, 278 U.S. 63 (1928), involved a challenge to section 53 of the New York Civil Rights Law. That section required certain corporations and unincorporated associations (those administering oaths to members) to file by-laws and membership lists with the secretary of state. That statute excluded, among other organizations, benevolent orders. The Court held that the exclusion did not violate the Equal Protection Clause.

The Court started with the proposition, equally applicable here:

"that a State may classify with reference to the evil to be prevented, and that if the class discriminated against is or reasonably might be considered to define those from whom the evil mainly is to be feared, it properly may be picked out."

*39 *Id.* at 73 (quoting *Patsone v. Pennsylvania*, 232 U.S. 138, 144 [1914]). The Court was not impressed with arguments about "symmetry":

"A lack of abstract symmetry does not matter.... It is not enough to invalidate the law that others may do the same thing and go unpunished, if, as a matter of fact, it is found that the danger is characteristic of the class named."

Id.

The Court recognized in *Bryant* that the legislation was aimed at the Ku Klux Klan. The secrecy surrounding the Klan was the "evil to be prevented." The Court deferred to the conclusion of the state legislature, based on common sense and experience, that benevolent orders (and the other exempted organizations) did not present a similar evil.

So, too, here the "evil to be prevented" was the economic and professional injury inflicted upon women and minorities by their exclusion from large downtown businessmen's clubs. The Council could properly pass legislation dealing with that evil and leave for another day the possibility of covering other kinds of associations if and when a showing was made that these other associations presented a similar evil.

*40 CONCLUSION

THE ORDER OF THE NEW YORK COURT OF APPEALS SHOULD BE AFFIRMED.

January 13, 1988

Respectfully submitted,

Peter L. Zimroth,

Corporation Counsel of the

City of New York,

Attorney for Appellees,

Leonard J. Koerner,

Fay Leoussis,

Peter H. Lehner,

Martha Mann, *of Counsel.*

Footnotes

- 1 The clubs' claimed constitutional right would permit them to discriminate equally against women, minorities, and ethnic groups. As will appear below, however, most of the recent discussion and study of this issue deals with discrimination against women. It seems that many members of exclusionary clubs who would be embarrassed to admit that they engage in discriminatory practices against minorities are ready to admit-indeed they proudly proclaim-that they discriminate against women.
- 2 Numbers preceded by the letter "A" refer to pages in the Appendix to Appellant's Jurisdictional Statement. Numbers preceded by the letters "JA" refer to pages in the Joint Appendix.
- 3 By exempting from the reach of the State and City Human Rights' laws places that are not just "private," but "distinctly" private, the legislatures intended a narrower exemption than that which exists in the federal civil rights statute (A8a-A9a). The more permissive federal law excludes from its purview a "private club or other establishment not in fact open to the public." 42 U.S.C. § 2000a(e) (1982).
- 4 See Burns, *The Exclusion of Women from Influential Men's Clubs: The Inner Sanctum and the Myth of Full Equality*, 18 Harv. C.R.-C.L. L. Rev. 321 (1983); Schafran, *Welcome to the Club! (no women need apply)*, Women and Foundations/Corporate Philanthropy (1981); *The All-Male Club: Threatened On All Sides*, Bus. Wk., August 11, 1980, at 90.
- 5 Burns, *supra* at 328 & n.20 (quoting R. Powell, *The Social Milieu as a Force in Executive Promotion* 105 (1969)).
- 6 See E. Lynton, *Behind Closed Doors: Discrimination by Private Clubs* (May 1975) (based on hearings held before the New York City Commission on Human Rights in November, 1973) ("*Behind Closed Doors*"). Excerpts of the report were provided to the City Council in 1983. See Hearings Before the Committee on General Welfare, New York City Council, December 22, 1983 ("Hearings"), written testimony of Jack Greenberg, Director-Counsel, NAACP Legal Defense and Education Fund, Inc. (Appendix) ("Greenberg Appendix"), § IV (4). This testimony is a matter of public record.
- 7 Ginsburg, *Women as Full Members of the Club: An Evolving American Ideal*, 6 Human Rights 1, 19 (1977) (quoted in Hearings, *supra*, written testimony of Janet Studley, Chair, American Bar Association Committee on First Amendment Rights, attachment at 3).
- 8 Hearings, *supra*, written testimony of Judith I. Avner, NOW Legal Defense and Education Fund, at 3.
- 9 *Id.* at 66, oral testimony of Jo-Ann Whitehorn, for herself as a private real estate attorney and for the American Jewish Congress. See also *id.* at 9, 11, oral testimony of Liz Abzug, Deputy Commissioner, State Division of Human Rights; *id.* at 17, oral testimony of Janet Studley; *id.* written testimony of Carol Lister, New York Director, Anti-Defamation League of B'nai B'rith, at 3. Indeed, women have yet to get into those corner offices; only two percent of the top executives surveyed in 1985 were women. Hymowitz & Schellhardt, *The Glass Ceiling*, Wall St. J., Mar. 24, 1986, at 10, c. 1.
- 10 *Behind Closed Doors, supra*, at 20 (quoted in Greenberg Appendix, *supra*, § IV[4]).
- 11 Hearings, *supra*, at 24, oral testimony. See also Burns, *supra*, 18 Harv. C.R.-C.L. L. Rev. at 329; *The All-Male Club: Threatened On All Sides*, Bus. Wk., Aug. 11, 1980, at 90.
- 12 Hearings, *supra*, at 45, oral testimony.
- 13 *Id.*, written testimony, at 5-6.
- 14 N.Y. Times, April 16, 1983, at A29, c.3.
- 15 N.Y.L. Jour., June 20, 1983, at 1, c. 2.

- 16 Hearings, *supra*, at 74, oral testimony. (She was later admitted after several male colleagues forcibly restrained the doorman from barring her.)
- 17 *Id.*, written testimony of Lynn Hecht Schafran, Special Counsel, New York City Commission on the Status of Women, at 5.
- 18 *Id.* at 8, oral testimony.
- 19 Schafran, *Private Clubs, Women Need Not Apply*. Foundation News (Jan/Feb. 1982) (quoted in Greenberg Appendix, *supra*, § VI(1)).
- 20 Hearings, *supra*, written testimony of Lynn Hecht Schafran, at 4.
- 21 *Id.*, written testimony of Isaiah Robinson, Jr., Chairman, New York City Commission on Human Rights, at 2.
- 22 *Id.* at 8, oral testimony of Margaret Boepple; *id.* at 33, oral testimony of Lynn Hecht Schafran.
- 23 *Id.* at 75, oral testimony of Carol Lister; *id.*, written testimony of Lynn Hecht Schafran, at 8.
- 24 *Behind Closed Doors, supra*, at 18-19; Crain's N.Y. Bus., Oct. 19, 1987, at 4, c. 1 (women guests at one club required to use elevator rather than stairs; another club has no women's bathroom; women excluded from main dining room at several other clubs).
- 25 *See* Hearings, *supra*, written testimony of Janet Studley, attachment at 4.
- 26 45 Fed. Reg. 4954, 4955 (January 22, 1980) (contained in Greenberg Appendix, *supra*, §§ II(1); III(1)).
- 27 Hearings, *supra*, written testimony of Carol Bellamy, former City Council President, at 2.
- 28 *Id.*, written testimony. *See also id.*, written testimony of Jack Greenberg, at 5-6; *id.*, written testimony of Ru?? Marcus, at 1.
- 29 *Id.*, written testimony, at 6.
- 30 Letter from J. Wilson Newman to the membership of the University Club (March 31, 1980) (contained in Greenberg Appendix, *supra*, § V[2]).
- 31 *Behind Closed Doors, supra*, at 24.
- 32 Hearings, *supra*, written testimony of Lynn Hecht Schafran, at 2; *id.*, written testimony of Judith I. Avner, at 4.
- 33 *See* Hearings Before the Committee on General Welfare, New York City Council, Sept. 10, 1984, at 8 (adopting amendments to Introductory 513-A, which were incorporated into Local Law 63) ("1984 Hearings") (statement of Councilman Thomas J. Manton).
- 34 Hearings, *supra*, vol. 2 at 24, 59, oral testimony of Albert Blumenthal, Assemblyman; *id.* at 82, 88, oral testimony of Laura Blackburne, Counsel, New York State NAACP.
- 35 *See* 1984 Hearings, *supra*, at 6-7 (Statement of Councilman Thomas J. Manton).
- 36 N.Y.C. Comm. on Human Rights Complaints Nos. EM00312031987DN (Mar.19, 1987); 013026028-PA (Jan. 30, 1986); 013026026-PA (Jan. 30, 1986); 013026027-PA (Jan. 30, 1986).
- The Commission issued a finding of probable cause against the New York Athletic Club on December 10, 1987. The University Club voted to admit women in June, 1987 and the Commission proceeding against it has been discontinued. In August, 1986 the Century Association entered into a settlement with the Commission to the effect that it would admit women if Local Law 63 were upheld. The Commission issued a finding of probable cause against The Union League Club on July 8, 1987. The Union League Club has sued in federal district court to enjoin the Commission's proceedings and the court dismissed that suit. *The University Club and The Union League Club v. The City of New York*, 86 Civ. 2330 (GLG) (S.D.N.Y. Mar. 17, 1987). The Union League Club's appeal to the United States Court of Appeals for the Second Circuit will be argued on January 14, 1988 (Nos. 87-7212, 7273).
- 37 Letter from Committee of 1000 to Members of The University Club, April 16, 1987.
- 38 N.Y. Times, Aug. 22, 1987, at 1. c.3.
- 39 *The Winged Foot*, Aug. 1984 at 19; Aug. 1985 at 37.
- 40 *See* Comm. on Hum. Rgts, Complaint No. EM00312031987DN, ¶ 5(b) (March 19, 1987) (New York Athletic Club); N.Y. Times, Dec. 12, 1984, at B9, c.1; N.Y. Times, Jan. 20, 1983, at B3, c.2; Comm. on Hum. Rgts, Complaint No. 013026028-PA, ¶ 5(b) (Jan. 30, 1986) (University Club); Comm. on Hum. Rgts, Complaint No. 013026026-PA, ¶ 5(i) (Jan. 30, 1986) (Century Ass'n) respectively. *See also, e.g.*, N.Y. Times, Feb. 15, 1985, at D3, c.5 (meeting between Carl Icahn and 150 Wall Street professionals at University Club); *id.* April 25, 1985, at A10, c.1 (reception for John Cardinal O'Connor at University Club); *id.* May 7, 1984, at B7, c.2 (benefit dinner for the Museum of Modern Art at University Club); *id.* Nov. 11, 1985, at A18, c.6 (forum on apartheid by Manhattan Institute for Policy Research at University Club); *id.* Oct. 25, 1984, at B1, c.1 (reception for Atheneum Publishers at Century Association); *id.* Nov. 16, 1984, at C32, c.1 (meeting of 1984 American Book Awards non-fiction panel at Century Association); *id.* Feb. 22, 1982, at D11, c.3 (marketing seminar by Rodale Press Bicycling Magazine at New York Athletic Club); *id.* June 27, 1985, at A1, c.2 (meeting between Hotel Ass'n and Hotel and Restaurant Workers Union at New York Athletic Club); *id.* Apr. 3, 1983, § 1, at 40, c.3 (benefit supper for New York Pops at New York Athletic Club); *id.* Mar. 25, 1981, at C6, c.1 (convention of Association des Maitres Cuisiniers de France at New York Athletic Club); *id.* Nov. 10, 1985, § 10, at 4, c.5 (dinner for astronaut Sally Ride at Union League Club); *id.* Jan. 10, 1985, at A10, c.2 (luncheon for CIA Director Casey at Union League Club); *id.* Jan. 21, 1983, at B6, c.3 (fashion show for 400 at Union League Club); *id.* Dec. 29, 1985, § 1, at 33, c.1 (reception for President of Local Initiatives Support Corporation at Union League Club).

- 41 Those factors are “whether the club (1) has permanent machinery established to carefully screen applicants on any basis or no basis at all, i.e., membership is determined by subjective, not objective factors; (2) limits the use of the facilities and the services of the organization to members and bona fide guests of members; (3) is controlled by the membership; (4) is nonprofit and operated solely for the benefit and pleasure of the members; and (5) directs its publicity exclusively and only to members for their information and guidance” (A8a).
- 42 In their answer, appellees asserted that appellant had no standing to litigate this action (JA 24-25). The New York Supreme Court disagreed (A26a) and the New York appellate courts did not address the issue. Since the resolution of the standing question is determinative of this Court's subject matter jurisdiction as governed by Article III of the Constitution, this Court should address the issue. See *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 260 (1977) (citing *Jenkins v. McKeithen*, 395 U.S. 411, 421 [1969] [plurality opinion]).
- 43 Appellant cites, *inter alia*, a statement of Justice Douglas, dissenting in *Moose Lodge No. 107 v. Irvis*, 407 U.S. 163, 179-80 (1972), to support its claim that this Court has construed the right of association of any number of people gathered for any purpose (App. Br. at 17). However, in *Moose Lodge*, the parties stipulated that Moose Lodge No. 107 “is, in all respects, private in nature and does not appear to have any public characteristics.” *Id.* 407 U.S. at 179 n. 1. Thus, the issue there was not whether the Lodge was private, but whether the issuance of a liquor license to the Lodge constituted state action so as to make the Lodge's refusal to serve a black man a violation of the equal protection clause. Justice Douglas' gratuitous comment in his dissent, therefore, has no bearing on the issues presented here. Moreover, this Court's holdings in *Roberts*, *Rotary*, and *Hishon v. King & Spalding*, 467 U.S. 69 reject Justice Douglas' broad assertion that (407 U.S. at 180): “The individual can be as selective as he desires.”
- 44 See, e.g., *New York v. Ferber*, 458 U.S. at 757-58; *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 252-53 (1964); *Katzenbach v. McClung*, 379 U.S. 294, 303-04 (1964) (Congress legislated a conclusive presumption that a restaurant affects interstate commerce if it serves meals to interstate travelers or if a substantial portion of food served has moved interstate. This Court upheld Congress' determination based only on testimony at congressional hearings that refusal of service to blacks had imposed a burden on interstate commerce.).
- 45 Nor has appellant introduced any evidence to suggest that the admission of women and minorities will impair whatever alleged expressive associational interests any of its 125 member clubs might have. This Court has rejected “unsupported generalizations about the relative interests and perspectives of men and women” as a basis to establish an infringement of expressive associational interests. *Roberts*, 468 U.S. at 628. See also *Rotary*, 107 S. Ct. at 1947 (admission of women will not interfere with Rotary Club's goals of humanitarian service and maintaining high ethical standards in all vocations); *Hishon v. King & Spalding*, 467 U.S. at 78 (rejecting a contention that a law firm's freedom of association was violated by the requirement that applicants for the position of partner be considered without regard to their sex; there was no showing that the law firm's ability to contribute to the ideas and beliefs of society would be inhibited by considering women for partnership).
- 46 If the appellant had made a showing that the admission of women into some of its member clubs in fact infringed the clubs' constitutional rights of association, this Court would then have to decide whether such an infringement was justified (1) in light of the compelling interest in eliminating the discriminatory barriers to economic and professional advancement of women and minorities (*Rotary*, 107 S. Ct. at 1947-48; *Roberts*, 468 U.S. at 622-623); and (2) in light of the fact that by permitting the clubs to use the same subjective criteria in considering applications from women and minorities, the Council had used the least restrictive means of accomplishing its goal. *Id.*
- 47 Appellant also claims that Local Law 63 “chills” the First Amendment rights of clubs with fewer than 400 people because such clubs will “avoid increasing [their] membership for fear of coming within the provision's 400-members criterion” (App. Br. at 40). This argument presumes, incorrectly, that a club with fewer than 400 members, by that fact alone, warrants constitutional protection and that a club with fewer than 400 members is automatically exempt from the coverage of the City Human Rights Law. However, the Court of Appeals clearly stated that the criteria of Local Law 63 are not exclusive. Therefore, clubs with fewer than 400 members, are not, by that fact alone, automatically found to be “distinctly private.” Such a club may be covered by the City Human Rights Law if, for other reasons, it is found to be a “public accommodation.” As the Court of Appeals stated (A9a): Local Law No. 63 does not purport to define for purposes of the City Human Rights Law all circumstances in which a club may not be “distinctly private.”
- 48 Appellant argues in one breath that Local Law 63 is overbroad and, in another, that the law is underinclusive. In *Broadrick v. Oklahoma*, 413 U.S. at 607 n. 5, this Court described as “somewhat odd” the contemporaneous claims made there that the statute challenged was both overbroad and underinclusive.
- 49 Appellant cites cases where courts have pointed to business activities in certain benevolent orders. See App. Br. at 45-46. Those cases involve either issues unrelated to the constitutional issues raised in this case, or they involve orders outside New York City. These cases have no bearing on the correctness of the Council's findings here. There was no concrete evidence adduced before the Council

indicating that, in New York City, benevolent orders and religious corporations are places where important business transactions are regularly conducted by members and nonmembers.

50 See *New York ex. rel. Bryant v. Zimmerman*, 278 U.S. 63, 75-76 (1978) (upholding disparate treatment of benevolent orders on the ground that the legislature could use common sense and experience in making classifications); cf. *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. at 252-53 (relying on congressional hearings, even though without congressional findings, to sustain the validity of the Civil Rights Law).

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 207

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 19

LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1984

No. 63

Introduced by the President (Ms. Bellamy) (by request of the Mayor) and Council Members Horwitz, Manton, Albanese, Alter, Berman, Dear, Dryfoos, Eisland, Ferrer, Foster, Friedlander, Gerges, Greitzer, Katzman, Maloney, Messinger, Michels, Pinkett, Sadowsky, Samuel, Spigner, Williams and Wooten.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the powers of the New York City Commission on Human Rights to eliminate discrimination in clubs that are not distinctly private.

Be it enacted by the Council as follows:

Section one. Legislative Declaration. It is hereby found and declared that the city of New York has a compelling interest in providing its citizens an environment where all persons, regardless of race, creed, color, national origin or sex, have a fair and equal opportunity to participate in the business and professional life of the city, and may be unfettered in availing themselves of employment opportunities. Although city, state and federal laws have been enacted to eliminate discrimination in employment, women and minority group members have not attained equal opportunity in business and the professions. One barrier to the advancement of women and minorities in the business and professional life of the city is the discriminatory practices of certain membership organizations where business deals are often made and personal contacts valuable for business purposes, employment and professional advancement are formed.

While such organizations may avowedly be organized for social, cultural, civic or educational purposes, and while many perform valuable services to the community, the commercial nature of some of the activities occurring therein and the prejudicial impact of these activities on business, professional and employment opportunities of minorities and women cannot be ignored.

The Council recognizes the interest in private association asserted by club members. However, the Council finds that this interest does not overcome the public interest in equal opportunity. Because small clubs, benevolent orders and religious corporations have not been identified in testimony before the Council as places where business activity is prevalent, the Council has determined not to apply the requirements of this local law to such organizations. However, the Council finds that business activity often occurs at clubs having more than four hundred members which provide regular meal service allowing persons to discuss business. The dues and expenses of members at such organizations are often paid by

2

their employers, because the employee's activities at the organization help to develop the employer's business. The organizations also rent their facilities through members for use as conference rooms for business meetings attended by non-members. Organizations where such practices occur provide benefits to business entities and persons other than members and thus are not in fact "distinctly private" in their nature. For this reason, the Council has determined to apply the human rights law to organizations which have more than four hundred members, provide regular meal service and regularly receive payment for dues, fees, use of space, facilities, services, meals or beverages from or on behalf of non-members for the furtherance of trade or business.

It is not the Council's purpose to dictate the manner in which certain private clubs conduct their activities or select their members, except insofar as is necessary to ensure that clubs do not automatically exclude persons from consideration for membership or enjoyment of club accommodations and facilities and the advantages and privileges of membership, on account of invidious discrimination. Nor is it the Council's purpose to interfere in club activities or subject club operations to scrutiny beyond what is necessary in good faith to enforce the human rights law.

2. Subdivision nine of section B1-2.0 of chapter one of the administrative code of the city of New York, as added by local law number ninety-seven of nineteen hundred sixty-five, is amended to read as follows:

9. The term "place of public accommodation, resort or amusement" shall include, except as hereinafter specified, all places included in the meaning of such terms as: inns, taverns, road houses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, or restaurants, or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectionaries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises; retail stores and establishments dealing with goods or services of any kind, dispensaries, clinics, hospitals, bathhouses, swimming pools, laundries and all other cleaning establishments, barber shops, beauty parlors, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, trailer camps, resort camps, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors; garages, all public conveyances operated on land or water or in the air, as well as the stations and terminals thereof; travel or tour advisory services, agencies, or bureaus; public halls and public elevators of buildings and structures occupied by two or more tenants, or by the owners and one or more tenants. Such terms shall not include public libraries, kindergartens, primary and secondary schools, academies, colleges, and universities, extension courses, and all educational institutions under the supervision of the regents of the state of New York; any such public library, kindergarten, primary and secondary school, academy, college, university, professional school, extension course or other educational facility, supported in whole or in part by public funds or by contributions solicited from the general public; or any institution, club or place of accommodation which proves that it is in its nature distinctly private. An institution, club or place of accommodation shall not be considered in its nature distinctly private if it has more than four hundred members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business. For the purposes of this section a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a religious corporation incorporated under the education law or the religious corporations law shall be deemed to be in its nature distinctly private.

No institution, club, organization or place of accommodation which sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words "New York state" in its announcements shall be deemed a private exhibition within the meaning of this section.

3. Paragraph c of subdivision two of section B1-8.0 of such chapter and code, as amended by local law number sixty-two of nineteen hundred seventy-three, is amended to read as follows:

(c) If, upon all the evidence at the hearing, the commission, or such members as may be designated, shall find that a respondent has engaged in any unlawful discriminatory practice as defined in this title, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such affirmative action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, admission to or participation in a program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, evaluating applications for membership in a club that is not distinctly private without discrimination based on race, creed, color, national origin or sex, payment of compensatory damages to the person aggrieved by such practice, as, in the judgment of the commission, will effectuate the purposes of this title, and including a requirement for report of the manner of compliance. If, upon all the evidence, the commission shall find that a respondent has not engaged in any such unlawful discriminatory practice, the commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent. The commission shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereof.

4. Subdivision five of section B1-5.0 of such chapter and code, as amended by local law number ninety-seven of nineteen hundred sixty-five, is amended to read as follows:

(5) To hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any evidence relating to any material under investigation or any question before the commission, provided that the commission shall not require the production of names from a general membership list of any club that is a place of public accommodation.

5. Subdivision two of section B1-7.0 of such chapter and code, as amended by local law number ninety-seven of nineteen hundred sixty-five, is amended to read as follows:

2. It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, national origin or sex of any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, creed, color, national origin, or sex that the patronage or custom thereof of any person belonging to or purporting to be any particular race, creed, color, national origin, or sex is unwelcome, objectionable or not acceptable, desired or solicited. Notwithstanding the foregoing the provisions of this paragraph shall not apply, with respect to sex, to places of public accommodation, resort or amusement where the Commission grants an exemption based on bona fide considerations of public policy. Any place of accommodation which is required as a result of this local law to construct or reconstruct locker room, shower, or other facilities shall be allowed one hundred eighty days from the effective date of this local law to complete such work, and during such one hundred eighty day period shall not be found to be in violation of the provisions of subdivision two of section B1-7.0 of the administrative code which apply to such facilities with regard to discrimination on account of sex. The commission, for good cause shown, may grant an extension not to exceed an additional ninety days of the period allowed such place of accommodation to complete such work.

§ 6. This local law shall take effect thirty days after it shall have become a law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s. s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on October 9, 1984, and approved by the Mayor on October 24, 1984.

DAVID N. DINKINS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 63 of 1984, Council Int. No. 513-A) contains the correct text and, received the following vote at the meeting of the New York City Council on October 9, 1984: 31 for, one against.

Was approved by the Mayor on October 24, 1984.

Was returned to the City Clerk on October 24, 1984.

HADLEY W. GOLD, Acting Corporation Counsel.

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 208

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 20

Submitted by: Carl Smith

T H E C O U N C I L
REPORT OF LEGAL SERVICES DIVISION
COMMITTEE ON GENERAL WELFARE

INT. NO. 513-A

By: The President, (Ms. Bellamy)
(by request of the Mayor); also
Council Members Albanese, Alter,
Berman, Horvitz, Dryfoos, Eisland,
Ferrer, Foster, Friedlander,
Gerges, Greitzer, Katzman, Maloney,
Messinger, Michels, Pinkett,
Sadowsky, Samuel, Spigner, Williams,
Wooten

SUBJECT:

To amend the administrative code of the city of New York, in relation to the powers of the New York City Commission on Human Rights to eliminate discrimination in clubs that are not distinctly private.

ADMINISTRATIVE CODE:

- 1) Amends subdivision nine of section B1-2.0 of chapter one.
- 2) Amends paragraph (c) of subdivision two of section B1-8.0 of chapter one.
- 3) Amends subdivision 5 of section B1-5.0 of chapter one.
- 4) Amends subdivision 2 of section B1-7.0 of chapter one.

INTENT:

The City of New York has a compelling interest in providing its citizens with an environment where all persons, regardless of race, creed, color, national origin or sex, have a fair and equal opportunity to participate in the business and professional life of the City, and may be unobstructed in availing themselves of employment opportunities. Although legislation has been enacted to eliminate discrimination in employment, clearly, women and minorities have not benefited to the fullest due to the exclusionary tactics of clubs operating under the guise of private associations.

It is apparent that while such organizations are organized for social cultural, civic or educational purposes and one could not contest the intrinsic value these organizations serve in the community. The substantial commercial nature of some of the activities occurring therein and the prejudicial effect of these

-2-

activities on business, professional and employment opportunities of minorities and women cannot be overlooked.

The City Council acknowledges the rights of private association asserted by club members; however, this right does not overcome an overriding interest in equal opportunity. Nevertheless, small clubs, clubs formed under the benevolent orders law and religious corporations are excluded from the provisions of the law.

It is not within the scope of this legislation to dictate the manner in which certain private clubs conduct their activities, or select their members insofar as is necessary to assure that clubs do not automatically exclude persons from consideration for, membership or enjoyment of club accommodations and facilities and the advantages and privileges of membership on account of invidious discrimination. Nor is it within the purview of this legislation to authorize unnecessary intrusions upon club functions and activities reasonable to enforce the human rights law.

Analysis

A) Previous legislation. Int. No. 513-A continues in the spirit of its predecessor bills, Int. No. 513 and Int. No. 801; however its language proposes a less stringent test to determine whether a club is truly private. Int. No. 801 defined an institution, club or place of accommodation as not distinctly private if in the preceding year, at least 20 percent of its income from initiation fees, dues, meal or bar service, meeting rooms, athletic fee, room rental and like charges was paid to it for the furtherance of members' trade or business. It further stated that payment for the furtherance of members' trade or business includes payment on members' behalf by their employers or firms to which they belong or by businesses with which they have business relationships, or by members themselves and reimbursed to them by employers, firms or businesses with which they have business relationships; or by members who have deducted said payments in computing net taxable income for

-3-

federal, state, or city income tax purposes. Although Int. No. 801 addressed the issue of payments received towards the furtherance of a business purpose, its impact was far reaching. The Council President had taken the position that the proposed regulations placed a non-excessive responsibility of compliance on clubs rather than on individual members, by requiring clubs to collect and keep information regarding the business nature of membership activities. To buttress her argument she cited IRS regulation §1.501(c)(7) which compels tax exempt private clubs to keep these kinds of records in order to qualify for tax exemptions. Various clubs that had testified at previous hearings, however, strenuously argued that the bill would be unduly burdensome and costly to a great number of smaller clubs.

Int. No. 513 defined an institution, club or place of accommodation as not distinctly private if it has more than one hundred members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of a nonmember for the furtherance of trade or business. In addition, it stated that a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a religious corporation incorporated under the education law or the religious corporations law shall be deemed to be in its nature distinctly private.

Opponents to Int. No. 513 offered several arguments to support these positions. However, the Corporation Counsel's office and the Legal Division of the City Council have determined that none of the issues raised in opposition pass muster. Briefly, opponents contend that there is no need for the legislation because club membership is not an important factor contributing to success in business. This is in error. The NAACP, the NAACP Legal Defense and Education Fund, N.O.W. Legal Defense and Education Fund, and the American Jewish Congress among other groups, testified to the Committee that women and minorities are

-4-

seriously harmed by continuing discrimination in clubs. In addition, it is evident that employers consider club membership important. Furthermore, clubs have acknowledged that a sizable amount of club activity is business related.

Opponents contend that a law prohibiting discrimination by clubs interferes with constitutional rights of privacy and association. In support of this theory they contend that the club is "an extension of the home" which should be free from governmental interference. This is in error. The American Bar Association, State Attorney General, State Human Rights Commissioner, New York Civil Liberties Union, and Corporation Counsel have testified that the law does not violate the Constitution. Moreover, case law supports the assertion that constitutional guarantees do not include a right to discriminate in places where business is conducted. In addition, a federal court has declared, "To have their privacy protected, clubs must function as extensions of members' homes and not as extensions of their business. Racial prejudice will not be permitted to infect channels under the guise of privacy".

Opponents contend that the City Council should not act until the United States Supreme Court decides Gomez Bethke v. United States Jaycees. This is now in error. In a recent unanimous decision dated July 3, 1984, the United States Supreme Court held that Minnesota's laws prohibiting discrimination in places of public accommodation should be applied to the Jaycees, thereby compelling the Jaycees to amend their bylaws to admit women.

Opponents contend that the Legislation will place an undue burden of record keeping on clubs. In addition, they assert the bill unfairly places the burden of proof on clubs which claim to be exempt from the law and they fear that government could use records obtained from the clubs to the detriment of groups holding unpopular views. This is in error. The provisions relating to burden of proof

-5-

codify existing case law. Clubs are already mandated by regulations of the Internal Revenue Service to keep records which could be used by the Commission to enforce the proposed law. In addition, in NAACP v. Alabama the U. S. Supreme Court held that the NAACP could not be compelled to submit its membership lists to the State of Alabama. In light of this decision it is highly unlikely that the Human Rights Commission will abuse its powers and conduct investigations in bad faith.

Opponents contend that the proposed law would cause clubs to go out of business because many members objecting to its requirements would resign. This is in error. The bill will improve club business. There will be an increase in membership from those previously barred and many clubs presently boycotted by employers because of discriminatory policies will allow their employees to join.

Opponents contend that the bill arbitrarily exempts clubs with one hundred members or less, and clubs formed under the benevolent orders law or the religious corporation law and that there is no standard for determining how much income a club must receive from nonmembers before it is subject to the requirements of the laws. This is in error. Case law supports the view that a club loses its distinctly private status in proportion to the size of its membership. Moreover, the bill is directed toward clubs that have demonstrated consistent patterns of business activity. Clearly, religious groups and benevolent orders must be excluded. In addition, the Human Rights Commission will determine by regulation, what constitutes "regular receipt" of payment.

Opponents contend that the City Council does not have the power to enact this law because it conflicts with State law as interpreted by the New York State Court of Appeals in United States Power Squadrons v. State Human Rights Appeal Board. This is in error. In U.S. Power Squadrons the Court of Appeals stated that clubs which are "distinctly private" are run solely for the benefit and pleasure of the members and they limit use of their facilities to their

-6-

members and bonafide guests. In addition, the State Attorney General has submitted a statement to this Committee in support of the bill, and the Assistant Attorney General who argued U.S. Power Squadrons before the Court of Appeals testified before the Committee that the proposed bill is consistent with State law.

8) Present Legislation. The present bill, Int. No. 513-A, mirrors the previous legislation Int. No. 513 except for a few modifications and additions. The threshold requirement of 100 members has been increased to 400 members. In addition, it is clearly articulated in the text of the bill that the Commission "shall not require the production of names from a general membership list of any club that is a place of public accommodation". Therefore, no suppoena power is authorized in this regard.

Lastly, the bill requires any place of accommodation affected by this legislation to construct or reconstruct locker room, shower or other facilities within one hundred eighty days from the effective date of the legislation to provide for members of the opposite sex. The Commission, however, for good cause shown, may grant an extension for an additional ninety days to complete such work.

CS:arp
INT. NO. 513-A
9-10-84

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 209

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 21



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

April 25, 1984

Dear:

A year ago, you joined us by co-sponsoring a bill to ban discrimination in clubs that are not "distinctly private", Intro 513. Women and minority groups have made real progress in recent years in the business world, but their exclusion from these clubs has been a serious and unconscionable handicap in their fight to achieve full equality.

I, as Mayor, made this bill a part of my local legislative package, and I vigorously support it. I, as President of the City Council, am the bill's prime sponsor. Twenty-one Members of the Council besides you also co-sponsored Intro 513. We all agree that distinctly private clubs that are strictly social, religious or fraternal in nature are not at issue. We are talking about large clubs that serve food and drink and make money from outsiders who use their facilities for business purposes. These are the places where business is conducted and thus where those unfairly excluded are put at a disadvantage.

In order to focus attention on this very important bill, which is now stalled in the Council's General Welfare Committee, we will hold a press conference at 11:30 a.m. on Tuesday, May 1, 1984 in the Blue Room at City Hall, to discuss our next plan of action to get this bill passed, which will include your help.

Please join us at the press conference.

Edward I. Koch
MAYOR

Sincerely,

Carol Bellamy
PRESIDENT OF THE COUNCIL

FILED: NEW YORK COUNTY CLERK 12/17/2021 09:43 PM

NYSCEF DOC. NO. 210

INDEX NO. 154010/202

RECEIVED NYSCEF: 12/17/202

Exhibit 22

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

40 WEST 57TH STREET

NEW YORK, N.Y. 10019

(212) 877-8700

LOUIS NIZER
CHARLES BALLON
DINAHORE ADAMS
LEONARD S. BAUM
GEORGE BERGER
ALBERT H. BLUMENTHAL
MARTIN F. BRECKER
DAVID CLUMMAN
RICHARD S. COLLINS
ANGELO T. CONETA
GEORGE R. TEARON
NORTON FREIUCHER
ROBERT W. FREEMAN
PERRY S. GALLER
JAY F. GORDON
STANLEY D. HALPERIN
ROBERT HORAN
THOMAS G. JACKSON
HERBERT KAHN
JANET R. KANE

HITCHELL R. AARON
ROBERT ARAR
EUGENE H. AKELROD
MARSHA N. BINBAUM
RICHARD P. BOURGESIE
GEOFFREY F. BOWERS
DAVID L. BRESMAN
ROSEMARY CARROLL
NARR CHAMLIN
PATRICIA FERRARI
ALAN M. FREEMAN
WALTER D. GOLOSOWITZ
KENNETH S. GOODWIN
MARGARET S. GRAY
ELEANOR GROSS
DAVID E. JACOBY
GEOFFREY MCC. JOHNSON
ROCHELLE BERGMAN KING
ALAN MANSFIELD
ANDREW R. MILSTEIN
MICHAEL H. OBOLINSKY
HARSHA D. OVERALL

NEIL C. KLEINHANDLER
EUGENE H. KLINE
PAUL MARTINDON
GERALD MEYER
JULIA PERLES
SEYMOUR M. PEYBER
GERALD F. PHILLIPS
NEIL A. ROLLIC
WILLIAM F. REILLY
SHEILA GINSBERG RESEL
IRA S. ROSE
MYRON SALAND
ROBERT R. SARHAN
PAUL SAWYER
MICHAEL J. SILVERBERG
MARC L. SILVERMAN
ELLIOTT J. SOLOMON
MARTIN STEIN
ANDREW J. TUNICK
MARTIN S. WASSER

RUTH B. RAISFELD
ARTHUR D. RHEINGOLD
DEBRA A. ROTH
JUDITH S. ROTH
BERNARD ROTHMAN
LOUIS A. RARCELLA
TIBERIO SCHWARTZ
JULES F. SIMON
JEFFREY S. SALAPOFF
GARY J. STRAUSS
JOYCE S. SWERDWIN
WILLIAM A. TANGENBAUM
PAUL C. TANG
JONATHAN R. TILLEN
DAVID M. WARREN
ROBERT S. WEINTRAUB
AARON WEITZ
ROBERT J. WEST, JR.
LESLIE J. WILNER
RUTH J. WITTELMAN
DAVID H. WOLLINS

ARTHUR B. KRIM
LOUIS J. LEFKOWITZ
ALFRED ODMATI, JR.
OF COUNSEL

LOUIS PHILLIPS
(1928-1959)
ROBERT S. BENJAMIN
(1928-1979)

DOMESTIC TELEX
125187
WUI TELEX
888412
TELECOPIER
841-0586
CABLE ADDRESS
PHILLNIZER

September 21, 1983

Hon. Carol Bellamy
City Council
City Hall
New York, New York 10007

Re: Introductory 513

Dear President Bellamy:

We represent the New York State Club Association ["NYSCA"] in connection with its opposition to adoption of Introductory 513 which purports to prohibit discrimination in private clubs. Names of forty-two New York City clubs which oppose the bill are listed in Schedule "A" to this letter. Such forty-two clubs have in excess of 78,000 members, provide full-time employment for 3,692 persons and represent only a sampling of the vast number of New York City private clubs that would be affected adversely by the proposed law. Twenty-six of these clubs admit members of both sexes.

Our clients oppose Introductory 513 because it eliminates the present distinction between those institutions and clubs which have a substantial effect on the public life of the City and those by their nature which are essentially private. Because it is so broadly drawn, Introductory 513 reaches far beyond the traditionally white male clubs which allegedly are its target. Many of the organizations subject to the proposed legislation have been organized, intentionally, along religious, ethnic and gender lines. Others have been formed primarily for the social and athletic benefits they provide. In both instances, they exist as an exercise of the fundamental, constitutionally guaranteed right of private association of their members.

Thus, despite contrary assurances by the sponsors, the result of the adoption of Introductory 513 will be to interject improperly the City Government into a wide array of distinctly private social organizations throughout the City.

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

Hon. Carol Bellamy

-2-

September 21, 1983

By its terms, Introductory 513 will amend Chapter One Title B, Section B1-2-0(9) of the Administrative Code of the City of New York. Title B creates the New York City Commission on Human Rights ("Commission"). It grants to the Commission certain enforcement powers to aid it in eliminating discrimination in a "place of public accommodation", a term which is carefully defined in Subsection 9 of Section B1-2-0. Any person who fails to obey a Commission order is guilty of a misdemeanor.

Expressly excluded from the present Subdivision 9 definition of a "place of public accommodation" are public libraries, a long list of educational institutions and "any institution, club or place of public accommodation which is in its nature distinctly private". (Emphasis added.) (1)

Introductory 513 seeks to amend Subdivision 9 of the City's law by eliminating the automatic exclusion now accorded to private clubs and would:

1. Require every club (with exceptions hereafter noted) to "prove(s) that it is in its nature distinctly private" (placing the burden of proof on each club although no standard of proof or guidelines are provided); and
2. Automatically deprive every club (with exceptions hereafter noted) of the "distinctly private" exemption if it meets three criteria:
 - (a) has more than 100 members;
 - (b) provides regular meal service; and
 - (c) regularly receives payment (regardless of amount) for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of a non-member for furtherance of trade or business.

However, the bill does not require a club to have a substantial impact on trade or commerce; nor does it require that a substantial portion of its income come from the sale of goods and services to non-members.

(1) The exemption for "distinctly private" clubs has existed under State law since 1952 and is presently guaranteed by Section 40 of the Civil Rights Law and Section 292 of the Executive Law.

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

Hon. Carol Bellamy

-3-

September 21, 1983

Although Subdivision 9 of Title B, Section B1-2-0 does not define the phrase "distinctly private", the New York Court of Appeals in the matter of United States Power Squadrons v. State Human Rights Appeal Board No. 314 (Ct. App. July 12, 1983), has construed the identical phrase in Section 292 of the Executive Law and listed the following factors which may be considered in determining whether a club is "distinctly private":

1. Is there "permanent machinery established to carefully screen applicants on any basis or no basis at all, i.e., membership is determined by subjective, not objective, factors"?
2. Does the club "limit(s) the use of the facilities and the services of the organization to members and bona fide guests of members"?
3. Is it "controlled by the membership"?
4. Is it "non-profit and operated solely for the benefit and pleasure of the members"? and
5. Whether it "directs its publicity exclusively and only to members for their information and guidance". (2)

It is obvious that Introductory 513 seeks to amend Subdivision 9 of the City's law based on entirely different and novel standards. Thus, the City's law would no longer conform with the State's statutory provisions exempting "distinctly private" clubs since the City's criteria under Introductory 513 would in no way relate to the factors which the Court of Appeals in the Power Squadrons case has determined should be considered.

It is the policy of the State of New York, as enacted in Section 292 of the Executive Law, that "any institution, club or place of accommodation which is in its nature distinctly private" shall not be considered to be a "place of public accommodation, resort or amusement". Introductory 513 is inconsistent with that provision of statewide application as construed by the Court of Appeals and, if enacted, would be unauthorized and invalid under Article IX, Section 2(c) of the New York State Constitution and Article 10, subd. 1(i) of the Municipal Home Rule Law which limit the power of local governments to the enactment of laws "not inconsistent with any general law".

- (2) The Court of Appeals held that the Power Squadrons did not merit this test for other reasons.

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

Hon. Carol Bellamy

-4-

September 21, 1983

The Court of Appeals has laid down a very simple test in determining whether a local law is inconsistent with a State statute:

"However, where the extension of the principle of the State law by means of the local law results in a situation where what would be permissible under the State law becomes a violation of the local law, the latter law is unauthorized." Wholesale Laundry Bd. v. City of N.Y., 17 App.Div.2d 327, 330, 234 N.Y.S.2d 862 (1962), aff'd on opinion below, 12 N.Y.2d 998, 189 N.E.2d 623, 239 N.Y.S.2d 128 (1963). (3)

A men's club or a women's club (for example) would not be in violation of the Executive Law provisions relating to places of public accommodation but would be in violation of the provisions of Introductory 513.

Bills have been introduced in the New York State Legislature which would amend Sections 292 and 297 of the Executive Law to conform to the provisions of Introductory 513 but, to date, have not passed. Until those bills shall become law, the Council does not have the power to pass Introductory 513.

Moreover, Introductory 513's unprecedented standards are not applied rationally or equitably. The proposed amendment excludes:

1. corporations organized under or described in the Benevolent Orders Law; and
2. corporations organized under the Education Law or the Religious Corporations Law.

Thus it would appear that the Moose Lodge and the Elks Lodge, each of which was organized under the Benevolent Orders Law, has more than 100 members, provides regular meal service, and has members who are reimbursed by non-members for fees, dues, or other services, will be excluded from the amendment.

Even more anomalous results are possible. For example, while the New York Athletic Club may lose its exemption under Introductory 513, American Legion Post #754, which is comprised of NYAC members and holds its functions at NYAC facilities could freely discriminate within that club simply because the American Legion is organized under the Benevolent Orders Law.

Although the sponsors' memorandum indicates that the targets of the change are clubs like the New York Athletic Club, the University Club, or the Harmonie Club, in point of fact, every club will be subject to the scrutiny of the Commission, including "clubs

(3) See also F.T.B. Realty Corp. v. Goodman, 300 N.Y. 140, 89 N.E.2d 865 (1949).

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

Hon. Carol Bellamy

-5-

September 21, 1983

where people go to see their friends and socialize". Once a complaint is asserted against the Marco Polo Club, for example, the burden will be on it to "prove that it is in its nature distinctly private".

According to Gales' Encyclopedia of Associations (14th Edition 1980), more than 600,000 people in New York State are members of formal organizations which limit their membership on the grounds of race, religion, sex or national origin. Four hundred seventy-nine organizations limit their membership to women.

Therefore, contrary to the assurances of the sponsors in the supporting memorandum, Introductory 513 constitutes a radical departure from the established exemption for private clubs in New York City, New York State, and indeed through the country. At risk will be every association organized along ethnic, religious or gender lines. And if they are not yet at risk, they may still lose their exemption under the sweeping guidelines of Introductory 513 if they ever rent their facilities to non-members for trade or business purposes, even if such rental income is insubstantial.

Even if Introductory 513 were more focused in its application, it would nevertheless encroach impermissibly on the right of association guaranteed by the First Amendment of the United States Constitution [through the Fourteenth Amendment] and Sections 8 and 9 of Article 1 of the New York State Constitution. This fundamental right has been confirmed in case after case by the United States Supreme Court.

In this respect, it becomes important to focus on the enforcement powers which the Commission already has under Subdivisions "(4)" and "(5)" of Section B1-5.0 of the Administrative Code as they relate to the changes proposed in Introductory 513. They grant the Commission the power:

"(4) To receive, investigate and pass upon complaints and to initiate its own investigations *** (and)

(5) To hold hearings, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any evidence relating to any material under investigation or any question before the commission."

We respectfully submit that the City Council must ask itself whether it wishes to expose every club in the City to an examination which could include its membership lists and financial records as part of a proceeding before the Commission to determine whether a club can "prove that it is in its nature distinctly private".

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

Hon. Carol Bellamy

-6-

September 21, 1983

Regardless of what motives the sponsors of Introductory 513 may have, the efforts of others to breach the wall of protection which surrounds the right of private association have not always been so well founded. Thus, in NAACP v. Alabama, 357 U.S. 449, 460-61, 78 S.Ct. 1163, 2 L.Ed.2d 1488 (1958), the United States Supreme Court held that the NAACP could not be compelled to submit its membership lists to the State of Alabama since compelled disclosure of such information would infringe upon the right of NAACP members to associate freely and pursue their interests privately. In so doing, the Court (Harlan, J.), held:

"It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech (citations omitted). Of course, it is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny."

As Justice Douglas (joined by Justice Marshall) wrote in Moose Lodge No. 107 v. Irvis, 407 U.S. 163, 92 S.Ct. 1965, 32 L.Ed. 2d 267 (1972):

"My view of the First Amendment and the related guarantees of the Bill of Rights is that they create a zone of privacy which precludes government from interfering with private clubs or groups. The associational rights which our system honors permit all white, all black, all brown, and all yellow clubs to be formed. They also permit all Catholic, all Jewish, or all agnostic clubs to be established. Government may not tell a man or woman who his or her associates must be. The individual can be as selective as he desires. So the fact that the Moose Lodge allows only Caucasians to join or come as guests is constitutionally irrelevant, as is the decision of the Black Muslims to admit to their services only members of their race." (Emphasis added.)

Similarly, in Evans v. Newton, 383 U.S. 296, 298, 86 S.Ct. 486, 15 L.Ed.2d 373 (1966), the Supreme Court (Douglas, J.) defined freedom of association as:

" PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

Hon. Carol Bellamy

-7-

September 21, 1983

"The right of the individual to pick his own associates so as to express his preferences and dislikes, and to fashion his private life by joining such clubs and groups as he chooses."

Mr. Justice Goldberg (with Justices Warren and Douglas concurring) elaborated on the principle in the context of the right of privacy as follows:

"[The] constitutional protection extended to privacy and private association assures against the imposition of social equality. As noted before, the Congress that enacted the Fourteenth Amendment was particularly conscious that the 'civil' rights of man should be distinguished from his 'social' rights. Prejudice and bigotry in any form are regrettable, but it is the constitutional right of every person to close his home or club to any person or to choose his social intimates and business partners solely on the basis of personal prejudices including race. These and other rights pertaining to privacy and private association are themselves constitutionally protected liberties".
(Emphasis added.)

Bell v. Maryland, 378 U.S. 226, 373, 84 S.Ct. 1814, 12 L.Ed.2d 822 (1964).

Because of this fundamental right, the New York Court of Appeals tolerates little governmental intrusion into private clubs and associations. The Court drew the line when it refused to deprive the Kiwanis Club of Great Neck of its "distinctly private" club exemption under the Executive Law. Kiwanis Club of Great Neck v. Bd. of Trustees of Kiwanis International, 83 Misc.2d 1075, 1079, 374 N.Y.S.2d 265, 269 (S.Ct. Nassau Co.1975), aff'd, 52 App. Div.2d 906 (2nd Dep't 1976), aff'd, 41 N.Y.2d 1034, 395 N.Y.S.2d 633, 363 N.E.2d 1378, cert. denied, 434 U.S. 859, 98 S.Ct. 183, 54 L.Ed.2d 132 (1977).

Despite the Kiwanis Club's demonstrated business purpose, the Court of Appeals held the state could not constitutionally force it to admit women:

"Although the Kiwanis Clubs' community-oriented activities may extend into the public sphere, the intrusion indicated on this record is not so extensive, or of the quality, as to permit governmental supervision of essentially private activity in the constitutional sense."
41 N.Y.2d at 1034.

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

Hon. Carol Bellamy

-8-

September 21, 1983

In so holding, the Court rejected the argument of the dissenting Justice below who believed that:

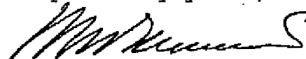
"The legislature intended [statutes relating to discrimination] to encompass the right of self-employed professionals and persons engaged in business to have access, without discrimination based on sex, to groups or clubs other than those distinctly private in their nature and which give to the members additional potential sources of patronage or business." 52 App.Div.2d at 917.

Thus, in rejecting this rationale, the Court of Appeals rejected the rationale for Introductory 513. Clearly, the fact that a member may join a club at least in part for business reasons, will not deprive the club or its members of their right to associate with whom they wish. This principle has been repeatedly confirmed by courts throughout the country in universally unsuccessful actions to prohibit the gender-based discriminatory policies of the Jaycees (which functions as a chamber of commerce). See United States Jaycees v. McClure, 709 F.2d 1560 (8th Cir. 1983); New York City Jaycees, Inc. v. United States Jaycees, Inc., 512 F.2d 856 (2nd Cir. 1975); Junior Chamber of Commerce of Rochester, Inc. v. United States Jaycees, 495 F.2d 883 (10th Cir. 1974).

In conclusion, we believe that Introductory 513 is an inappropriate attempt to circumvent well established constitutional rules which protect private rights and distinguish them from public responsibilities.

Most important, we would appreciate the opportunity to meet with you concerning the proposed law and to be heard by the Committee of the City Council to which it has been referred before it is finally considered by the City Council.

Respectfully yours,



Albert H. Blumenthal

AHB:ma

cc: Hon. Edward I. Koch
Hon. Thomas J. Cuite
Hon. Frederick A.O. Schwarz, Jr.
Members of the Council

SCHEDULE "A"

The following clubs have granted their formal consent for the use of their names as standing in opposition to New York City Bill Introductory 513:

1. The Broad Street Club, Inc.
2. The Brook, Inc.
3. The Century Association
4. City Athletic Club
5. The Club at Citicorp Center
6. The Club at World Trade Center
7. Cornell Club of New York
8. The Cosmopolitan Club
9. Down Town Association
10. Downtown Athletic Club
11. Drug and Chemical Club of New York City, Inc.
12. Friars Club
13. Harbor View Club
14. Harmonie Club
15. Knickerbocker Club
16. Knickerbocker Field Club
17. Links Club
18. Lotos Club
19. Manhattan Chess Club
20. Marco Polo Club
21. Merchants Club
22. The Metropolitan Club
23. Mining Club, Inc.
24. New York Athletic Club
25. Pachino Social Club, Inc.
26. The Pinnacle Club
27. The Princeton Club of New York
28. Racquet and Tennis Club
29. The Recess
30. Richmond County Country Club
31. The River Club of New York, Inc.
32. Regency Whist Club
33. St. Anthony Club
34. Stock Exchange Luncheon Club
35. Union Club of The City of New York, Inc.
36. Union League Club
37. The University Club

38. Vatel Club
39. Whitehall Lunch Club
40. Williams Club
41. The Wings Club, Inc.
42. The Yale Club of New York City

Note: Of the 42 clubs granting consent for the use of their names in opposition to Introductory 513, 26 clubs admit members of both sexes.