

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78614126

Filed April 21, 2005, for the mark BOBOV

Published in the *Official Gazette* on September 12, 2006

**CONGREGATION TALMUD TORAH
D'CHASIDEI BOBOV OF MONSEY,**

Opposer,

v.

UNITED BOBOV INTERNATIONAL, INC.,

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Congregation Talmud Torah D'Chasidei Bobov of Monsey (hereinafter "Opposer") believes that it will be damaged by the grant of the application of United Bobov International, Inc. (hereinafter "Applicant"), for the mark BOBOV set forth in Application Serial No. 78614126, and hereby opposes, by and through its undersigned counsel, registration of that mark. The subject of this Opposition is related to oppositions for Application Serial Nos. 78622446, 78622438, 78622420, and 78614073.¹

PRELIMINARY STATEMENT

By this and numerous other related trademark applications, Applicant has attempted to gain the upper hand in an internecine religious controversy regarding the

¹ Applicant also has filed applications for Serial Nos. 78614104, 78622413, 78622405, 78622390, 78622385, 78622375, 78622367, 78622364, 78622358, 78622346, 78614246, 78614141, 78614119, 78614088, 78614031, 78614013, 78622456, 78622428, 78622400, and 78688025. Because the foregoing applications have not yet been published, Opposer is not opposing the applications at this time.

appointment of a successor spiritual leader of the Bobov Hasidic community (known as the Bobover Rebbe) headquartered and located primarily in New York State. By filing this and the related applications, Applicant's principals have violated a court order and a binding arbitration agreement, under the jurisdiction of the Supreme Court of the State of New York, to resolve all disputes pertaining to the competing Bobov groups, including the right to the name Bobov, in a Jewish court of law (*Beth Din*). It is this very name which is the subject of the Application. Lastly, this and the related applications are enmeshed in First Amendment concerns, and the Trademark Trial and Appeal Board and the United States Patent and Trademark Office have no place in determining the issues enveloping this religious feud, particularly in deciding which religious faction of the Bobov community has the right to call itself by the name Bobov. Registration respectfully must be denied.

As grounds for this Opposition, it is alleged that:

FACTS

1. Opposer is a New York religious corporation located at 133 Route 306, Monsey, New York 10952.
2. Upon information and belief, Applicant is a New York corporation located at 1481 47th Street, Brooklyn, New York 11219.
3. The mark sought to be registered by Application Serial No. 78614126, BOBOV (hereinafter referred to as the "application"), was published on September 12, 2006, in the *Official Gazette* for "blood bank; charitable services, namely, providing medical services to the poor, elderly and sick; medical and psychological counseling" in International Class 44.

4. This application is based on use under Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), with a claimed date of first use in an unspecified month and day in 1985.
5. This Opposition is timely, as Opposer received an extension of time up to and including March 11, 2007, within which to file this Opposition.
6. This Opposition is being filed electronically, pursuant to the Board's rules.
7. The undersigned authorizes the PTO to charge the filing fee of \$300 to the undersigned's credit card. The credit card information will be submitted electronically using the form provided by the PTO.

BACKGROUND

8. Opposer's constituents are Hasidic Jews, members of the Bobov or Bobover community, headquartered and located primarily in New York State.
9. Upon information and belief, the application is part of an internecine religious controversy between competing Bobov factions over who should be the Bobover Rebbe and who should control the name of the Bobov community.
10. BOBOV, the applied-for mark, is a descriptive name which identifies a Hasidic group within Judaism with its headquarters in the Brooklyn area of New York.
11. The Bobov community has been subject to a schism since March 23, 2005, the date on which the previous Bobover Rebbe, Rabbi Naftali Halberstam, died.
12. The name or title Bobover Rebbe ("Grand Rabbi" or "Rebbe" or "rabbinical leader of Bobov") had been passed down from father to son since the time of

the first Bobover Rebbe, Rabbi Shlomo Halberstam, who held the title in the late nineteenth century until his death in 1905.

13. When Rabbi Naftali Halberstam died in 2005, it was the first time in the 100-plus-year history of the Bobov dynasty that the Bobover Rebbe had died without leaving a son to succeed him.
14. Rabbi Naftali Halberstam, however, was survived by a son-in-law, Rabbi Mordechai D. Unger (“Rabbi Unger”), and by a younger half-brother, Rabbi Benzion A. L. Halberstam (“Rabbi Halberstam”).
15. Upon the death of Rabbi Naftali Halberstam, the Bobover community divided itself into two substantial groups, each following a different Bobover Rebbe.
16. One group designated the son-in-law, Rabbi Unger, as the Bobover Rebbe.
17. The other group designated the younger half-brother, Rabbi Halberstam, as the Bobover Rebbe.
18. Upon information and belief, Applicant’s constituents are followers of the group which designated Rabbi Halberstam as the Bobover Rebbe.
19. Opposer’s constituents are followers of the group which designated Rabbi Unger as the Bobover Rebbe.
20. Upon information and belief, both Rabbis Unger and Halberstam, in their capacity as Bobover Rebbe, provide the services identified in the class which is covered by this application.
21. Upon information and belief, Rabbi Halberstam, not Applicant, provides the foregoing services.

22. It defies all credibility that Applicant will provide services called BOBOVER REBBE, BOBOV, AV'DAK BOBOV ("Head of Court [of the community/congregation of] Bobov"), and AD'MOR M'BOBOV ("Our Master, Our Teacher, and Our Rabbi from Bobov"), all of which are the subjects of Applicant's 25 pending applications and all of which identify either the community or the leader of the Bobov sect.
23. Upon information and belief, the market for the services identified in the class which is covered by this application is members of the Jewish community in general and of the Bobov community in particular, not members of the general public.
24. Upon information and belief, the providers and intended users of the identified services are members of the Jewish community in general and of the Bobov community in particular.
25. Opposer has a valid and legal right to describe by use of words the mark sought to be registered by Applicant.
26. If registration were to issue to Applicant for the mark BOBOV, Applicant would be in a position to vex and harass Opposer, to Opposer's detriment.

BOBOV

27. The applied-for mark, BOBOV, is a merely descriptive word derived from the origins of the Bobov Hasidic community in the town of Bobova, Poland (found at <http://en.wikipedia.org/wiki/Bobov>, March 6, 2007).
28. In fact, "Bobov" is merely the Yiddish rendering of the town of "Bobova."

29. The first Bobover Rebbe, Rabbi Shlomo Halberstam, sometimes is referred to as “Shlomo Bobover” because of his origins in the town of Bobova.
30. “Bobover Hasidim” are defined as members of the Bobov community and colloquially are referred to as “Bobovers.”
31. The name “Bobov” also is used as a noun, describing “Bobovers” in the plural. (See March 26, 2005, New York Times excerpt attached hereto as Exhibit A.)
32. “Bobover Hasidim” are followers of the Bobover leader, namely the Bobover Rebbe.
33. Now, when there are two individuals acting as Bobover Rebbe, the Bobover Hasidim are divided into two groups, each following one of the Bobover Rebbes. (See Exhibit A which further makes varied descriptive use of the word “Bobov” without distinguishing as to which claimant to the Bobov leadership the use of the term would follow.)
34. Like other Hasidic communities, such as “Boston Hasidim,” “Cleveland Hasidim,” “Pittsburgh Hasidim,” “Satmar Hasidim,” “Aleksander Hasidim,” “Vizhnitz Hasidim,” and “Lubavitcher Hasidim,” the term “Bobover Hasidim” refers to the community of persons associated with “Bobov,” just as the word “Bobov” itself lends similar descriptive meaning to institutions, customs, and other concomitant elements of a given Hasidic group’s way of life.
35. Indeed, dictionaries utilize these terms as descriptions, not as source-identifying trademarks. (See, for example, the American Heritage®

Dictionary of the English Language which defines the term “Lubavitcher” as “a member of a Hasidic community founded in Russia in the late 18th century that stresses the importance of religious study.” See also http://en.wikipedia.org/wiki/Aleksander_%28Hasidic_dynasty%29 and http://en.wikipedia.org/wiki/Satmar_%28Hasidic_dynasty%29, March 6, 2007, for examples of descriptive usages of the names of Hasidic sects.)

36. “Bobov” refers to and describes adherents to a cultural, familial, and religious tradition.
37. The term “Bobov” does not refer to any individual institution nor to the leadership of any individual person.
38. Applicant, in its May 30, 2006, Response to Office Action, concedes that “Bobov” is merely descriptive.

COUNT ONE

39. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.
40. Applicant’s mark BOBOV is not entitled to registration for the stated services under Section 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).
41. The proposed mark merely describes the provider or source or intended users of Applicant’s services.
42. BOBOV conveys an immediate idea of a feature, function, or characteristic in relation to the services identified in this application.
43. Upon information and belief, the market for Applicant’s services is the Jewish community in general and the Bobov community in particular -- both of which

use the term Bobov in common use -- not the general public, thereby making the proposed mark extremely descriptive to the target market.

44. Upon information and belief, Applicant's services will be provided in accordance with Bobov tenets so the applied-for mark is merely descriptive and not source-identifying in nature.
45. BOBOV is not suggestive and does not require the users of the services to use their imagination, thought, and perception to reach a conclusion as to the source of the services.
46. BOBOV is an unregistrable, non-distinct, merely descriptive term which signifies and defines members of the Bobov Hasidic community and is not susceptible to trademark protection.
47. BOBOV has no secondary meaning nor, for that matter, is the word capable of acquiring secondary meaning.
48. Upon information and belief, Applicant has not used this mark as a service mark or in any consistent form.
49. Upon information and belief, Applicant has not used the purported mark in connection with the services identified in the application.
50. The record for the application contains no evidence of consistent use of the purported mark.²

² In fact, the only "evidence" of secondary meaning is a self-serving Declaration of Acquired Distinctiveness submitted by Mr. Abraham Leser, president of Applicant, in response to an Office Action resulting in a § 2(e)(1) descriptiveness refusal. We note that Mr. Leser is a named defendant (as "Avrum A.") in pending New York Supreme Court litigation involving the competing Bobov factions. (*See* Count Three, *infra*.)

51. Upon information and belief, Applicant has not made substantially exclusive and continuous use of the mark as a service mark in commerce for the five years before the date on which the claim of distinctiveness was made.
52. There is no reference in the definition of BOBOV to a single source of goods or services, to a particular leader or institution, or to membership in any particular entity amenable to trademark ownership.
53. Rather, BOBOV defines a community.
54. BOBOV is not protectible as a trademark by any particular person, institution, group, or sub-group within or without the Bobov community.

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

COUNT TWO

55. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.
56. To the extent that Applicant purports to indicate by the proposed mark that its services originate from Applicant as the exclusive source of Bobov-affiliated blood bank; charitable services, namely, providing medical services to the poor, elderly and sick; medical and psychological counseling, such designation is false, and the mark as so used is deceptively misdescriptive.

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

COUNT THREE

57. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.
58. At the time that Applicant filed its application, there was pending litigation involving the applied-for mark, BOBOV. Such litigation is pending as of the time of this Opposition.
59. Upon information and belief, Applicant failed to inform the United States Patent and Trademark Office that there was and is pending litigation in the Supreme Court of the State of New York, Kings County, Index No. 12509/05, and, concomitantly, in a Jewish court of law (*Beth Din*), involving the competing Bobov groups and involving the applied-for mark, BOBOV.
60. On May 13, 2005, a mere 22 days after Applicant submitted its application, a hearing was held before the Honorable Herbert Kramer, at which time the parties stipulated to resolve all disputes pertaining to the title of their communities (*i.e.*, Bobov) in a *Beth Din*. (A transcript of the May 13, 2005, proceeding is attached hereto as Exhibit B.)
61. Pursuant to court order, the parties currently are involved in *Beth Din* proceedings to decide, *inter alia*, who has the right to the title Bobov.

62. Justice Kramer has retained ultimate jurisdiction over the *Beth Din* proceedings pursuant to New York Civil Practice Law and Rules Article 75.
63. The pending litigation in New York and in the *Beth Din* directly affects Applicant's right to register the mark BOBOV.
64. It would be inappropriate for the Trademark Trial and Appeal Board or the United States Patent and Trademark Office to adjudicate the application while pre-existing litigation is pending.

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

COUNT FOUR

65. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.
66. The schism within the Bobov community is a religious dispute which is capable of resolution only by a religious tribunal.
67. The entire Bobov controversy is enmeshed in First Amendment implications not suited to a resolution by the Trademark Trial and Appeal Board nor by the United States Patent and Trademark Office.
68. Neutral principals of secular law cannot be applied to the instant application without undue entanglement in issues of religious doctrine.

69. The Trademark Trial and Appeal Board and the United States Patent and Trademark Office essentially are being asked by Applicant to decide who is the Bobover Rebbe and, ultimately, who is a Bobover Hasid.³
70. The Trademark Trial and Appeal Board and the United States Patent and Trademark Office ought not position itself as enforcer for one side in an internal dispute as to religious leadership and community.
71. Only a religious tribunal, applying religious law, is capable of making such a determination.
72. This application, if approved, will turn out to be a Pandora's box for the Trademark Trial and Appeal Board and the United States Patent and Trademark Office, inviting literally scores of Hasidic sects to settle their internal religious succession disputes in trademark fora.

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

COUNT FIVE

73. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.
74. This application was filed a mere 29 days after the death of the previous Bobover Rebbe.

³ If the application is granted, Rabbi Unger's followers may no longer be permitted to use the term Bobov. Therefore, Opposer and its constituents no longer will be "Bobover Hasidim," and an entire group of people thereby will be disenfranchised from their deep-seated and multigenerational religious affiliation.

75. Upon information and belief, Applicant adopted BOBOV in bad faith to monopolize Bobov names and to harm Opposer. Opposer has raised similar points in its oppositions to Application Serial Nos. 78622446, 78622438, 78622420, and 78614073.
76. Applicant's multiple applications (25 in total) seeking to reserve a large number of significant Bobov-related marks is an indication of Applicant's bad faith.
77. Applicant is not the exclusive Bobov-affiliated source of the services identified in this application and, therefore, has no standing for the application.
78. Upon information and belief, and further evidencing its bad faith intent to monopolize the proposed mark, Applicant is not the real or authorized party in interest and lacks standing to apply for the instant registration.
79. Upon information and belief, Applicant has misdescribed the services offered under its purported mark by including ones not actually offered in commerce under the mark for which registration is sought.
80. Further, upon information and belief, Applicant has improperly classified the services identified in this application and possibly other services in an attempt to expand coverage for its purported mark beyond the actual services for which it is used.
81. These actions demonstrate, *inter alia*, Applicant's bad faith and intention to cause harm to Opposer.

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

COUNT SIX

82. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.
83. The issue of who is entitled to make use of the term Bobov currently is being decided in *Beth Din* proceedings pursuant to an Order of the New York Supreme Court (Exhibit B).
84. If, however, contrary to Opposer's assertions, the Trademark Trial and Appeal Board deems that it is empowered to intervene in this internecine religious dispute and finds that the mark BOBOV is amenable to trademark protection, Opposer maintains that it is the senior user of the mark, by virtue of dynastic succession, and is entitled to the registration.
85. Opposer has used and acquired common law rights in the mark.
86. Opposer's first use of the mark for blood bank; charitable services, namely, providing medical services to the poor, elderly and sick; medical and psychological counseling predated the date of first use identified in this application.
87. In addition, Opposer's constituents and their parents and grandparents have been using the mark BOBOV for generations.

88. Applicant filed for registration of BOBOV with full knowledge of Opposer's prior use of the word.

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

COUNT SEVEN

89. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.

90. In view of the identity of Opposer's and Applicant's respective services and constituents, the proposed registration by Applicant of BOBOV for these services is likely to deceive or to cause confusion or mistake or to falsely suggest an affiliation with Opposer.

91. Such confusion and mistake will cause irreparable damage to Opposer's goodwill and reputation.

92. Applicant's mark, accordingly, is not entitled to registration on the Principal Register for the stated services under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

COUNT EIGHT

93. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.
94. Opposer's services are distinctive and famous and had become famous long prior to the acquisition of any rights, if any, that Applicant may claim in the mark BOBOV.
95. Use of the mark by Applicant causes dilution of the distinctive quality of Opposer's famous services.
96. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in use of the mark and thereby dilute Opposer's rights in its distinctive and famous services.

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

COUNT NINE

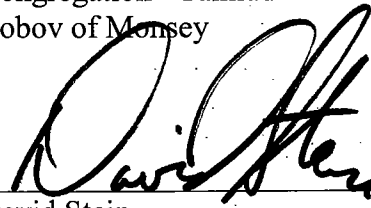
97. Opposer repeats and realleges the foregoing allegations as if set forth fully herein.
98. Upon information and belief, Applicant willfully withheld material information from the United States Patent and Trademark Office, namely, the aforementioned pending litigation in the Supreme Court of the State of New York, Kings County, Index No. 12509/05, and, concomitantly, in a Jewish court of law (*Beth Din*).
99. The pending litigation in New York and in the *Beth Din* directly affects Applicant's right to register the proposed mark.
100. Upon information and belief, Applicant knew that it was withholding material information and that by doing so, it was misleading the United States Patent and Trademark Office.
101. Upon information and belief, the United States Patent and Trademark Office would not have published the mark had it known of the pending litigation.

WHEREFORE, Congregation Talmud Torah D'Chasidei Bobov of Monsey prays that Application Serial No. 78614126 be refused registration and that this Opposition be sustained in favor of Opposer.

Dated: March 7, 2007

Congregation Talmud Torah D'Chasidei
Bobov of Monsey

By:

A handwritten signature in black ink, appearing to read "David Stein", written over a horizontal line.

David Stein
STEIN & ASSOCIATES
The Empire Corporate Center
25 Philips Parkway
Montvale, New Jersey 07645
(201) 391-0770
Attorneys for Opposer

EXHIBIT A

The New York Times

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METROPOLITAN DESK

Borough Park Journal; A Battle for Succession Takes No Holiday

By **ANDY NEWMAN (NYT)** 891 words

Published: March 26, 2005

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The Bobover rebbe died on Wednesday. It was the day before Purim, the most joyously theatrical holiday on the Jewish calendar and a particularly dear one to the Bobov Hasidim, who are perhaps the largest of the Hasidic sects in Borough Park, Brooklyn. Each year, the Bobov stage elaborate spoofs of the story of Esther, called Purimspielen, to gladden the heart of their grand rabbi.

But the rebbe, Naftali Halberstam, was dead, and even worse, a succession battle loomed. He had left no sons, but he had a younger half-brother, Benzion Halberstam, and two sons-in-law.

Benzion Halberstam and one of the sons-in-law, Mordecai D. Unger, each claimed to be the anointed successor.

Naftali Halberstam was buried very early on Thursday in New Jersey. By midmorning, many witnesses said, punches flew between the Halberstam and Unger camps in the granite-walled worship hall of the grand Bobover synagogue on 15th Avenue in Borough Park.



On Thursday afternoon at the synagogue, the headquarters for the world's 20,000 or so Bobov, tight-lipped supporters of Benzion Halberstam guarded the door to the rebbe's

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office. They said that he was inside, and that this proved he was in charge.

On the street, the stories were different. Some young men outside a Bobover yeshiva claimed victory for Rabbi Unger. Others said that the sect would split. At Rabbi Unger's apartment two blocks from the synagogue, his son said through the closed door that the rabbi was too busy to answer questions.

Purim was fast approaching. Out on 16th Avenue, Borough Park's main shopping street, the sidewalks filled with families laden with bakery bags and wine bottles; at Your Party Store, children snapped up the squeaky noses, ratchet-powered noisemakers, cap guns and rag doll costumes.

"Purim is still Purim," said the store manager, I. Bernstein, who declined to provide his first name. A Bobover boy about 12 asked him, "Do you have bow ties?"

After sunset, the 100,000 Orthodox Jews of Borough Park flocked to synagogues for the reading of the Megillah, the scroll that tells how Esther, the Jewish queen of the Persians, saved her people from extermination at the hands of the evil nobleman Haman.

Afterward, hundreds of Bobov swarmed 15th Avenue, singing a Purim song and completely blocking traffic.

"Get out of the street!" the amplified voice of a police officer pleaded.

His order drew only smiles from the younger marchers.

The procession passed by Benzion Halberstam's house and ended triumphantly at Rabbi Unger's apartment building. A man who would not give his name said that Rabbi Unger had been chosen right after afternoon prayer. He said that while Benzion Halberstam was a decent man, Rabbi Unger was a real leader.

But yesterday morning, it was Benzion Halberstam, a 49-year-old with a full gray beard, standing on the raised platform in the center of the synagogue, ringed by hundreds of men in fringed prayer shawls and dozens of

boys dressed as clowns, cops, nomads or Esther's beloved Uncle Mordecai. A young boy in fatigues fired a can of party string at the floor. Every time Haman's name was mentioned, the boys swung noisemakers and stomped feet. A few Bobov lighted fireworks.

In the vestibule, a congregant named Abraham Fleischer explained what had happened to the Unger contingent.

"They conceded," he said, because Benzion Halberstam is the son of Naftali's predecessor, the great rebbe Shlomo Halberstam, and because they were outnumbered "about 90 to 10." Mr. Fleischer added that he harbored no ill will. "We hope that there should be peace between us all," he said.

Three blocks from the synagogue, though, Rabbi Unger had rented out the ground floor of a Hasidic girls' school. The plain boxy room was crammed with as many men as were at the synagogue. "What you see here is the continuation of the leadership of the previous rebbe," said Harry Reicher, a Bobover and an adjunct professor at the University of Pennsylvania Law School.

Mr. Reicher said that Rabbi Unger had agreed to leave the synagogue on Thursday to defuse the tensions, but that "at this stage, the situation is fluid." He said he hoped the succession dispute would be settled before it wound up in rabbinical court.

As the prayer service concluded, Rabbi Unger, a youthful-looking 51-year-old, led his followers in song. Men and boys stood on folding tables to sing along. A big box of hamantaschen, the triangular pastries made in the shape of Haman's hat, made its way around the tables. Soon there was nothing left but crumbs.

"L'chayim!" Rabbi Unger shouted and left in a car.

From the steps of the Bobover synagogue, men and boys watched warily as a boisterous crowd went past and headed once more toward Rabbi Unger's home.

Photo: The celebration of Purim, with its noisemakers and costumes, continued

yesterday in Borough Park, Brooklyn, despite the death of the grand rabbi of the Bobov Hasidim and the ensuing succession drama. (Photo by Robert Stolarik for The New York Times)

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EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS : CIVIL TERM : PART 13

-----X
BARUCH C. GREENFELD, MENDEL GROSS, and :
HERMAN REINHOLD, :
Petitioners :

-against-

EFRAIM BORNSTEIN, SURI DAVIDOWITZ, SHIA :
DEMBITZER, ZEESHA FOLLMAN, SHLOMIE GEIGER :
BERNARD GRUNFELD, BARUCH A. HOROWITZ, :
LEIBISH LANDAU, AVRUM A. LESER, FISHEL :
WISLICKI and MESIVTAH EITZ CHAIM, INC. :
Respondents :

-----X
Index No. 360 Adams Street
12509/05 Brooklyn, N.Y. 11201
May 13, 2005

BEFORE: HON. HERBERT KRAMER,
Justice

APPEARANCES:

LEWIN & LEWIN
1828 L Street
Washington, D.C.
For the Petitioners
BY: NATHAN LEWIN, ESQ.

SCHLAM, STONE & DOLAN
26 Broadway
New York, New York
For the Petitioners
BY: RICHARD H. DOLAN, ESQ.

HAROLD M. HOFFMAN, ESQ.
767 Third Avenue
New York, New York
For the Petitioners

SNITOW, KANFER, HOLTZER & MILLUS
575 Lexington Avenue
New York, New York
For the Respondents
BY: FRANKLYN H. SNITOW, ESQ.

1
2 MARK KURZMANN, ESQ.
3 767 Third Avenue
4 New York, New York
5 For the Respondents

6 JOEL SHAPIRO
7 OFFICIAL COURT REPORTER
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Proceedings

3

1 THE CLERK: Baruch Greenfeld, Mendel Gross,
2 and Herman Reinhold, petitioners; against Efraim
3 Bornstein, et al.; respondents.

4 MR. LEWIN: Nathan Lewin for the petitioners.

5 MR. SNITOW: Franklyn Snitow for the
6 respondents.

7 THE COURT: A motion has come on before me
8 dealing with a piece of real property that is in
9 dispute between two different groups arising out of the
10 same Chassidic community in Brooklyn, called Bobov.

11 After lengthy conversations, I believe we have
12 an agreement that is going to be put on the record, and
13 memorialized.

14 MR. LEWIN: That is fine. The agreement that
15 has been arrived at to essentially resolve this
16 litigation, subject to the Court's supervision under
17 Article 75, is that all disputes between two claimants,
18 to the title of the grand rabbi of the Bobov, and their
19 communities, will be presented to a rabbinical court
20 that will consist of five members.

21 That rabbinical court, two members of which --

22 THE COURT: Off the record.

23 (Whereupon, an off the record discussion was
24 held at the bench.)

25 THE COURT: We are about to enter a

Proceedings

1 stipulation between the parties in the appropriate
2 form.

3 MR. LEWIN: So that all disputes between the
4 community and the two individuals, who are claimants to
5 the title of the grand rabbi of Bobov, be resolved by a
6 rabbinical court consisting of five members, two of
7 whom will be been designated by each of the sides, and
8 --

9 THE COURT: Give their names, please.

10 MR. LEWIN: D-A-Y-A-N B-E-R-G-E-R, of
11 Manchester, for the plaintiffs, and Rabbi --

12 MR. SNITOW: Solomon G-R-A-U-S-E, for the
13 respondents, as borexim.

14 MR. LEWIN: Which is the selected
15 representative of each side.

16 THE COURT: One second. That designation
17 being a commonly accepted designation within Orthodox
18 Judaism for a representative of a disputant.

19 Continue.

20 MR. LEWIN: Those two selected borexim, within
21 10 days of this day, select three other neutral members
22 of the panel, to comprise of the five member rabbinical
23 court, that will decide all these disputes.

24 THE COURT: I am interrupting again. The end
25 date for that process will be 23rd of May, at 5:00 p.m.

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1 Eastern Daylight Time.

2 MR. LEWIN: The specific arbitration
3 agreement, in Hebrew, S-H-T-A-R B-E-R-U-R-I-N, that
4 will govern this rabbinical arbitration, will be
5 drafted by the three neutral members, and will be
6 signed in consultation --

7 MR. SNITOW: -- In consultation with the
8 rabbinical lawyers for the respective parties.

9 MR. LEWIN: And that agreement will be signed
10 by Rabbi Ben Zion Halberstam, who is represented here
11 today by Mr. Snitow, who is making the representation
12 that he had been personally authorized to state that
13 Rabbi Halberstam will sign that, and by Rabbi
14 M-O-R-D-E-C-A-I U-N-G-E-R, who is represented here
15 today by me and Mr. Dolan, and Mr. Hoffman, and we have
16 made the representation that he has personally stated
17 that he will sign this arbitration agreement.

18 In addition, it will be signed by Rabbi
19 Y-E-H-O-S-H-U-A R-U-B-I-N.

20 THE COURT: Resident in?

21 MR. LEWIN: Kings County, who is the
22 brother-in-law of Rabbi Unger.

23 MR. SNITOW: And Rabbi Tauber, the D-A-Y-A-N.

24 THE COURT: But he is a resident in Kings
25 County.

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1 MR. SNITOW: Kings County, and he is currently
2 the dayan.

3 THE COURT: Presently a functionary called a
4 dayan.

5 MR. LEWIN: In addition, that arbitration
6 agreement will also be signed by designated
7 representatives of each of the sides, one
8 representative from the United States, and one
9 representative from England -- from Brooklyn, in the
10 United States.

11 One representative from England, and one
12 representative from Israel.

13 These designated representatives will be
14 designated by each of the communities, or by each of
15 the two contending rabbi, as being leaders of that
16 community, supporting that rabbi in each of the
17 locations.

18 THE COURT: It's stipulated that the signatory
19 parties have occupied leadership positions in the
20 various communities of Bobov Chassidim, in the various
21 locations designated.

22 Specifically, the Brooklyn, U.S. organization;
23 the Israel organization; and the London, England
24 organization.

25 MR. SNITOW: And those individuals -- their

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1 leadership roles will be acknowledged by the primary
2 signatories, who are Rabbi Halberstam and Rabbi Unger,
3 so it's our intention, mutually, as to prevent other
4 Beth Din proceedings, or Civil Court proceedings over
5 the same subject matter, allegedly on behalf of
6 different communities, within Bobov.

7 THE COURT: Each of the parties and their
8 liaisons, and the signatories to this agreement,
9 represent to this Court that they will use their best
10 efforts to assure a calm transition after the death of
11 the preceding grand rabbi.

12 Each of the attorneys here represents that
13 they have spoken to their principals, and agree to this
14 procedure, and it's further agreed that in the event
15 that there is a lack of agreement on the three neutral
16 members of Beth Din, that the parties, by oral
17 communication, or either one of them, upon notice to
18 the other, will advise this Court to make appropriate
19 designations of any missing members, and it's further
20 --

21 MR. SNITOW: -- Or fashion any appropriate --

22 THE COURT: I am not up to that yet. Give me
23 a chance.

24 And it's further agreed that the parties
25 hereby consent that this designation by this Court will

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1 be appropriate under Article 75, as well as religious
2 authority, as well as consistent with the communal
3 values that pertain to this kind of dispute.

4 It's further understood by and between the
5 parties that the Beth Din mechanism is the most
6 appropriate mechanism for resolving disputes of this
7 nature.

8 You want to say something else?

9 (Whereupon, an off the record discussion was
10 held at the bench.)

11 THE COURT: It's further agreed by and between
12 the parties that in the event of the incapacitation or
13 disqualification of the instant court, that the matter
14 will be referred, by consent, to Justice Ruchelsman.

15 MR. SNITOW: Agreed.

16 MR. LEWIN: By entering into this stipulation
17 today, the parties, through their counsel, agree that
18 this stipulation is and will be deemed to be an
19 enforceable arbitration agreement under all applicable
20 provisions of law governing arbitration agreements.

21 THE COURT: Including Article 75.

22 MR. LEWIN: Including Article 75, and Title 9
23 of the United States Code.

24 THE COURT: It's further agreed that the law
25 of New York will govern all disputes and the

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1 arbitration -- let me say this.

2 In the event there is any further action in
3 New York, or anywhere else, it's agreed that the law of
4 New York will control -- any further disputes
5 concerning the enforcement of this agreement shall be
6 controlled under New York.

7 MR. SNITOW: So the record is clear, the
8 enforcement of this agreement and all of its terms
9 shall be subject to Article 75, but the parties
10 understand and agree that the decision of the Beth Din
11 will be in accordance with Jewish law, and the terms of
12 the written Hebrew arbitration agreement, which is to
13 be executed by the parties as referred to above, and
14 decided by the three neutral members of the panel.

15 It's further stipulated and agreed that in the
16 event that this Court retains jurisdiction for the
17 enforcement of this agreement, and in the event that
18 any provision consistent with the spirit and terms of
19 this agreement is either considered to be vague, or has
20 not been -- has inadvertently not been included in this
21 stipulation, that Mr. Justice Herbert Kramer shall
22 retain jurisdiction for the purpose of arbitrating any
23 dispute regarding the inclusion of such term, and for
24 the purpose of this agreement, and the underlying
25 Hebrew arbitration agreement, all the parties submit to

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1 the jurisdiction of this Court.

2 It's hereby stipulated and agreed that this
3 stipulation disposes of and resolves the order to show
4 cause for a preliminary injunction, which was brought
5 before the Court today, as well as that the petitioners
6 shall withdraw, with prejudice, the underlying Article
7 78 proceeding, with the understanding that the ultimate
8 award of arbitration may be submitted for enforcement
9 to this Court; that is to the Supreme Court of the City
10 of New York, County of Kings, pursuant to the
11 provisions of Article 75.

12 MR. SNITOW: The parties agree that the first
13 issue that may be presented to the Beth Din, and shall
14 be resolved, shall be the issue of the camp, and it's
15 further stipulated and agreed that the Beth Din shall
16 be empowered to make multiple interim decisions without
17 losing jurisdiction.

18 THE COURT: We have now entered a stipulation
19 on the record.

20 On behalf of the parties, you represent --

21 MR. SNITOW: On behalf of the respondents, we
22 so stipulate. The respondents, as well as those
23 parties name as signatories.

24 THE COURT: And do you?

25 MR. LEWIN: On behalf of all the petitioners

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and all parties named as signatories to the agreement,
we hereby so stipulate.

THE COURT: So ordered. You will give me a
copy of this.

This is to certify that the foregoing is a
true and accurate transcript of the original
stenographic record.

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JOEL SHAPIRO

SR. COURT REPORTER