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Before the

Federal Communications Commission

Washington, DC 20554

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In the Matter of

Request for Review of the

Decision of the

Universal Service Administrator by

CC Docket No. 96-45

CC Docket No. 97-21

Eastern Parkway Chabad Resource Center

Library of Agudas Chassidei Chabad Lubavitch

770 Eastern Parkway

Brooklyn NY 11213

Form 471 Application # 230062

Funding Year 4

Entity # 217541

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List ABCDE

This letter is an appeal of an SLD Funding Commitment Decision, dated January 25, 2002, that determined Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch is not an entity eligible to receive funding under program rules. The applicant maintains that it is indeed eligible and that it meets the eligibility requirements set forth in 47 U.S.C 254(h)(4). The applicant files this appeal directly with the Commission because this appeal entails the interpretation of unclear provisions of statutes and rules, a matter that the SLD is not authorized to rule on pursuant to 47 CFR 54.702(c).

FACTS

Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch is an independently funded library that is open to the public. The library has one the largest and most extensive collections in the world of philosophical, theological and legal works of a Judaic nature. This collection was amassed from the 18th century to the present. The library has approximately 250,000 volumes, many of them extremely rare and out of print and not available anywhere else in the world. The primary purpose of the library is to provide researchers with a comprehensive collection of material in their respective areas of expertise. A detailed description of the exact nature of this collection is provided in a brochure published by the library and is presented along with this filing as Exhibit A[1].

The library filed a Form 471, application #230062, requesting funding for certain items through the e-rate program for Funding Year 4. The SLD did not conduct any correspondence or make any contact with the library throughout the review process of that application. Subsequently the SLD issued a Funding Commitment Decision to deny all FRN's in the library's application. The Funding Commitment Decision Explanation

[1] See also the library's website at www.chabadlibrary.org

provided was that the library "is not eligible to receive funding based on the program rules for eligible entities". The SLD provided no further explanation.

Although the SLD explanation does not describe which program rules it was referring to, correspondence that the SLD conducted with other libraries affiliated with the applicant provides an understanding of the SLD's interpretation of the program rules under which the SLD concluded that the applicant is an ineligible entity. In a letter sent by the SLD to many other libraries applying for funding under the e-rate program the applicants were notified that the SLD must establish that the library was eligible for Library Services and Technology Act funding at the time that the application was filed. The SLD instructed those libraries to contact their state's State Library office to receive certification of LSTA eligibility. The apparent and reasonable interpretation of these instructions was that the State Library was to certify that the library met the criteria to receive LSTA funding under that state's LSTA grant program.

In a different letter by the State Library of California an applicant was advised that the State Library was requested by the SLD to verify that applicant's eligibility to receive LSTA funding. That letter explicitly stated that for a library to be eligible for Universal Service that library must meet both federal LSTA eligibility criteria and additional conditions imposed by the state of California, such as the library having qualified staff, which California library law defines as at least one member who has completed a masters level library education program accredited by the American Library Association[2].

The state in which the applicant is located, New York, allows only libraries that are members of a regional library system to participate in its LSTA funded programs. The New York Metropolitan area regional library system, where the applicant is located, requires its members to participate in an interlibrary loan program. Since the applicant does not participate in such a program it is not eligible for membership in the Metropolitan New York Library Council, and therefore not eligible to participate in LSTA funded programs administered by the state of New York. Apparently the SLD concluded that since the applicant did not meet the criteria that New York established for

[2] See California LSTA eligibility criteria in Exhibit B

participants in its LSTA funded programs the applicant was therefore not eligible to receive Universal Service under program rules.

QUESTIONS PRESENTED

47 U.S.C. 254 (h)(4) states as follows; Eligibility of users: No entity listed in this subsection shall be entitled to preferential rates or treatment as required by this subsection, if such entity operates as a for-profit business, is a school described in paragraph (5)(A) with an endowment of more than $50,000,000, or is a library or library consortium not eligible for assistance from a State library administrative agency under the Library Services and Technology Act (20 U.S.C. 9121 et seq.).

I) Does the above subsection require a library to meet criteria established by a state, as a condition to receive grants from that state's LSTA funds, in addition to meeting the eligibility criteria for LSTA funding under section 20 U.S.C. 9122?

II) 20 U.S.C. 9163 provides that the determination of the best use of LSTA funds shall be reserved for the States and their local subdivisions. If a state determines that funding a particular type of library is not the best use of its limited funds does that deem that library not "eligible for assistance from a State library administrative agency"?

III) Did the SLD exceed the authority vested in it by Congress or the Commission in determining that Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch is an entity that is not eligible to receive funding under program rules?

DISCUSSION

20 U.S.C. 9122 (2)(d)(i,ii), the LSTA Act cited in 47 U.S.C. 254(h)(4) as the definition of a library, sates; The term "library" includes - (D) a research library, which for the purposes of this subchapter means a library that - (i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and (ii) is not an integral part of an institution of higher education. The library's stated mission and purpose is to provide material not otherwise available for researchers, writers, professors and members of the clergy[3]. The library is also not affiliated with any institution of higher education. It is therefore clear that the applicant qualifies as a research library and therefore meets the statutory definition of a library under the LSTA Act and is eligible to receive funding under the LSTA Act.

I) The SLD decision, which determined that the applicant is an entity not eligible to receive funding under program rules assumes that the intent of (h)(4) is that a library must qualify for the actual allocation of an LSTA grant in its state, regardless of what criteria that state established for participants in its LSTA programs. However it is apparent and evident from the Commission's Universal Services Report and Order that the reference to the LSTA Act was for the purpose of defining libraries eligible for support. The intention of (h)(4) is that for purposes of universal services eligibility a library shall be defined according to the definitions of a library as set forth in section 20 regarding eligibility for LSTA. Therefore any library that meets the conditions set forth in the LSTA act is eligible for Universal Services funding.

In the Report and Order [4]the Commission decides to "adopt the definition of library contained in the Library Services and Technology Act for purposes of section 254(h)". In section 10 of the Report [5]the Commission addresses the issue of library eligibility with the following language "Section 254(h)(5) does not include an explicit definition of libraries eligible for support. Rather, in section 254(h)(4)'s eligibility criteria, Congress cited LSCA" (amended in 1996 to LSTA, see *infra*), "We, therefore,

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[3] see Exhibit A p.7
[4] at 32
[5] at 556

adopt the LSTA definition of library for purposes of section 254(h)[6]. (See also footnote 1436 which references the LSTA Act as a definition of "a library").

The above demonstrates clearly and persuasively that (h)(4) is to be construed as requiring eligible libraries to satisfy the definition of libraries set forth in the LSTA Act. By citing that Act it was not the intent of Congress to limit eligibility only to those libraries that qualify for an actual grant under an LSTA funded program administered in that library's state.

254(h)(4) initially cited LSCA which limited eligible libraries to public libraries and a limited group of research libraries. In 1996 when LSCA was repealed and replaced with the LSTA Act[7], an act that greatly broadens the definition of a library, (h)(4) was amended to reference the LSTA Act. The explicit purpose of amending (h)(4) was to grant more libraries access to universal services, and to broaden the scope of eligible libraries..

If (h)(4) is to be construed as to require libraries to qualify for funding under state administered LSTA program guidelines, the effect of that amendment would actually limit the scope of eligible libraries and the resulting definition of libraries for purposes of Universal Service eligibility would actually be narrower then what it would be under the LSCA definition.

California along with several other states require a library to be staffed by a person with a masters degree in library or information science. Thousands of public libraries, eligible under LSCA, do not have librarians who have completed a masters level library education program accredited by the American Library Association[8], or do not meet other conditions imposed by certain states, and would therefore not qualify to participate in an LSTA funded program in those states.

In addition LSCA supported funding for certain academic libraries that were not supported through public funds. Under LSTA there are ten state library agencies [9] that do not administer an LSTA funded program that provides assistance to academic libraries.

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[6] at 558

[7] Pub. L. 104-208, div. A, title I, Sec. 101(e) (title VII, Sec. 708 (a)), Sept. 30, 1996, 110 Stat. 3009-233, 3009-312

[8] The National Center for Educational Statistics database shows that in 1999 there were 4961 public libraries that did not have ALA-MLS librarians

[9] Source, NCES. Those states are; Alabama, Hawaii, Louisiana, Maine, Maryland, Minnesota, Tennessee, Texas Vermont and the District of Columbia

Of the agencies that do provide grants to academic libraries, many limit that funding to those that are publicly funded. Thus the result of amending (h)(4) to LSTA would serve primarily to disqualify previously eligible entities.

Construing (h)(4) as to require libraries to qualify for participation in an actual state administered LSTA program would defeat the legislative intent in amending (h)(4), which was to broaden the scope of eligible libraries. Such construction would also result in a policy that excessively discriminates against libraries depending on which state the library is located.

It is therefore apparent that in amending (h)(4), Congress intended that for purposes of qualifying for Universal Service libraries are required to meet only the statutory definition of libraries as set forth in the LSTA Act. Libraries are not required to qualify for participation in an actual LSTA funded program. Therefore Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch which meets the statutory definition of libraries as set forth in the LSTA Act is eligible for Universal Service.

II) 20 U.S.C. 9141(a) sets forth a wide set of purposes for which states may apportion funding received under the LSTA Act. Specifically, paragraph (b) of that subsection allows states to apportion its share of funding "as appropriate, to meet the needs of the individual State".

20 U.S.C.9163 states; "Nothing in this subchapter shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subchapter, the determination of the best uses of the funds provided under this subchapter, shall be reserved for the States and their local subdivisions".

The only restriction placed on states in utilizing LSTA funds is that its expenditures be "consistent with the purposes of this subchapter". A state is not required to appropriate LSTA funds to every entity that is eligible to receive funding under the Act. As a result of this allocation mechanism a library may be "eligible for assistance from a State library administrative agency", as defined in the eligibility criteria set forth

in section 9122, and still not qualify for any of the programs that were established in that state because the state has the discretion to determine "the needs of that individual state".

Section 9151 requires states that wish to establish an advisory council that the council be "representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities". Clearly the legislative intent was that although an entity may not receive funding, that entity is nonetheless eligible to receive funding and therefore has the right to participate in decisions made regarding that funding.

Section 9122 (2)(E)[10] clearly limits state authority to determine "that a library should be considered a library for purposes of this subchapter" to private or special libraries not included in (2)(A, B, C or D) of that subsection. It is evident that state authority to determine whether a library is considered a library for purposes of LSTA is restricted to the category of libraries described in (2)(E). Other libraries, eligible under 9122, are designated as libraries for purposes of the Act regardless of state recognition of that library for purposes of LSTA.

In light of the above it is plain and obvious that a library that does not qualify for funding, allocated by a state under a state's discretion to determine "the needs of that individual state", is nevertheless eligible, as a matter of law, to receive LSTA funding. An interpretation of (h)(4) as to require a library to qualify for actual funding from an LSTA funded state administered program is clearly erroneous.

III) The SLD decision entails findings and rulings in regard to both questions of law and matters of fact. The SLD ruling on both of these matters was not in compliance with the rules and procedures established by the Commission.

A) Matters of Law. The SLD ruling that the applicant is ineligible to receive funding under program rules is based on an interpretation of Section 254 (h)(4). The SLD

[10]Section 9122 (2)(E) states; a private library or other special library, but only if the State in which such private or special library is located determines that the library should be considered a library for purposes of this subchapter.

is not authorized to interpret this statute. 47 CFR 54.702(c) limits the authority of the SLD as follows; The Administrator may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress. Where the Act or the Commission's rules are unclear, or do not address a particular situation, the Administrator shall seek guidance from the Commission.

The SLD decision, which determined an entity's eligibility under program rules, is based on the interpretation of unclear provisions of a statute, an interpretation it was not authorized to make. Accordingly the Funding Commitment Decision based on that interpretation must be vacated.

B) Matters of Fact. The SLD decision may be based on certain factual findings and assumptions pertaining to the nature of Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch [11]. The process in which the SLD arrived at these factual findings was not in compliance with FCC rulings.

The SLD decision may be explained, in the alternative, that the SLD, without requesting any additional information from the applicant, concluded as a matter of fact that Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch did not qualify as a research library under 20 USC 9122(2)(d)(i,ii).

According to SLD written procedure the SLD must consider new information on appeal if "there is evidence on file that the applicant was not given the opportunity to provide us with documentation during the review process"[12]. Since the record clearly shows that the applicant was never provided with the opportunity to demonstrate that it was an eligible entity, the SLD finding must be vacated and the issue of the applicant's eligibility for Universal Service shall be remanded for further review so that Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch may be given the opportunity to provide documentation as to the nature of its library classification and as to its eligibility under (h)(4) and its qualification according to 20 USC 9122(2)(d).

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[11] The Applicant acknowledges the need to verify an entity's eligibility, however to do so in a manner that discriminates against and disqualifies eligible applicants is not a reasonable application of the Commission's rules under the schools and libraries support mechanism. *see United Talmudical Order* 15 FCC Rcd 430-431, para. 15.

[12] SLD website, www.sl.universalservice.org/reference/AppealsSLDGuidelines.asp

CONCLUSION-RELIEF REQUESTED

The SLD erred in its interpretation of 254(h)(4) in requiring the applicant to meet state imposed LSTA eligibility criteria. The SLD further erred in its classifying an entity that does not qualify for participation in a state's LSTA funded program, because of that state's discretion not to allocate funding to an eligible entity, as "not eligible for assistance from a State library administrative agency under the Library Services and Technology Act". The SLD also exceeded its authority in interpreting unclear provisions of statutes or rules. In the alternative, the SLD did not give the applicant an opportunity to provide information during the review process.

Because of the above stated reasons Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch requests that the Commission grant the following relief;

1.) Find that Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch was eligible to receive funding for Year 4, and that such funding shall be granted[13].
2.) Find that Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch is an entity eligible to receive funding in Year 5 and in future years.
3.) Find that the SLD was not authorized to determine an entity's eligibility based on the interpretation of an unclear statute[14].
4.) In the event that it shall be determined that further information is required in order to determine the nature of Eastern Parkway Chabad Resource Center, Library of Agudas Chassidei Chabad Lubavitch's status under 20 USC 9122(2)(d) that the applicant shall be afforded the opportunity to

[13] pursuant to 47 USC 254(h)(4) and 20USC 9122(2)(d)
[14] pursuant to 47CFR 54.702(c)

provide such information, and that the SLD should advise the applicant as to how such information may be provided[15].

[15] pursuant to Request for Review by St. Stanislaus Grade School, Order No. DA 01-285, File No. SLD-142493, and SLD stated policy as posted on the SLD website

EXHIBIT A

LIBRARY of

Agudas Chassidei Chabad - Ohel Yosef Yitzchak

Lubavitch

- Short review -

The Library

The Library of Agudas Chassidei Chabad Ohel Yosef Yitzchak Lubavitch is located at the international headquarters of the Chabad movement: 770 Eastern Parkway, Brooklyn, New York.

The Library is one of the most distinguished Judaic libraries, containing approximately 250,000 books, the majority of which are aged and rare. Around 200,000 of these are printed in the languages of Hebrew and Yiddish, while the remaining 50,000 are in a variety of other languages.

In addition to books, the Library houses:

- A collection of several thousand hand-written volumes, virtually all on Chabad Chassidic philosophy; manuscripts penned by the Lubavitcher Rebbes, or copied by chassidim;
- A vast archive of letters and articles related to the Chabad movement, including the giant letter collection of the sixth Lubavitcher Rebbe, Rabbi Joseph I. Schneersohn;
- Sacred items bequeathed to posterity by the Lubavitcher Rebbes, as well as a wide variety of items presented as gifts to the seventh Lubavitcher Rebbe, Rabbi Menachem M. Schneersohn, over the years of his leadership;
- A collection of photographs of chassidim and Chabad activities sent to the sixth and seventh Lubavitcher Rebbes during their years of leadership;
- An expansive collection of news clippings on the Chabad movement and general world Jewry; and
- Flyers and ads of all sorts which were sent to the Rebbes over the years.

A special staff works regularly on the manuscript and archive collections. Their work produces many books of the Chabad Rebbes' essays, talks and letters.

Only the book section of the Library is open to researchers, by means of a computerized, detailed catalog. This catalog is also available to the public at large via internet: www.chabadlibrary.org.

The Library also features an Exhibition Hall, where selected holdings from the archives of artifacts, photographs, books and manuscripts are displayed.

HISTORY

Throughout the Chabad movement's long history, beginning with its' White Russian roots, a collection of books and manuscripts was at the center of the movement, in the Rebbe's house.

The collection of the early generations (late 1700s-early 1800s) was actually small in quantity. Very little remains of this original collection: the overwhelming majority of its' constituent books and manuscripts were destroyed in the many fires that plagued small towns in Russia and Eastern Europe in those days, or lost to the ever-changing circumstances and conditions of the times.

The bulk of the existing collection began forming in Chabad's third generation (the mid-1800s), and progressively expanded in the course of time to transform into one of the most significant Judaic libraries worldwide.

We have a list of about one hundred printed books of the library's first-generation. Imperial authorities took these listed books from the home of the "Alter" Rebbe, Rabbi Shneur Zalman of Liadi (the first Chabad Rebbe), at the time of his arrest. (Apparently, only part of his library was seized, for the purpose of searching for evidence of subversion).

Based on the list, it seems that Rabbi Shneur Zalman's entire collection consisted of a mere few hundred books (this tiny collection of volumes was huge for the Russia of then, yet it was too small for the title of "library").

Towards the end of his life, two fires ravaged the Alter Rebbe's home. The first one, in the year 1810, claimed the Rebbe's manuscripts, particularly the original texts of his Shluchan Aruch. The second conflagration occurred during the War of 1812, as Rebbe, court and family fled the advancing forces of Napoleon, living on the move until the Rebbe passed away on the 24th of Teves, 5573 (December 24th, 1812).

In mid-1813, the "Mitteler" Rebbe - Rabbi Shneur Zalman's son, successor and the second Chabad Rebbe - settled in the town of Lubavitch. He built a large synagogue and a house for himself, where he accumulated a 611-volume library ensconced on the shelves of four bookcases (according to a police report made after a home search conducted in 1825).

A collection of substance took serious form in the third generation, under the "Tzemach Tzedek," the third Chabad Rebbe, and continued to grow in ensuing generations.

This collection endured many occurrences as time marched on:

- A vital part of it was consumed by outbreaks of fire in the town of Lubavitch;
- Part of its' printed book section ended up in the hands of the inheritors of both the Tzemach Tzedek and Rabbi Shmuel of Lubavitch (the "Rebbe Maharash", the fourth Chabad Rebbe) upon their passings;
- In 1924, the majority of its' printed book section was confiscated by the Communist government of Russia (forcing the sixth Chabad Rebbe, Rabbi Joseph I. Schneersohn, to build a new collection of printed books);
- In 1939, at the Nazi invasion of Poland and subsequent rescue of Rabbi Schneersohn and family, this entire new collection remained in Poland under Nazi occupation. After a year-and-a-half of rescue efforts and haphazard transfers from place to place, it arrived in New York at the end of 1941; and
- From 1985 to 1987, a protracted court battle was (successfully) waged against Rabbi Schneersohn's grandson, who claimed ownership over parts of the library.

Despite all the troubles, the known majority of this great antique collection, personally assembled year after year by the Rebbes of Chabad, was kept intact. The lion's share remains safely stored on the premises of the Agudas Chassidei Chabad Ohel Yosef Yitzchak Lubavitch Library.

The Library's books are divided into three sections:

the Lubavitch Collection, the Previous Rebbe's Collection and the Rebbe's Collection:

THE LUBAVITCH COLLECTION

Most of the books gathered in Lubavitch by the Chabad Rebbes from the early 1800s to 1915 are currently held by the Moscow Public Library.

Rabbi Shalom Ber Schneersohn, the fifth Chabad Rebbe (known as the "Rebbe Rashab"), was forced to flee at the outbreak of World War I as the German army approached the area. He abandoned Lubavitch and relocated, with his family, to Rostov (on the Don River), sending his treasured books to a Moscow warehouse for safeguarding, with intention of retrieving them at war's end.

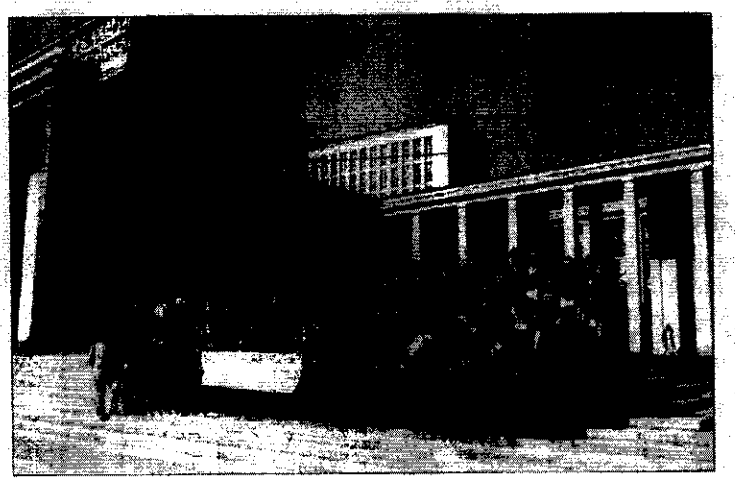
However, the Rebbe Rashab passed away in Rostov just before the world saw peace.

Leadership of Lubavitch passed to his son and successor, Rabbi Joseph I. Schneersohn, the sixth Chabad Rebbe, who expressed interest in the books' condition and their return from the warehouse. But the Communist regime swung into power, appropriated all warehouses and all other private real estate properties, and seized the books and deposited them at the Moscow Public Library.

The Previous Rebbe worked for the books' release for many years. Yet for all his multifaceted efforts, he failed to retrieve them.

As soon as the buds of a new era began sprouting in Russia, in 1981, the contemporary Lubavitcher Rebbe, Rabbi Menachem M. Schneersohn, began efforts anew towards the redemption of this sacred store. The Rebbe expended the greatest energies for over ten years, dispatching special representatives for this cause. Twice the Rebbe sent a special contingent to Russia for a prolonged stay and book-redemption mission. Yet the collection remains trapped in the Moscow Public Library.

Today, work continues for their release. Hope, faith and trust remain strong that these holy books will ultimately return to their rightful place: the Agudas Chassidei Chabad Ohel Yosef Yitzchak Lubavitch Library.



Shluchim conference - on the steps of the Library in Moscow

THE PREVIOUS REBBE'S COLLECTION

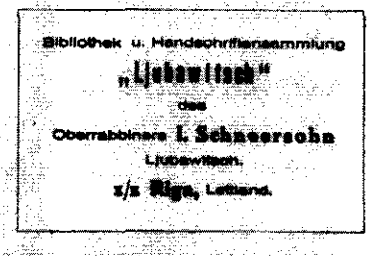
In 1924, when the Lubavitch Collection was deposited at the Moscow Public Library, the Previous Rebbe began to build the Lubavitch Library anew. He started by purchasing the entire collection of Shmuel Weiner, a contemporary bibliophile and rare-books collector whose personal treasure chest consisted of around 5,000 priceless, aged and rare volumes. This was quickly followed by an aggressive rounding-out of the library with the continued purchase of a variety of books of Judaica and Hebraica.

In 1927, the Previous Rebbe was arrested by Communist authorities and condemned to exile, but was freed and subsequently forced to leave Russia. Initially, he was not permitted to take his new book collection, but upon his staunch insistence that "if the books stay, so do I," permissory papers were issued, and the collection was transferred to Chabad's new headquarters in Riga, Latvia.

From Riga, Rabbi Schneersohn dispatched letters and bulletins to the Lubavitch community worldwide, requesting their efforts to enrich "the Lubavitcher Library" with books of all types. This continued even after Rabbi Schneersohn's emigration to Warsaw and Otvotsk, Poland, along with Chabad headquarters.

At the beginning of World War II, Rabbi Schneesohn was trapped in Nazi-occupied Warsaw for several months; with the winding down of winter 1940, the Rebbe was extricated together with his household and secretariat.

They first returned to Riga, and moved on to New York from there.



The library remained in occupied Poland. Over the course of the next year-and-a-half, efforts made from New York succeeded in relocating the library from place to place until it arrived in New York in summer 1941.

The basement of the new Lubavitch world headquarters at 770 Eastern Parkway was designated as the new home of the Previous Rebbe's Collection, where it remains to this day.

In "yechidus" room, near the seforim

THE REBBE'S COLLECTION

Upon the arrival of Rabbi Menachem M. Schneersohn in New York in the summer of 1941, his father-in-law, the Previous Rebbe, appointed him as head of Merkos L'inyonei Chinuch (Central Committee for Jewish Education). Rabbi Schneersohn started a separate new library on the premises, for purposes of Merkos use.

After the passing of his distinguished father-in-law on the tenth of Shevat, 5710 (January 28th, 1949), the mantle of leadership passed to Rabbi Schneersohn, who became the seventh Chabad Rebbe. The Rebbe began to widen his new collection with books accumulated by his directives, and by his many representatives around the globe.

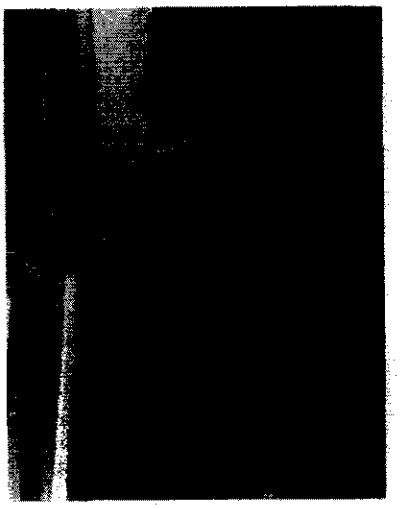
In 1968, when the collection had grown to great proportions, the home next door to Lubavitch headquarters was purchased for the sole purpose of housing this special collection.

From 1968 to 1985, two overlapping libraries existed on the premises of Lubavitch World Headquarters: the Previous Rebbe's Collection in the basement of 770 Eastern Parkway, and the Rebbe's Collection in the adjoining converted home.

The landmark court case involving the Library occurred in the years 1985-1987, in which the Previous Rebbe's grandson claimed ownership over part of his grandfather's collection.

The court ruled that all the books must be returned to the Library, on the grounds that the Lubavitcher Rebbes maintained no personal ownership over the books; rather, they were the property of the library belonging to Agudas Chassidei Chabad (Association of Chabad Chassidim).

After the books' court victory, the Rebbe announced a giant campaign of donating books to the library. The Rebbe then ordered that both collections be merged into a new entity entitled the Library of Agudas Chassidei Chabad Ohel Yosef Yitzchak - Lubavitch.



The Rebbe coming out from the Library

Construction was undertaken and completed over the years 1991-1992. Since then, the Library is comprised of both collections side by side in one extended facility.

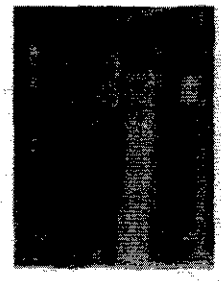
In 1992, upon completion of construction and compiling the master catalog on both collections, the Reading Room was opened to researchers.

In 1994, the Exhibition Hall was opened to the public at large.

THE MANUSCRIPT COLLECTION AND THE ARCHIVE

The Library's Manuscript Collection progressively grew parallel to the printed book collections through the seven generations of the Chabad movement. The bulk of the manuscript collection consists of Chabad Chassidic philosophy written by hand.

Chabad manuscript history begins with the era of the Alter Rebbe's leadership, a time when not a single work by the first Chabad Rebbe had yet been printed. The public lessons he regularly delivered each Shabbos were jotted down (after Shabbos) by the Rebbe's brother, Rabbi Yehudah Leib (the rabbi of Yanovitch and author of Sh'ayris Yehudah, a scholarly work). Many handwritten copies were made of these notes and distributed between the thousands of chassidim. The magnum opus *Tanya* was also not in print form at that time, and was passed among the chassidim in like manner: handwritten copies. These copies were the beginning of the current collection of manuscripts on Chabad philosophy.



Obviously, the Collection was not yet a collection: it was not collected to one place. But within two generations, the Alter Rebbe's grandson and heir - the Tzemach Tzedek, the third Chabad Rebbe, was working to assemble all drifting manuscripts into one cohesive collection at one location, thus beginning to build the Manuscript Collection under the permanent protection of Chabad's leaders.

From time to time, this Collection grew. Whether by acquiring manuscripts, teachings or handwritings of late Rebbes, or by the manual records of lessons delivered by the contemporary Rebbe (which were either privately written by the Rebbes themselves or recorded mid-lesson by attentive chassidim), the collection of handwritten items consistently passed from Rebbe to Rebbe.

Still, even this well-guarded collection was not safe from the ravages of time. A small number of volumes would fall into the hands of other inheritors upon each Rebbe's passing. The previously mentioned fires that lit upon Lubavitch would not spare the Manuscript Collection; many volumes were consumed in these fires. However, the overwhelming majority of the collection was constantly secured at the contemporary center of the Chabad movement. In addition, the few volumes that did wind up in the property of other inheritors were ultimately reacquired by the Rebbe or his assistants, and were returned to the collection.

Until the Nazis overtook Poland, the Manuscript Collection was well maintained.

In late 1939, this priceless, sacred collection was lost. For thirty-eight years, its' fate was unknown. But G-d, in His mercy, kept His kindness upon us, and the collection was found in a Warsaw library decades later. And in late 1977, it was brought home to Chabad in New York.

Today, the Library holds around 3,000 volumes of manuscripts, over 100 of which were personally written by the Rebbes themselves.

In addition, the library's giant archive holds approximately 100,000 letters and documents from seven generations of Chabad leadership (only a slim minority come from the first generations), as well as letters to the Rebbes, plus thousands of miscellaneous letters and documents.

A special ongoing project is working on these manuscripts: to compile, organize and print the lessons, talks, teachings and letters of each of the Rebbes to his generation.

THE EXHIBITION HALL

The library is not designed merely for lending, or for reading opportunities for the general public. Rather, as stressed many times by the Rebbes themselves, it is a library for researchers, rabbis, roshei yeshivah and writers who wish to examine books they can not find in other Libraries.

To satisfy public hunger for the sight of just some of the treasures stored in the Library, a separate hall was designated solely for exhibits. Every year, Library staff choose a different theme, around which revolve the exhibits. In past years, specific artifacts, books, manuscripts, paintings, photographs and more, relating to each of the Chabad Rebbes and to every area of Chabad activity, have been presented in these exhibits, in addition to displays on great leaders of Jewry, particularly the leaders of Chassidism.

Also appearing on display has been the Library's singular collection of haggados, kesuvos, and first editions of chassidic books printed in early generations.

These exhibits attract men and women of all walks of life: schoolchildren, groups of visitors, students and tourists, and anyone simply interested in viewing these priceless books and items for themselves. These displays bring the legacy of Chassidism, the treasures of the Library and indeed, Jewish history itself, to life.

EXHIBIT B

Dear Rabbi Mendelshon, September 5, 2001

Hello. My name is Alice Carmody and I am with the Schools and Librareis Division. I am contacting you in regards to your e-rate application 230049, the Jewish Learning Center. We need to establish if the Jewish Library Center was eligible for Library Services and Technology Act funding at the time the application was filed. Please contact Amy Johnson, who is with the Florida State Library, for LSTA verification. Please have Amy Johnson provide you with a signed written response, which should be faxed to us. This information is crucial and is needed as soon as possible. Thank you for your cooperation.

Sincerely,

Alice Carmody

Alice Carmody
Schools and Libraries Division
Fax (973) 884-8395

Contact Information
Amy Johnson
State Library of Florida
Phone (850) 245-6622
Fax (850) 488-2746

CALIFORNIA
STATE LIBRARY
FOUNDED 1850

October 26, 2001

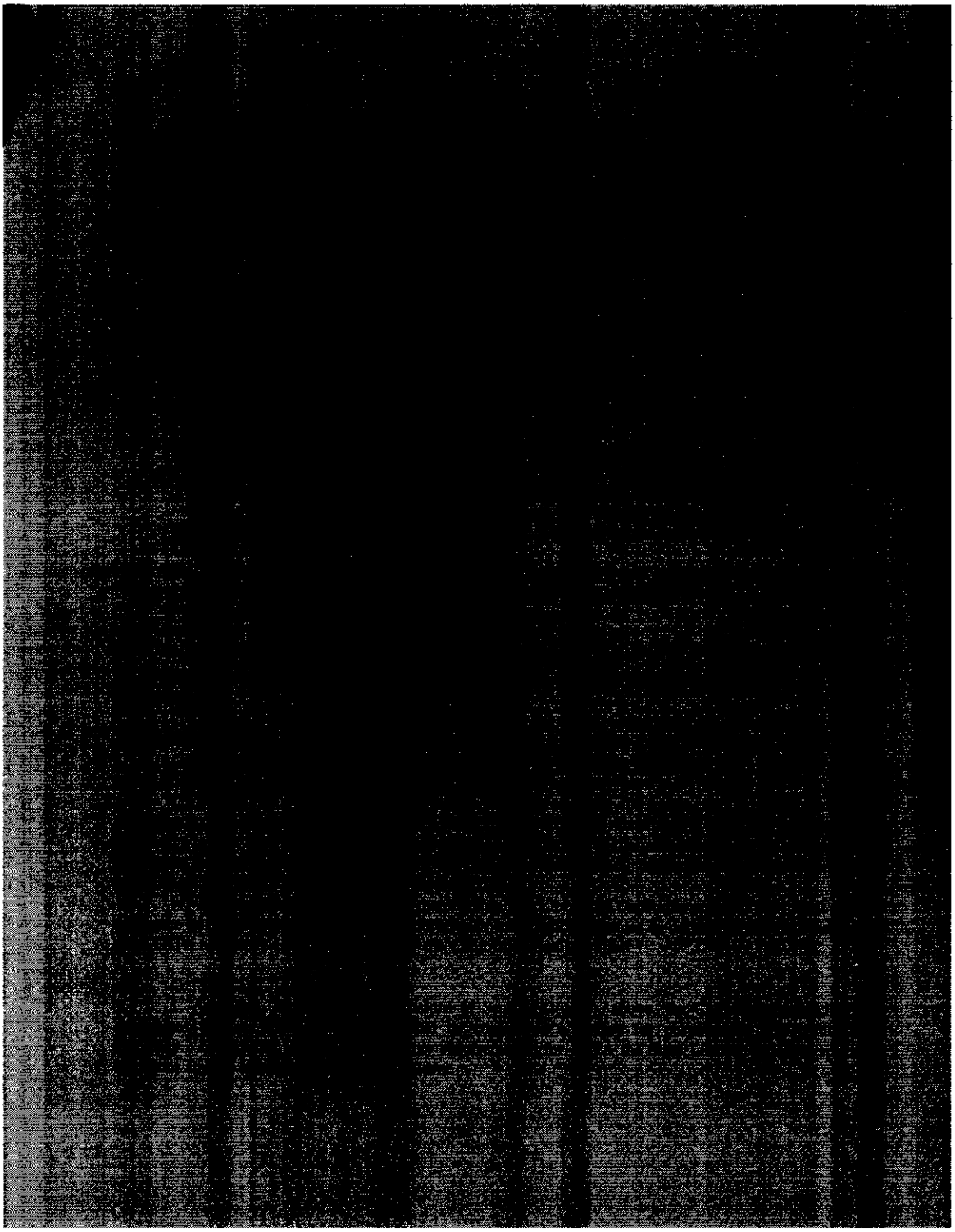
Librarian
North County Jewish Community Library
19045 Yorba Linda Blvd.
Yorba Linda, CA 92886

Dear Librarian:

The undersigned has been notified by the Universal Service Administrative Company, Schools and Libraries Division (SLD), that your library has applied for E-Rate program funding. The SLD has sought assistance from the California State Library in their processing of your application. They must confirm your library's eligibility for that funding. To do that they seek the advice of the State Library on your library's eligibility for federal Library Services and Technology Act (LSTA) funding. Based on the information furnished through the State Library the SLD in turn will determine if your library qualifies for E-Rate funds.

As you are doubtless aware, the E-rate program requires that library applicants for those funds must be eligible for LSTA grants in their home state. Eligibility is generally specified in the LSTA law but beyond that each state has authority to determine eligibility of libraries within its jurisdiction as interpreted by the State Librarian. In California that interpretation is done by the California State Librarian. Your request cannot be processed by the SLD until it receives information from the California State Library regarding the extent to which your library meets the conditions of eligibility for LSTA.

Libraries of all types generally are covered by LSTA; however, please note that in California LSTA is not authorized for use for personal libraries, private professional libraries, libraries lacking qualified staff, libraries not open to the public, libraries which charge for use, etc. These provisions are covered in the Criteria for Eligibility for LSTA.

Since the State Library is unfamiliar with your organization, we are seeking information from you regarding the nature of your library that we will use to determine eligibility. Please consult the Criteria for Eligibility to Receive Grant Funding (copy enclosed) to ascertain if your library is eligible. You should propose your interpretation to me. Please reply to me with a brief summary in writing of your own evaluation of your library's eligibility as compared to the Criteria. It would be helpful to us in making our determination if you would tell us about your institution and your library by means of brochures, annual reports, collection descriptions, service policies, staff list, or other descriptive material. Please enclose these materials with your reply.

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