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## RECEIVED OPL-WW

86 OCT 3 P3: 20



OFFICE OF THE PRESIDENT

Honorable Mari Maseng
Deputy Assistant to the President and
Director of the Office of Public Liaison
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mari:

It was a delight meeting you this morning at the breakfast tendered by George Klein with national Jewish leaders.

While I appreciate the candor of the dialogue, nevertheless I trust that you left the meeting with the clear perception that on domestic issues, despite some criticism leveled, there is strong support for President Reagan and his administration within the Jewish community.

As I pointed out in my remarks, we of the Orthodox Jewish community particularly have always felt a close affinity with the Reagan Administration — over and beyond the issues of Israel and Soviet Jewry — for the refreshing tone of family values and pure "old fashioned Americanism" emanating out of Washington these days.

You may recall that I quoted the old adage: "Two Jews, three views". Thus, despite some of the comments at the breakfast, there is indeed solid support among many segments of the Jewish community, not only the Orthodox, for the President and those members of his Cabinet who are speaking up on domestic issues in a manner that is totally compatible with ours.

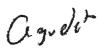
As you may know, Agudath Israel of America, founded 64 years ago, is our nation's broadest based grassroots Orthodox Jewish movement. In addition to our love for President Reagan, we enjoy a warm relationship with Attorney General Ed Meese, Education Secretary Bill Bennett, and with HUD Secretary Sam Pierce, who know how we have publicly applauded the views that they advocate. Also, Agudath Israel is the organization which appeared before the Senate hearing in June 1985 in support of Brad Reynolds. I believe that this would relay a message to you.

I trust that when I next get to Washington we will be able to get together for a further in-depth chat with you. Meanwhile, you have my every good wish for your personal success.

Rabbi Morris Sherer

President

MS/ee





## COMMISSION ON LEGISLATION AND CIVIC ACTION



Professor Aaron Twerski Chairman

POSITION PAPER ON PUBLIC POLICY ISSUES

David Zwiebel, Esq. Director of Government Affairs and General Counsel

NATIONAL LEGISLATIVE AGENDA

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### INTRODUCTION

Agudath Israel of America was founded in 1922 by a small group of dedicated idealists whose goal was to organize the then fledgling Orthodox Jewish community in the United States into a unified force on the American scene. Today, as Orthodoxy has become the fastest growing segment of American Jewry, Agudath Israel has emerged as the nation's largest grassroots movement of Orthodox Jews, with chapters in 30 states, tens of thousands of members across the country, and 19 divisions operating out of central headquarters in New York. The movement is led, and its policies determined, by prominent rabbinic authorities.

The Commission on Legislation and Civic Action, a component of Agudath Israel's Office of Government Affairs, is the unit within the organization that takes positions on various public policy issues before federal, state and local governmental bodies. Active regional offices of the Commission currently operate in California, Illinois, Maryland, Massachusetts, New Jersey, New York and Ohio, and individual activists assist the Commission in some 20 other states.

Members of the Agudath Israel Commission on Legislation and Civic Action include attorneys, social scientists, community activists and rabbis who volunteer of their time and talent to promote the interests of the Orthodox Jewish community in the United States. The Commission also benefits from the input and active involvement of Rabbi Morris Sherer, national president of Agudath Israel of America. Rabbi Sherer's more than 40 years of experience in public life have proven invaluable in helping formulate, articulate and disseminate the positions of the Commission.

The concerns that have elicited the Commission's attention over the past several years can be categorized under four headings: (1) protecting and advancing religious and civil rights; (2) promoting the interests of religiously affiliated schools and their parent and student bodies; (3) commenting on contemporary social and moral issues; and (4) addressing the needs of Jewish people in Israel and in lands of oppression across the globe. Part I of this position paper presents an overview of Agudath Israel's perspectives on those four broad themes.

Part II sets forth Agudath Israel's position on a number of currently pending federal legislative and regulatory initiatives that are of great interest to our community. The Commission will continue to comment on specific items of legislation at appropriate times during the course of the year.

## PERSPECTIVES ON PUBLIC POLICY THEMES

## 1. Religious and Civil Rights

Our country was founded by persons seeking refuge from religious persecution. The First Amendment's guarantee that each person shall be entitled to the "free exercise of religion" is, in many respects, what sets the United States apart from so many other nations even today.

As a religious minority in this country, and as a people that has suffered through a long history of persecution, Jews must be constantly alert to deprivations of religious and civil rights. This is especially true for Orthodox Jews, whose religious practices with respect to diet, dress, and Sabbath and holiday observance often make them readily identifiable targets for discrimination.

In line with these principles, Agudath Israel has taken positions on many issues that relate to the religious and civil rights of Orthodox Jews. For example, Agudath Israel has consistently spoken out against discrimination on the basis of religious identity, belief and practice, in contexts as diverse as employment, housing, court hearings, civil service examinations, prisoners' rights, school attendance and testing.

For much the same reason, Agudath Israel opposes the imposition of <u>quotas</u>, <u>goals and timetables</u> in private employment and in the awarding of public contracts. Discrimination against individuals because of such personal characteristics as race, sex, creed or national origin, even where motivated by a desire to alleviate the effects of prior discrimination against certain classes of persons, is unfair and unacceptable -- and tends to have a disproportionately adverse impact on qualified persons of the Jewish faith. The operative principles should always be equal opportunity and merit-based selection.

Another area in which Agudath Israel has taken an active role in advocating Jewish religious and civil rights has been that of medical bioethics. On questions concerning life and death, Jewish law imposes upon its adherents certain requirements that occasionally conflict with provisions of the secular law. To avoid such conflicts wherever possible, Agudath Israel has supported legislation that would permit observant Jews to practice their faith without running afoul of the law in such areas as the establishment of criteria of death, the performance of post-mortem procedures, and the burial of decedents on Sundays and legal holidays.

Consumer protection is another context in which Agudath Israel has worked to protect Jewish rights. Unscrupulous merchants all too frequently take advantage of observant Jews who have special dietary and other religious requirements by misrepresenting certain products as satisfying those requirements when in fact they do not. Agudath Israel supports legislation dealing specifically with consumer fraud perpetrated against religious consumers.

## 2. Educational Choice, Educational Independence

Agudath Israel serves as a liaison between government and the entire spectrum of Orthodox Jewish educational institutions in the United States: the approximately 500 elementary and secondary schools that come under the umbrella of the National Society for Hebrew Day Schools; and the more than 60 post-secondary schools affiliated with the Association of Advanced Rabbinic and Talmudical Schools. In this capacity, and as representatives of a people who have long known that education is the key to all, Agudath Israel has consistently advocated on behalf of governmental policies designed generally to promote the interests of students and schools across the nation, public and nonpublic alike. In addition, though, there are a number of concerns unique to the types of religiously affiliated schools Agudath Israel represents.

The majority of parents who send their children to Orthodox Jewish educational institutions are in the lower and middle income brackets. They bear the dual burden of paying tax dollars to support children attending public schools and tuition to finance their own children's education because they view Jewish education as integral to the well-being and human development of their children. Many other families would choose such education for their children but are unable to afford the cost.

It is the legal and moral right of parents to make those types of educational choices for their children. But when the costs of exercising that right become so prohibitive as to nullify the nonpublic school option for many parents, it is time for government to take notice.

The First Amendment's prohibition against governmental establishment of religion, as interpreted by the courts, forbids direct governmental aid to religious institutions. However, as the United states Supreme Court has held in a number of different contexts, not all forms of aid to parents or students who attend religiously oriented nonpublic schools breach the constitutional wall of separation between church and state.

Agudath Israel has accordingly supported legislation designed to ensure that nonpublic school students, as well as their parents and teachers, be on equal footing with their public school counterparts with respect to government benefit programs.

Such novel approaches as <u>educational expense tax credits</u> and <u>vouchers</u> deserve a chance to succeed. Education plays too important a role in life to preclude families of limited financial means from choosing the best and most appropriate schools for their children.

Maximization of parental choice must not be achieved, however, at the expense of <u>educational independence</u>. Excessive governmental regulation, with or without attendant support, can destroy the very character of religiously affiliated schools and institutions. Absent a governmental interest so compelling that it dwarfs the constitutional imperative of religious freedom, such schools and institutions must be permitted to maintain policies consistent with their religious faith.

One example of Agudath Israel's fight for educational independence is in the area of school curricula. The independence of religious schools is threatened when government insists that their curricula or course requirements conform precisely with those prescribed in the public schools. Sex education and earth science, for example, are subjects that religiously affiliated schools may have their own ways of teaching. Agudath Israel opposes any effort by government to impose religiously objectionable curricula or other educational requirements upon such schools.

## 3. Social and Moral Issues

The constitution's insistence upon separation between church and state does not preclude religious organizations or leaders from speaking out on issues that affect social morality. As a grassroots movement whose constituents look to its rabbinic leaders for moral guidance on contemporary issues, Agudath Israel often takes positions on legislative matters that touch upon fundamental moral concerns.

Agudath Israel believes that government is not a neutral actor in the field of morality. The law is a teacher. It conveys certain basic societal attitudes. As such, it is important that the law not reflect attitudes that are contemptuous of religious and moral teachings. Constitutionally mandated neutrality toward religion does not require hostility toward religion.

One illustration of Agudath Israel's approach in this area is in the context of <u>abortion</u>. Jewish law teaches that all human life is sacred. The life of a fetus has status and dignity. Agudath Israel accordingly supports legislation that protects fetal life by restricting the availability of abortion on demand. At the same time, Agudath Israel opposes legislative initiatives that would make abortion unlawful even in situations where

termination of pregnancy is required by religious law -- as it is, for example, under Jewish law when a full-term pregnancy would endanger the life of the mother.

In line with these principles, Agudath Israel believes that government should weigh the impact of its policies on the viability of the traditional family unit. The family, in its traditional form, has proven to be society's most durable and stabilizing institution. Legislation that lends legitimacy to conduct that undermines the traditional family structure, such as the "gay" lifestyle or certain unnatural forms of birth technology, can deliver a dangerous message. By the same token, governmental efforts to restrict the availability of pornography or to discourage unhealthy non-marital relationships strengthen the family unit and thus enhance social stability.

In speaking out on social and moral issues, Agudath Israel has maintained that government has an essential role to play in ensuring that the needs of the needy be met. As important as the objective of a balanced budget may be, the rush to fiscal solvency must not trample upon society's downtrodden: the homeless, the hungry, the disabled, the unemployed, the sick, the elderly. Government programs directed at improving the lives of the poor should be maintained even in this era of fiscal belt-tightening. Even more importantly, government should adopt policies that encourage the private sector to continue and, indeed, expand its activities in alleviating the plight of the needy.

## 4. International Issues

Agudath Israel has for many years distinguished itself in its activities on behalf of oppressed Jews the world over. From the darkest days of the Holocaust era, through the 1956 Hungarian revolution, and even today when Jews are being persecuted behind the Iron Curtain and in other lands of oppression, Agudath Israel has stood in the forefront of American Jewry's rescue and relief activities on behalf of less fortunate Jewish communities around the globe.

The American government plays an extremely important role in helping alleviate the plight of oppressed Jews in other countries. By consistently emphasizing issues of <u>human rights</u>, the United States sends a message of hope and support to those who are persecuted solely because they seek to practice or learn about their religious heritage. By establishing foreign affairs policies and enacting laws that reflect this nation's concern for basic humanitarian values, the United States puts other countries on notice that abuses of human dignity can not be tolerated.

In the area of <u>immigration</u>, it is crucial that our borders continue to be open to Jewish and other refugees who seek to come to the United States after escaping from oppressive political

environments. Agudath Israel accordingly applauds the recent Supreme Court decision interpreting expansively the "well founded fear of persecution" standard governing discretionary grants of asylum for refugees. By the same token, Agudath Israel opposes the suggestion that Jews otherwise eligible for refugee status be denied such status so as to encourage them to settle in Israel; such decisions should be left entirely to the individual.

Last, but certainly not least, Agudath Israel joins with virtually all segments of the American Jewish community in urging that the United States continue to promote the security and weal of the State of Israel. Treating Israel as the ally it in fact is -- indeed, the only truly reliable ally the free world has in the Middle East -- is a policy that has reaped and will continue to reap substantial benefits for the United States. Our government must not permit occasional divergences of views or unfortunate incidents to obscure the basic truth that this country has both a moral and strategic imperative to support the Jewish State.

II.

## SPECIFIC AGENDA ITEMS

## ECIA Chapter 1 Reauthorization

The Education Consolidation & Improvement Act of 1981 is currently up for reauthorization. This law embodies the basic federal grant programs to elementary and secondary education across the country. It is comprised of two "chapters": Chapter 1, which provides remedial educational services for underprivileged children; and Chapter 2, which grants Local Educational Authorities broad discretion in funding a diverse group of educational benefit programs. Under the law, nonpublic school students are entitled to participate equitably in the programs' benefits.

Agudath Israel's most substantial concern in this area relates to the reauthorization of Chapter 1. Until recently, on-premise instruction by public school teachers was the predominant method of delivering Chapter 1 services to nonpublic school children. For some 20 years, this method of service delivery worked exceedingly well, to the benefit of thousands of needy nonpublic school children. In 1985, however, by a vote of 5-4, the U.S. Supreme Court held in Aguilar v. Felton that this arrangement violated the constitution.

The impact of the <u>Felton</u> decision has been disastrous -- not only in the nonpublic school sector, where unacceptably high numbers of eligible students are no longer receiving their Chapter 1 due; but even in the public schools, from which vitally

important Chapter 1 program dollars have been siphoned off to cover some of the administrative expenses incurred in developing costly alternative service-delivery approaches for certain nonpublic schools. Worse, some of the efforts to provide alternative service-delivery methods to nonpublic school Chapter 1 students have engendered inter-community tension and strife.

For the record, we believe the Felton case was wrongly decided and hope it will be re-evaluated in the near future. For now, though, Felton is the law of the land, and there will be no easy solution to the problems it created. Agudath Israel supports the appropriation of additional Chapter 1 dollars to assist LEAs in developing and paying for alternative means of delivering Chapter 1 services to nonpublic school students. However, in this era of deficit reduction and tight educational budgets, government should also be pursuing an alternative means of structuring the Chapter 1 program so that the all-too-few dollars that Congress does appropriate be used most efficiently for the benefit of all needy students.

Agudath Israel accordingly urges that <u>Congress give serious</u> consideration to some form of voucher system for <u>Chapter 1</u>, whereby the parents themselves would determine how and where to "purchase" the remedial education most appropriately suited for their children. Most constitutional scholars who have studied the issue believe that this type of voucher system, much like the educational tax credit upheld by the Supreme Court in 1984, would pass constitutional muster.

The current state of Chapter 1 services to nonpublic students is nothing short of disastrous. But necessity is the mother of invention; it is time to pursue a bold initiative to alleviate the disaster. The status quo is simply unacceptable.

## Civil Rights Restoration Act

Title IX of the Education Amendments of 1972 prohibits sex discrimination "under any education program or activity receiving federal financial assistance." One of the nine statutory exemptions to this rule excludes from the definition of "program or activity" the operations of any educational entity "controlled by a religious organization" if the application of Title IX "would not be consistent with the religious tenets of the religious organization."

In 1984, in <u>Grove City College v. Bell</u>, the Supreme Court had occasion to interpret the statutory language of Title IX. The Court's holding was in two parts. First, a school is a "recipient of federal financial assistance" for purposes of Title IX even if it accepts no direct government aid, so long as it enrolls students who receive financial educational grants.

Second, under such circumstances, only the school's financial aid office is the "education program or activity receiving federal financial assistance."

Since the <u>Grove City</u> decision, Congress has several times introduced bills designed to overturn the second part of the Court's ruling, by amending Title IX to make clear that the entire educational institution, and not merely the financial aid office, would be covered by the statute. In addition, the bills would have similarly amended the three other civil rights laws that are triggered when an entity is a recipient of federal financial assistance — the statutes barring discrimination on the basis of race, age and handicap. These bills did not pass Congress; a similar bill has been introduced this year.

Agudath Israel supports the basic objective of the Civil Rights Restoration Act. However, as currently formulated, the bill raises some troublesome concerns, including the question of whether in fact the bill merely "restores" the law to where it was before the Supreme Court rendered its decision in 1984 or expands federal jurisdiction beyond prior law; whether the bill would have a pro-abortion impact; whether Title IX's existing religious exemption provision is sufficient to protect all schools that have religious objection to any of the statutory requirements; and whether passage of the bill might endanger the ability of religiously affiliated schools to admit students who participate in federal financial assistance programs. Agudath Israel accordingly recommends that the language of the bill be modified to resolve these concerns.

#### The Aftermath of Tax Reform

Although Agudath Israel supported the basic objectives of the 1986 tax reform law, two aspects of the law are particularly troublesome and deserve reconsideration by Congress at the earliest opportunity.

The first relates to the tax treatment of scholarships and fellowships. Under the prior law, such grants were excluded from the definition of gross income. The exclusion was broad: it encompassed grants for tuition, living expenses, travel, research, clerical help and equipment. Degree candidates were entitled to exclude their entire scholarship or fellowship grant for as long as they continued to study toward a degree. Non-degree candidates were entitled to exclude from gross income up to \$300 per month, for up to 36 months.

Under the new law, degree candidates are entitled to exclude only that portion of any scholarship or fellowship grant attributable to tuition or other direct educational expenses. Nondegree candidates, in turn, are entitled to no exclusion whatsoever.

The impact of the new law on rabbinical schools across the country -- among other institutions of higher learning -- is likely to prove substantial. Many students enrolled in these schools are recipients of scholarship grants, which typically take the form of a combined tuition waiver and living expense stipend. Making the stipend taxable will inevitably result in lower enrollments -- and, hence, fewer scholars, clergymen, community leaders and well educated citizens. Moreover, the record-keeping burden on schools, in terms of reporting and withholding requirements, will place an enormous drain on small and understaffed institutions.

A second aspect of tax reform that troubles Agudath Israel is the decision by Congress to do away with charitable deductions for non-itemizers. Prior law permitted a taxpayer to deduct charitable contributions even if he did not itemize deductions. It has been estimated that 97% of all taxpayers who took advantage of this non-itemizers' deduction earned less than \$40,000 a year. It was thus a deduction that benefitted low and middle income taxpayers -- as well as charitable organizations, to the tune of approximately \$6 billion annually.

In an era when the private sector is being asked to assume an ever-expanding role in the funding of community-based organizations and charitable projects, the tax law should be doing all it can to encourage private sector involvement. Congress' decision to do away with the deductibility of charitable contributions for non-itemizing taxpayers is likely to have precisely the contrary effect.

Agudath Israel urges that Congress reconsider the wisdom of curtailing the exclusion for scholarships and fellowships, as well as abolishing the non-itemizers' charitable deduction, and reinstate the law in these two areas to where it was prior to 1986.

## Proposed I.N.S. Restriction on Refugees

In December 1986, the Immigration and Naturalization Service published a proposed regulation that would result in the denial of refugee processing to individuals who are eligible to receive immigrant visas under the statutory preference system, provided that visa numbers would become available within a 12 month period. Agudath Israel strongly opposes this proposed regulation.

The regulation would have a significant adverse impact on persons seeking entry into the United States who have a "well founded fear of persecution" in their home countries. Such impact would be contrary to the policy consistently expressed by Congress and, indeed, contrary to some of the most basic principles which represent this nation's commitment to freedom and humanitarian concerns for all oppressed people.

The proposed regulation's most immediate and most significant hardship would result to qualified refugees, forced to remain in limbo in third countries while their applications for immigrant visas are being processed, which may take significantly longer than applications for refugee status. The unforeseeable and often unavoidable delay in processing the necessary paperwork such an application entails makes their plight even more unbearable. Furthermore, the vagaries of our quota system, sometimes unexpectedly moving backward rather than progressing, could make the applicants' situation so uncertain as to become unendurable.

Refugees have long been recognized as a distinct class of people with special needs, occasioned by the trauma of persecution, upheaval and flight from their native homes. A blurring of the distinction between refugees and immigrants, which is the inevitable result of the proposed I.N.S. rule, is unjust and contrary to congressional intent.

## Proposed I.R.S. NonProfit Lobbying Regulation

In November 1986, the Internal Revenue Service issued a proposed regulation designed to interpret the provisions of the Tax Reform Act of 1976, which allowed charitable groups to elect to expend certain fixed portions of their budgets on legislative activities and grassroots lobbying. The proposed I.R.S. regulation would define legislative activity to include an extremely broad range of activities.

Thus, for example, the regulation would include in the definition of lobbying all communications that "pertain" to legislation. Lobbying also would include communications that are "selectively disseminated" to people with similar viewpoints. In addition, the proposed regulation would define as lobbying not only activity related to legislation currently pending, but also to general discussions of social policy that could be implemented only through legislation.

Agudath Israel believes that the proposed regulation goes too far. If promulgated, it would likely have a chilling effect on legitimate activity and rob the country of important debate on public policy issues. Agudath Israel has joined with Independent Sector and the constituent groups it represents in voicing objection to this proposed set of rules.

## Religious Apparel in the Military

In early 1986, the Supreme Court ruled that the Air Force was within its right to insist that Captain Simcha Goldman not wear his yarmulke while in uniform. A bill was introduced to require the Armed Services to permit servicemembers to wear neat and conservative religious apparel that does not interfere with the

performance of their duties. The bill passed in the House but was defeated in the Senate by a vote of 51-49. A similar bill has been reintroduced this year.

Agudath Israel supports this bill. It is designed to make clear that people who fight for this country and for the ideals for which it stands are generally entitled to practice their religion openly. Although the number of persons directly affected by the bill may be small, its passage will represent an important reaffirmation of the principle of religious liberty that so many American soldiers have fought to preserve.

## AGUDATH ISRAEL OF AMERICA

Rabbi Morris Sherer President

Rabbi Boruch B. Borchardt Executive Director

Rabbi Shmuel Bloom Executive Vice President

Rabbi Shlomo Gertzulin, C.P.A. Controller

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David Zwiebel, Esq.

Director of Government Affairs
General Counsel

March 25, 1987

Mr. Max Green
Associate Director
Office of Public Liaison
The White House
Room 196
Old Executive Office Building
Washington, D.C. 20500

Dear Max:

Our delegation spent a long day in Washington on Monday. After meetings and briefings, and some more meetings and briefings, followed by yet another round of meetings and briefings, we arrived at The White House at approximately 5:00 physically and emotionally exhausted.

But then we met with Dov Zakheim, and we woke up.

Dov's presentation inspired debate, controversy and, ultimately, respect and admiration. The Reagan Administration surely will miss a person of Dov's caliber.

But there's some good news for the Administration too: Bill Kristol plans to retain his post in the Department of Education. Bill addressed our group at the Department of Education when we came there for a briefing Monday afternoon. It was a delight to hear him and to discuss some issues of mutual concern. Bill is a great asset, for the Administration and for his many admirers in our community.

Many thanks to you and to Matt for putting together an excellent briefing session for our group. You have our sincere gratitude and appreciation for a job very well done.

Regards from Rabbi Sherer and all best wishes.

Sincerely,

David Zwiebel

DZ/ms

cc: Mr. Dov S. Zakheim Mr. William Kristol



David Zwiebel, Esq. Director of Government Affairs General Counsel

November 5, 1987

Hime hisis we do

Mr. Max Green
Associate Director
Office of Public Liaison
The White House
Room 196, OEOB
Washington, D.C. 20500

Dear Max:

It's that time of the year again.

Agudath Israel of America will convene its 65th annual convention this coming Thanksgiving weekend, November 26-29, in the Stevensville Hotel and Convention Center in Swan Lake, New York. As in years past, we would very much appreciate a message from President Reagan.

Can you take care of this?

Many thanks.

Sincerely,

David Zwiebel, Esq.
Director of Government
Affairs and General Counsel

DZ/ms





April 19, 1988

President Ronald Reagan The White House 1600 Pennsylvania Avenue, N.W. Washington, D.C. 20500

Dear Mr. President:

Agudath Israel of America will be celebrating its 66th anniversary dinner on May 15, 1988, at the New York Hilton. As in years past, we would be most appreciative if you would write a letter of greetings to be read at the dinner.

This year, we are presenting our 1988 Humanitarian Award to Secretary of Housing and Urban Development Samuel Pierce, in recognition of his outstanding devoted public service throughout the entire tenure of your Administration. It would be most appropriate were your message to acknowledge Secretary Pierce's achievements on behalf of communities like ours all across the nation.

I am sending a copy of this letter to our contact in the office of public liaison, Mr. Max Green, and look forward to hearing back from you soon.

All good wishes.

Warmly,

Rabbi Morris Sherer

President

MS/mes

cc: Mr. Max Green