

MARVIN L. SCHWARTZ
ATTORNEY AND COUNSELLOR AT LAW

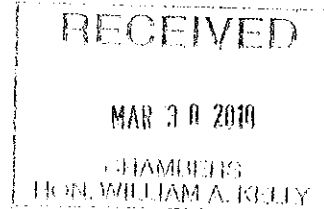
9 BALANCHINE COURT
MONSEY, NEW YORK 10952

ALSO ADMITTED IN
NEW JERSEY AND LOUISIANA

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March 29, 2010



Hon. William A. Kelly, J.S.C.
Supreme Court, Rockland County
One South Main Street
New City, New York 10956

FILED JL

RE: Kol Yaakov Torah Center v. Tropper
Index no. 2357/10

MAR 31 2010

Honorable Sir:

**ROCKLAND COUNTY
CLERK'S OFFICE**

Please find enclosed plaintiff's reply to the affirmation in opposition of Brian K. Condon, Esq., attorney for Nathan and Jeanette Berney.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Marvin L. Schwartz".

MARVIN L. SCHWARTZ

MLS/mb

cc: Brian K. Condon, Esq.
Joseph J. Haspel, Esq.

CC
Too Late

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

RECEIVED
MAR 30 2010
CLAMBERG
HON. WILLIAM A. KELLY

KOL YAAKOV TORAH CENTER, INC.

Hon. William A. Kelly

Plaintiff, **FILED JL**

-against-

MAR 31 2010

AFFIRMATION
IN OPPOSITION

LEIB TROPPER,

ROCKLAND COUNTY
CLERK'S OFFICE

Index no. 2357/10

Defendant.

-----X
Marvin L. Schwartz, an attorney admitted in the courts of the state of New York,
hereby affirms under the penalty of perjury pursuant to CPLR Rule 2106:

1. This affirmation is made in reply to the affirmation in opposition filed on behalf of Nathan and Jeanette Berney . This affirmation is based on my personal knowledge. As to those matters alleged on information and belief I believe them to be true.

2. In fact, even though they currently are non-parties, Nathan and Jeanette Berney are in collusion with Leib Tropper to strip and rob the plaintiff of its assets. The Berneys run an investment business in which Tropper invested over one million dollars. All the money invested came from Kol Yaakov accounts. None of it was returned to Kol Yaakov. Most of the money was returned personally to Tropper. Annexed hereto as an exhibit are two sheets provided by the Berneys showing that they supposedly gave \$475,000 of Kol Yaakov's money to the names listed therein as "charity". The list actually casts the Berneys in a worse light: Even if, in fact, the list is true, where is the proof they had any

authorization to give Kol Yaakov's money to any recipient other than Kol Yaakov? If the money was invested by Kol Yaakov why didn't they give it back to Kol Yaakov?

3. Why would they do all this? They are colluding with Tropper to denude and destroy the institution, thereby continue to enrich themselves at the expense of a not-for-profit corporation. Regretfully, the court has temporarily aided this cabal by placing Nachman Kramer in charge of the yeshiva. Kramer's objective is to deflect attention away from the Berney-Tropper shenanigans. Kramer has locked Kol Yaakov's office to keep the tell-tale records away from plaintiff.

4. Eliyahu Berney is Nathan and Jeanette Berney's son. When Justice Walsh issued his order regarding Kramer, Eliyahu Berney literally ran through the streets proclaiming "We won! We won!" What does he mean by "We"? In fact, Eliyahu Berney called me and castigated me for daring to interfere with his parents' "arrangements" with Tropper.

5. One of the signatories to the "letter of discharge" purporting to dismiss Moshe Raice was . . . Eliyahu Berney. No surprise. He needs Moshe Raice out of the way to continue the swindle and the cover-up.

6. The Court should not continue to aid and abet these malodorous machinations. The Court should continue the restraining orders against the Berneys. More importantly, considering the total lack of evidence offered by the defendant and the overwhelming proof offered by plaintiff, the Court should recognize and enforce the prerogatives of Kol Yaakov's legal trustees and restore Moshe Raice to his leadership position before the Tropper-Berney-Kramer gang destroys the yeshiva.

7. Moshe Raice is not only the yeshiva's true administrator but the person who truly loves Kol Yaakov, believes deeply in its mission and has worked fervently to insure its survival and continuation as an important Jewish outreach resource.

8. Tropper's sexual escapades have demoralized Kol Yaakov and caused it grievous harm. Letting the Berneys and Kramer "take care" of Tropper may be the *coup de grace*. I beseech the Court not to allow this injustice to continue.

Wherefore, plaintiff prays that:

- (a) All restraining orders granted to plaintiff should be continued; and
- (b) All restraining orders granted to defendant should be dissolved.
- (c) The Court grant such other and further relief as may be appropriate in the circumstances.

Affirmed on March 29, 2010 at Airmont, New York


MARVIN L. SCHWARTZ

Yeshiva Chofetz Chaim / Kollel	\$50,000
Ahavas Chesed	\$25,000
82 Highview Road Suffern, NY 10901	Rabbi M. Zaks
Kollel Beer Mordechai 15 Carlton Road Monsey, NY 10952	\$50,000 Rabbi Shmuel Gorelick
Cong. Ohr Moshe 179 Maple Avenue Monsey, NY 10952	\$40,000 Rabbi M. Malick
Keren Ezra 11 Gwen Lane Monsey, NY 10952	\$25,000
Ohel Avrohom 18 Gwen Lane Monsey, NY 10952	\$25,000 Rabbi Z. Holczer
Chasidim Tovim 7 Maple Leaf Road Monsey, NY 10952	\$25,000 Rabbi Amram Rosenberg
Chasdei Avos 8 Elyon Road Monsey, NY 10952	\$25,000
Mesila Baarav Yeruchem Israel	\$15,000
Keren Esther	\$15,000 Rabbi Moshe Moshbacher 5 Carlton Lane Monsey, NY 10952

295,000

כסד

הרב דוד רוטנברג - ירושלים - 2000
 הרב יעקב קופשיץ - בית שמש - 2000
 הרב יוסף ח. קופשיץ - בית שמש - 2000
 הרב אפרים קופשיץ - בית שמש - 2000
 הרב נחמיה ולדנברג - בית שמש - 2000
 הרב אפרים פרנק - בית שמש - 2000
 הרב פתחי שטרנברג - בית שמש - 2000
 הרב יואל טורצין - בית שמש - 2000
 הרב עבי קופשיץ - ירושלים - 2000
 הרב מ. א. סוקולובר - בית שמש - 2000
 הרב רפאל שפירא - בית שמש - 1000
 הרב אברהם ח. ריבלין - בית שמש - 1000
 הרב חיים י. יעקובוביץ - בית שמש - 1000
 הרב אליהו מיטלמן - בית שמש - 1000

הרב הגאון ר' מיכל יהודה לעפקאוויעש - 5000
 הרב דניאל אלטר - 5000
 הרב שאול קניבסקי - 3500
 הרב אליהו לוין - 2500
 הרב הגאון ר' חיים קניבסקי - 2000
 הרב משה סלומון - 2000
 הרב זלמן דוד צוקרמן - 2000
 הרב נתן קופשיץ - 1800
 הרב משה מרדכי שלזינגר - 1800
 הרב יצחק שיינר - 1800
 הרב שמואל דויעש - 1600
 הרב י. לוי - 1600
 הרב נחמיה צוקרמן - 1500
 הרב אברהם ישעי' קרליץ - 1500
 הרב משה קרליבך - 1500
 הרב יו"ט שערן - 1500
 הרב נחום שילר - 1200
 הרב משה סומער - 1200
 הרב יצחק קלמנוביץ - 1000
 הרב אשר קלמנוביץ - 1000
 הרב יהודה קרביץ - 1000
 הרב חיים זייבאלד - 1000
 הרב אליהו רימר - 1000
 הרב שר שלום מרזל - 1000
 הרב שלמה קראוס - 1000
 הרב שמלצער - 1000
 הרב יצחק קוסובסקי - 1000
 הרב מ עלטובסקי - 1000
 הרב נץ אלזאז - 1000
 הרב אריה קניבסקי - 1000
 הרב מרדכי קרליבך - 1000
 הרב חיים סלומון - 800
 הרב רפאל סלומון - 800
 הרב משה בעלמן - 800
 הרב קליין - 600
 הרב אברהם ברנשטיין - 600

\$ 81,000

AGREEMENT

AGREEMENT made this Fifth day of January 5, 2010 by and between the Berney Family, 25 Highview Road, Monsey, N.Y. and Rabbi Leib Tropper Grove Street Monsey, N.Y. hereinafter referred to as Berney and Tropper/ representing Kol Yaakov Scholarship Fund.

Berney has access to certain high yield bank instruments which through their sources can be bought at a discount from European bank and sold at a profit to institutions such as pension funds and Tropper wishes to access these transactions.

NOW THEREFORE Berney and Tropper have come to the following agreement.

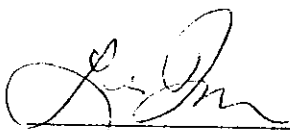
Tropper has deposited the sum of \$ 500,000 with Berney under the following conditions:

The sum of \$ 250,000 shall remain with Berney for a period of 75 business days from January 5, 2010 until April 20, 2010 and the sum of \$ 250,000 shall remain with Berney for 56 days until March 24, 2010.

After forty five business days Tropper will be paid \$ 80,000

Berney guarantees and covenants unequivocally to repay to Tropper the full amount due at the dates designated above.

A Shtar Heter Iska will fully cover this transaction.



Rabbi Leib Tropper



Nathan G. Berney
Jeanette Berney

