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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SANTA CLARA

15 MORDECHAI TENDLER,

16 Plaintiff,

17 v.

18 JOHN DOE,

19 Defendant.

) No. 1 06 cv 064507

) **AFFIDAVIT OF YOSEF BLAU**

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1. My name is Yosef Blau. I make this affidavit to explain why an Orthodox Jew might legitimately want to avoid being identified as having discussed allegations of sexual, physical or emotional abuse on the part of a Rabbi.

2. I believe I am well qualified to discuss this problem. I serve as the Mashgiach Ruchani or spiritual guidance counselor at Yeshiva University in New York. In recent years I have been contacted a number of times by survivors of alleged abusive behavior by rabbis and have attempted to aid the victims in getting a hearing. Few rabbis take these complaints seriously as the community is often in denial and responds defensively. Internal investigations rarely occur and I have been thanked for listening and not simply dismissing the allegations.

3. Members of many Orthodox Jewish communities worry about speaking publicly about perceived abuses by powerful community figures because of the possibility that doing so will be deemed to violate several community norms. Those who are so perceived can, in turn, suffer social and even economic consequences.

4. In these communities, it is considered improper to create a "shanda," by uttering scandalous comments that make the community look bad. An accuser is similarly said to be guilty of "leshon hara," or evil talk, when speaking badly of someone else. Even more serious is the act of "mesira," when going to the secular authorities to complain against another Jew. Our community often feels that it is the object of prejudice and antagonism on the part of secular officials, based on a long history of anti-semitic governments, hence there is a strong preference for resolving problems within our own community. At worst, speaking publicly about perceived wrongdoing might be treated as "hilul Hashem," or desecrating G-d's name.

5. The possible consequences of being deemed to have transgressed these norms can

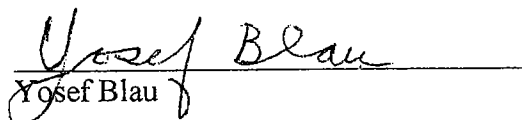
include various forms of informal ostracism, economic retaliation, and formal adjudication by a tribunal of leaders. Social ostracism can include exclusion from religious institutions and shunning. It can extend to one's children, and one's family members and their children, who may be excluded from schools or denied the opportunity to find appropriate marriage partners. Many members of our community work in businesses that may be owned by other members of the community, and/or have other members of the community as important customers. One who speaks in a manner deemed inappropriate may face complaints to his employer or customers, and consequent withdrawal of the means of earning his livelihood. One may be investigated by those looking to find sins (or civil wrongs) that may then be reported to the community or to the authorities. Even physical violence is not out of the question.

6. There is in addition the danger of being summoned before a rabbinical tribunal (a "beis din") convened by friends or allies of the accused, and being threatened with being put in "cherem," or excommunicated. While this is less likely today to be done formally, the shunning still happens. If the friends of an accused person make an ad hoc tribunal to rule against the whistleblower, there is no place for the whistleblower to make an appeal; the governance of the Jewish community is not highly structured. And, as in the case of *Thomas v. Fuerst*, 345 Ill.App.3d 929, 803 N.E.2d 619 (Ill. App. 1 Dist. 2004), the civil courts customarily refuse to review the decisions of religious courts. Yet the refusal of a member of the Jewish community to adhere to an adverse decision of a rabbinic court can itself be grounds for sanction. There are serious implications for the person's family as well.

7. I have written in the past on the subject of abuse in our community (see my article published by NEFESH in the summer of 2003). In my opinion it is sometimes necessary to

bring these problems to the secular community because our rabbinic authorities have proved ineffective at dealing with the problem for a variety of reasons. "Halakhah," Jewish law, provides for an exception to the norms discussed above, and allows both speaking about wrongdoing and going outside the community if that is the only way to solve the problem. Indeed, it can be a moral obligation to do so. But the fear of community sanctions is very real, and it is understandable that many people choose to speak anonymously because they are afraid of the consequences to themselves and their families if they speak in their own names.

8. The potential consequences of speaking out can be especially severe when the target of the criticism belongs to an influential family, as is true of Rabbi Mordechai Tendler. His father, Rabbi Moses Tendler, is one of my colleagues at Yeshiva University, where he is a rosh yeshiva (professor of Talmud) and teaches biology and medical ethics. He is known throughout the world for his lectures on medical ethics. Rabbi Mordechai Tendler's maternal grandfather, Rabbi Moshe Feinstein, was the outstanding halakhic scholar of the last generation. The leaders of this family are strong personalities, they have many admirers and followers, and, in my opinion, they are widely known and believed to play hardball. Because I have dealt with cases of abuse and because of my position in the community, I am able to say what I think despite the risks of retaliation. I fully understand why others are afraid to use their own names when they speak out on the problem of abuse and when they mention the proceedings and charges against Rabbi Mordechai Tendler in that regard.


Yosef Blau

Subscribed and sworn before me this 14th day of June, 2006.



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MAYRA E. BONILLA
Notary Public, State of New York
No. 01B06118225
Qualified in Bronx County
Commission Expires November 01, 2008