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At IAS Part 42 of the Supreme Court of the State of New York held in an for the County of Kings, at the Courthouse, 360 Adams Street, Brooklyn, New York, on the 19 day of June, 2006.

P R E S E N T:

HON. IRA B. HARKAVY, J.S.C.

-----X  
MERKOS L'INYONEI CHINUCH, INC.

Plaintiff,

-and-

Index No.40288/04

AGUDAS CHASSIDEI CHABAD, joined as  
a Necessary and Indispensable Party  
Plaintiff,

-against-

ORDER and JUDGMENT

MENDEL SHARF, YAACOV THALER,  
BENTZION FRISHMAN and "JOHN DOE" 1-30,  
the names of "John Doe" 1-30 being  
fictitious as their actual names are  
unknown to the plaintiff, and  
CONGREGATION LUBAVITCH, INC.,  
a New York Not-For-Profit Corporation,

Defendants.

-----X

Plaintiff MERKOS L'INYONEI CHINUCH, INC.(hereafter sometimes referred to as ("MERKOS")), having commenced this action on December 10, 2004, for injunctive and declaratory relief, as well as damages; and plaintiff AGUDAS CHASSIDEI CHABAD UNITED STATES ("AGUDAS CHASSIDRI CHABAD") (hereafter sometimes referred to as "AGUDAS" and collectively with MERKOS, as "plaintiffs") having been added as a necessary and indispensable party plaintiff at the request of both MERKOS and intervenor, defendant CONGREGATION LUBAVITCH, INC., ("CLI"); and

WHEREAS defendant CLI having appeared in the action by legal counsel and having moved this Court for an order (i) severing the claims against individual defendants MENDEL SHARF, YAACOV THALER, AND BENTIZON FRISHMAN, who have failed to appear in the action, from the claims against CLI; (ii) dismissing the Verified Amended Complaint as against CLI; (iii) vacating an ex-parte temporary restraining order issued by the Hon. Yvonne Lewis on December 10, 2004 (hereafter sometimes referred to as the "TRO"); (iv) directing plaintiffs to remove the plaque which they affixed to the premises at 784-788 Eastern Parkway in Brooklyn, New York; and (v) ordering plaintiffs to reimburse CLI for costs and expenses incurred in opposing plaintiffs' application for injunctive relief as well as the costs and expenses of the New York City Police Department incurred in enforcing the temporary restraining order issued in this action; and

Plaintiffs having cross-moved for an order (i) granting partial summary judgment declaring that plaintiffs have all right, title and interest in and to 784-788 and 770 Eastern Parkway, Brooklyn, New York, respectively, (ii) that CLI has no rights in these properties; and (iii) granting a permanent injunction enjoining all defendants from any further acts of vandalism, theft, harassment, trespass and/or nuisance with respect to the general premises of 784-788 and 770 Eastern Parkway (the "Premises"), respectively, and a certain new plaque in particular, together with a mandatory injunction directing CLI to cease and desist from interfering in any manner with Plaintiffs' effort to maintain a commemorative plaque or otherwise interfering with plaintiffs' interest in and enjoyment of the Premises as set forth in the First and Third through Sixth Causes of Action set forth in the Verified Amended Complaint ;

And upon reading and filing the Notice of Pre-Answer Motion to Dismiss Amended Complaint dated May 23, 2005, on behalf of defendant CLI, the affidavit of Zalman Lipskier, with exhibits annexed thereto, affirmed on the 23<sup>rd</sup> day of May, 2005, the affidavit of Yaakov

Chazan, with exhibits annexed thereto, affirmed the 23<sup>rd</sup> day of May, 2005, the affidavit of Rabbi Sholom Ber Kalmanson, with exhibits annexed thereto, affirmed the 23<sup>rd</sup> day of May, 2005, the affidavit of Rabbi Zalmen Chanin, with exhibits annexed thereto, affirmed the 23<sup>rd</sup> day of May, 2005, and the affirmation of Jeffrey D. Buss, with exhibits annexed thereto, dated May 23, 2005;

And upon reading and filing the Notice of Cross-Motion dated August 26, 2005, for partial summary judgment on behalf of plaintiffs MERKOS and AUGDAS CHASSIDEI CHABAD on the First and Third through Sixth causes of action set forth in the Verified Amended Complaint, and the affirmation of Rabbi Yehuda Krinsky, with exhibits annexed thereto, affirmed the 25<sup>th</sup> day of August, 2005;

And upon reading and filing the affirmation of Jeffrey D. Buss, with exhibits annexed thereto, dated December 21, 2005 submitted in further support of CLI's motion to dismiss and in opposition to plaintiffs' motion for summary judgment;

And plaintiffs having duly served individual defendants MENDAL SHARF, YAACOV THALER and BENTZION FRISHMAN (heinafter "Individual Defendants"), with the Summons and Verified Complaint herein, and the Order to Show Cause with Temporary Restraining Order issued by this Court, dated December 10, 2004, as set forth in the Affidavits of Service sworn to December 14, 2004, heretofore filed herein, and said Individual Defendants having defaulted and not appeared in response to the Summons and Verified Complaint or Order to Show Cause with Temporary Restraining Order;

And the motion and cross-motion having been orally argued on January 18, 2006, and the Court having duly considered all of the papers and pleading filed and proceedings had in this action, as well as the oral and written arguments of counsel for the parties, and having rendered its memorandum decision dated March 13, 2006, denying the motion to dismiss and granting the cross-motion to the extent set forth therein;

NOW, upon the motion of Kravet & Vogel, LLP and Fisher & Fisher, attorneys for plaintiff MERKOS, and Baker & McKenzie LLP and Zachary L. Grayson, Esq., attorneys for plaintiff AGUDAS, it is

**ORDERED, ADJUDGED and DECREED** that, pursuant to the decision entered on March 13, 2006, plaintiff MERKOS L'INYONEI CHINUCH, INC., a domestic not-for-profit corporation with offices located at 770 Eastern Parkway, Brooklyn, New York, shall have judgment against (i) defendant MENDEL SHARF, an individual whose last known residence address is 749 Eastern Parkway, Brooklyn, New York, (ii) YAACOV THALER, an individual whose last known residence address is 749 Eastern Parkway, Brooklyn, New York, and (iii) BENTZION FRISHMAN, an individual whose last known residence address is 749 Eastern Parkway, Brooklyn, New York, and (iv) CONGREGATION LUBAVITCH, INC., a domestic not-for-profit corporation with offices located in Brooklyn, New York, permanently enjoining each of these defendants, and any other person or entity with notice of the injunction (i) from deterring, preventing, blocking, threatening, intimidating, harassing or otherwise interfering with the right of MERKOS to maintain a commemorative plaque (the "Plaque") on the outer wall of the premises known as 784 Eastern Parkway a/k/a 784-788 Eastern Parkway, Brooklyn, New York; (ii) from deterring, preventing, blocking, threatening, intimidating, harassing or otherwise interfering with any contractor retained by MERKOS to repair the Plaque, or during the time in which it is being repaired, coming within twenty (20) feet of the location where the Plaque is being repaired; (iii) from touching, defacing, removing, damaging, destroying, marking, vandalizing or altering such Plaque or anything affixed to the outer wall of the premises surrounding the Plaque, or the inner wall behind the Plaque, in any manner whatsoever; (iv) from interfering with the efforts of the New York City Police Department or any private security employees, that assist MERKOS in the repair and maintenance of the Plaque, or that otherwise

keep the peace in connection with the efforts by MERKOS or those retained by MERKOS to repair and maintain the Plaque or anything affixed to the outer wall of the premises surrounding the Plaque or the inner wall behind the Plaque; and (v) from interfering with plaintiffs' interest in and enjoyment of the premises known as 770 Eastern Parkway and the premises known as 784-788 Eastern Parkway, Brooklyn, New York; and it is further

**ORDERED, ADJUDGED and DECREED** that, the permanent injunction set forth above shall be effective against individual defendants MENDEL SHARF, YAACOV THALER, and BENTIZON FRISHMAN, and defendant CONGREGATION LUBAVITCH, INC., its officers, directors and employees, and any other person or entity with notice of the injunction; and it is further

**ORDERED, ADJUDGED and DECREED** that, pursuant to the decision entered March 13, 2006, plaintiff MERKOS L'INYONEI CHINUCH, INC. shall have judgment against CONGREGATION LUBAVITCH, INC., declaring that, MERKOS has all right, title and interest in and to the premises located at 784-788 Eastern Parkway, Brooklyn, New York (the "784-788 Premises"), and is the owner thereof and has the right to exercise all incidents of fee title ownership; and it is further

**ORDERED, ADJUDGED and DECREED** that, pursuant to the decision entered March 13, 2006, plaintiff MERKOS L'INYONEI CHINUCH, INC. shall have judgment against CONGREGATION LUBAVITCH, INC., declaring that CONGREGATION LUBAVITCH, INC. has no right, title or interest in or to, and is not the owner of premises 784-788 Eastern Parkway, Brooklyn, New York, and, has no right to exercise any incident of fee title ownership; and it is further

**ORDERED, ADJUDGED and DECREED** that, pursuant to the decision entered March 13, 2006, plaintiff AGUDAS CHASSIDEI CHABAD, a domestic religious corporation with

offices located at 770 Eastern Parkway, Brooklyn, New York, shall have judgment against CONGREGATION LUBAVITCH, INC., declaring that AGUDAS is the owner of and has all right, title and interest in and to the premises located at 770 Eastern Parkway, Brooklyn, New York (the "770 Premises"), including the right to exercise all incidents of fee title ownership; and it is further

**ORDERED, ADJUDGED and DECREED** that, pursuant to the decision entered March 13, 2006, plaintiff AGUDAS CHASSIDEI CHABAD shall have judgment against CONGREGATION LUBAVITCH, INC., declaring that CONGREGATION LUBAVITCH, INC. is not the owner of and has no right, title or interest in or to the 770 Premises and has no right to exercise any incidents of fee title ownership; and it is further

**ORDERED, ADJUDGED and DECREED** that, neither MERKOS nor AGUDAS may eject CLI prior to the granting of an order or judgment of a court of competent jurisdiction permitting such ejection; and it is further

**ORDERED, ADJUDGED and DECREED** that, CONGREGATION LUBAVITCH, INC. shall serve a copy of this Order upon each of the officers and directors of CONGREGATION LUBAVITCH, INC. and shall cause this Order to be delivered to each of its employees and sent by mail to each of its members; and it is further

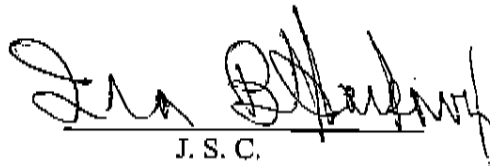
**ORDERED, ADJUDGED and DECREED** that, violation of this order, shall be punishable by contempt and such other remedies as are provided by law; and it is further

**ORDERED, ADJUDGED and DECREED** that, this action is hereby severed with respect to Plaintiffs' property damage claims against individual defendants MENDEL SHARF, YAACOV THALER, and BENTIZON FRISHMAN; and it is further

**ORDERED, ADJUDGED and DECREED** that the Second and Seventh Causes of Action be, and they are hereby, severed and that this action shall continue as to said causes of action.

**LET IMMEDIATE EXECUTION** issue thereon.

ENTER.

  
\_\_\_\_\_  
J. S. C.

Judgment entered this    day of June, 2006.

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Clerk of the Court