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**AMERICAN CIVIL LIBERTIES UNION OF
NEW JERSEY; UNITARIAN UNIVERSALIST
LEGISLATIVE MINISTRY OF NJ; GLORIA
SCHOR ANDERSEN; PENNY POSTEL; and
WILLIAM FLYNN**

Plaintiffs,

v.

**ROCHELLE HENDRICKS, Secretary of
Higher Education for the State of New
Jersey, in her official capacity; and
ANDREW P. SIDAMON-ERISTOFF,
State Treasurer, State of New Jersey, in
his official capacity,**

Defendants.

CIVIL ACTION

**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, GENERAL
EQUITY PART, MERCER COUNTY**

No. C-82-13

**AMENDED VERIFIED COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

This is an action seeking to (1) declare unconstitutional specific monetary grants to two higher education institutions that provide sectarian educations and ministerial training, in violation of Article I, Paragraphs 3 and 4, and Article VIII, Section 3, Paragraph 3, of the Constitution of the State of New Jersey, and in violation of the New Jersey Law Against Discrimination; and (2) enjoin the Treasurer of the State of New Jersey and the Secretary of Higher Education from disbursing the disputed funds to those schools.

JURISDICTION AND VENUE

1. This Court has jurisdiction because the action seeks to vindicate rights protected by the laws and Constitution of the State of New Jersey.

2. Venue is proper in the Mercer County Vicinage, pursuant to R. 4:3-2(a), because defendants are located in this county and the events giving rise to the claims herein occurred and will occur within this judicial district.

PLAINTIFFS

3. Plaintiff AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY (“ACLU-NJ”) is a New Jersey not-for-profit corporation dedicated to preserving constitutional liberties, including ensuring religious freedom by keeping religion free from government involvement, interference, coercion, or favorable or unfavorable treatment. It has its offices in Newark, New Jersey. It sues on behalf of its approximately 15,000 members, most of whom are residents and taxpayers of New Jersey. It has members of various religious affiliations and faiths, as well as members of no affiliation or faith. It has both male and female members. It has members who attend or are employed by public, private non-sectarian, and private religiously-affiliated higher education institutions. It and its members object to the planned grants on many grounds, including because the grants will provide tax funding for the support of religion in general and for the support of religions that many of the members do not subscribe to, because the grants violate the separation of church and state and the state constitutional provisions that guarantee it, and because the

grants will support religious and gender discrimination and will constitute a government-provided benefit which ACLU-NJ's non-Jewish and female members will not be able to access.

4. Plaintiff UNITARIAN UNIVERSALIST LEGISLATIVE MINISTRY OF NJ (“UULMNJ”) represents the interests and principles of the Unitarian Universalist faith, focusing on being a voice for truth, justice and equality in New Jersey public policy. Its mission is to provide the comprehensive structure for New Jersey Unitarian Universalists’ non-partisan activism. It works for a socially just public policy through education, research, advocacy, witness, and service. Included among the Unitarian Universalist principles that UULMNJ seeks to support and promote (as adopted in 1982 by the General Assembly of the Unitarian Universalist Association) are “the constitutional principles of religious liberty, and the separation of church and state that safeguard liberty.” As was urged by the General Assembly’s 1982 Resolution, UULMNJ seeks to protect those principles by, in part, “opposing all forms of direct and indirect public aid to support sectarian private schools.” UULMNJ objects to the planned grants because they will violate the separation of church and state, undermine religious liberty, and support religious ministries.

5. Plaintiff GLORIA SCHOR ANDERSEN is a resident of Voorhees, New Jersey. She pays and will continue to pay income taxes to the State of New Jersey, as well as sales, motor fuel, insurance premium, alcoholic beverage, and telephone service (Emergency Preparedness and 9-1-1 System Assessment) taxes. She has worked as both a public-school and a Hebrew School teacher, and she currently works as a part-time Hebrew tutor. She is Jewish, regularly attends services at a conservative synagogue, and volunteers at the Goodwin Holocaust Museum and Education Center. She is a member and Speaker-at-Large of the Delaware Valley Chapter of Americans United for Separation of Church and State. She objects to the planned grants because

they will direct her tax funds to the support of religion in general, to the support of training in religious doctrines to which she does not subscribe, and to the support of gender discrimination; because the grants represent a stamp of state approval upon particular religious ministries; and because the grants violate the separation of church and state protected by the New Jersey Constitution.

6. Plaintiff PENNY POSTEL is a resident of Cherry Hill, New Jersey. She pays and will continue to pay income taxes to the State of New Jersey, as well as sales, motor fuel, and telephone service (Emergency Preparedness and 9-1-1 System Assessment) taxes. She has been a resident of New Jersey since 1955 and has worked as a public high-school teacher for 27 years. She is a member of Americans United for Separation of Church and State. She objects to the planned grants because they will direct her tax funds to the support of religious ministries and instruction, including training in religious doctrines to which she does not subscribe, and to the support of religious and gender discrimination.

7. Plaintiff WILLIAM FLYNN is a resident of Blackwood, New Jersey. He pays and will continue to pay income taxes to the State of New Jersey, as well as sales, motor fuel, and telephone service (Emergency Preparedness and 9-1-1 System Assessment) taxes. He has been a resident of New Jersey virtually all his life and is employed as an emergency medical technician. He is the founder and president of the Camden County Humanists, a member of the American Humanist Association, and an atheist. He objects to the planned grants because they will direct his tax funds to the support of religious ministries and instruction, violate the separation of church and state, and support religious and gender discrimination.

DEFENDANTS

8. Defendant ROCHELLE HENDRICKS is the Secretary of Higher Education for the State of New Jersey. She was responsible for approving or disapproving grant applications, as well as establishing the amounts of the grants, for the programs that resulted in the two grant awards challenged herein. Her offices are located at NJ Higher Education, 20 West State Street, 4th Floor, Trenton, New Jersey 08608-1206. She is sued in her official capacity.

9. Defendant ANDREW P. SIDAMON-ERISTOFF is the Treasurer for the State of New Jersey. Upon information and belief, Defendant SIDAMON-ERISTOFF is the official responsible for disbursing appropriated funds to named recipients. His offices are at the New Jersey Department of the Treasury, State House, P.O. Box 002, Trenton, New Jersey 08625-0002. He is sued in his official capacity.

FACTS

10. On April 29, 2013, the Office of the Governor announced that Defendant HENDRICKS had sent to the Legislature a list of higher education construction project grants that had been awarded to various public and private New Jersey higher education institutions. *See* Exhibit 1. The list included grants awarded under five separate grant programs: (1) the \$750 million General Obligation construction bond authorization (also referred to as the “Building Our Future Bond Act,” hereinafter referred to as the “Bond Act”); (2) the Higher Education Facilities Trust Fund; (3) the Higher Education Capital Improvement Fund; (4) the Higher Education Technology Infrastructure Fund; and (5) the Higher Education Equipment Leasing Fund.

11. Included on that list of grants were awards to 15 private institutions, including two sectarian institutions whose primary functions are to provide sectarian religious education and to train students for ministry pursuant to tenets of their respective faiths. Specifically, the list

included (1) an award of \$10,635,747 in Bond Act funds for Beth Medrash Govoha yeshiva and (2) an award of \$645,323 in Higher Education Technology Infrastructure Act (“HETIA”) funds for Princeton Theological Seminary.

12. Plaintiffs’ constitutional and statutory rights will be irreparably harmed if the funds to Beth Medrash Govoha and Princeton Theological Seminary described in Paragraph 11 above are disbursed, including because tax payments by Plaintiffs or Plaintiffs’ members will be used to support religious instruction, training, and ministries; because such tax payments will be used to support religious ministries to which Plaintiffs or Plaintiffs’ members do not subscribe; and because the grant funds will support discrimination on the basis of religion and gender. Plaintiffs have no adequate remedy at law.

The Building Our Future Bond Act

13. The Bond Act was approved by New Jersey voters on November 6, 2012. Of the \$750 million authorized to be awarded under the Act, \$52.5 million was designated for grants to private higher education institutions with an endowment of \$1 billion or less, with the rest designated for public universities or county colleges.

14. Defendant HENDRICKS was, and remains, responsible for reviewing applications for funding under the Bond Act, and for approving projects and designating amounts of funding to be awarded. In evaluating the relative value of the grant applications and deciding the amounts awarded, Defendant HENDRICKS and the advisory review committee she established consider, among other factors, numerous broad-based, subjective criteria, and they thus have significant discretion in their decision-making. For example, in evaluating which applications are most qualified to receive funding, Defendant HENDRICKS and the review committee assess relative worth based in significant part on subjective categories such as “Whether it serves the best

interests of higher education in the State as a whole,” “Advancement of student education in the State of New Jersey,” “The cost-effectiveness of the project,” and “Consistency of the project with the State’s goals and priorities for development and redevelopment, including...promotion of access to opportunity for all New Jersey residents.” *See* N.J.A.C. 9A:18-1.6(b). Defendant HENDRICKS reviews recommendations of the review committee but has sole authority to approve or disapprove a project grant and establish the amount of the grant. *Id.*

15. Defendant HENDRICKS approved both of Beth Medrash Govoha’s submitted applications for funding, while other institutions had applications for funding under the Building Our Future Bond Act rejected.

16. Pursuant to *N.J.A.C. 9A:18-1.7(d)*, once the Secretary of Higher Education provides to the presiding officers of each house of the State Legislature a list of projects and amounts of grants she has approved under the Bond Act, the Legislature has 60 days to pass a concurrent resolution disapproving the list; if it fails to do so, the grants will be deemed authorized.

17. The list of projects and grant amounts that includes the grant to Beth Medrash Govoha disputed herein was presented to the Legislature on April 29, 2013. No action to reject the list was taken. The list was therefore approved and authorized as of June 28, 2013, and therefore, absent court-imposed restraints, Defendant SIDAMON-ERISTOFF may at any time disburse the grant funds.

The Higher Education Technology Infrastructure Act

18. Pursuant to N.J.A.C. 9A:13-1.1 to -1.8, Defendant HENDRICKS likewise has authority and discretion to preliminarily approve grant applications and determine amounts of funding pursuant to the Higher Education Technology Infrastructure Act (N.J.S.A. 18A:72A-59 to -61).

19. The subjective criteria for determining which projects are most qualified to receive funds under the Higher Education Technology Infrastructure Act are the same as those considered under the Bond Act, described in Paragraph 14 above.

20. While Princeton Theological Seminary had all three applications for funding under the Higher Education Technology Infrastructure Act approved by Defendant Hendricks, other institutions had applications for such funds rejected.

The \$10,635,747 Grant to Beth Medrash Govoha

21. The \$10,635,747 grant award to Beth Medrash Govoha (also known as “Beth Medrash Govoha of America, Inc.”) is for two projects: \$5,118,000 for a library and research center, and \$5,517,747 for construction of academic space in an already existing building. *See* Higher Education Capital Financing Grant Programs, Certified List of Approved Projects (excerpted), Exhibit 2. Defendant HENDRICKS awarded both of these grants under the Bond Act.

22. Given that the Bond Act designated \$52,500,000 for grants to private higher education institutions, Beth Medrash Govoha was thus awarded over one-fifth of the total \$52,500,000 in funds available for private institutions under the Act, which is more than any other private institution is slated to receive from the Bond Act.

23. Beth Medrash Govoha is an all-male Orthodox Jewish yeshiva located in Lakewood, New Jersey.

24. Beth Medrash Govoha was first incorporated in 1944. Its Certificate of Incorporation sets forth its purposes as follows: “(a) To provide a suitable place of divine worship for its members and others of the Jewish Orthodox faith[;] (b) To advance in every possible manner the religious, social and cultural welfare of its members[;] (c) To conduct a Yeshiva for the higher

education of those of the Jewish faith[; and] (d) To purchase, own and acquire cemetery plots for the burial of the members of the corporation.”

25. In 2000, Beth Medrash Govoha amended its Certificate of Incorporation. It omitted some of the purposes listed in the original Certificate and described its remaining purposes in general terms. It describes its purpose related to its yeshiva as: “to advance the cause of education, generally; to carry on a program for the advanced study of Talmud, in particular[.]”

26. Upon information and belief, Beth Medrash Govoha provides undergraduate and graduate degrees solely to males of the Jewish faith.

27. The State of New Jersey, according to the New Jersey Secretary of Higher Education’s website, describes Beth Medrash Govoha as a “Rabbinical School.” *See*

http://www.nj.gov/highereducation/Program_Inventory/DegreeListings/BethMedrash.htm

(Exhibit 3). The State further identifies Beth Medrash Govoha’s categorization under the Carnegie Classification system as “Special Focus Institutions – Theological seminaries, Bible colleges, and other faith-related institutions,” and notes that Beth Medrash Govoha is accredited by the Association of Advanced Rabbinical and Talmudic Schools. *Id.*

28. The State denotes the courses of study at Beth Medrash Govoha as “Talmudic Studies” and “Rabbinical and Talmudic Studies.” *Id.* The State’s site also sets forth the categorization of the courses of study pursuant to the U.S. Department of Education’s *Classification of Instructional Programs – 2010*. All courses of study at Beth Medrash Govoha yeshiva are classified thereunder as either “Theology/Theological Studies” or “Talmudic Studies.”

“Theology/Theological Studies” is defined as “A program that focuses on the beliefs and doctrine of a particular religious faith *from the intramural point of view of that faith*. Includes instruction in systematic theology, historical theology, moral theology, doctrinal studies,

dogmatics, apologetics, and applications to specific questions of ecclesiastical polity and religious life.” *See*

http://www.nj.gov/highereducation/Program_Inventory/DegreeListings/CIPs.htm#390401

(emphasis added) (Exhibit 4). “Talmudic Studies” is defined as “A program that prepares individuals for advanced Talmudic scholarship and research *and for entry into a program leading to ordination as Rabbis*; students are also qualified to enter conventional graduate and professional schools. Includes instruction in Jewish Law and Jurisprudence, Philosophy, and Ethics, in addition to a major emphasis on Talmud.” *Id.* (emphasis added).

29. The U.S. Department of Education’s Institute of Education Sciences identifies Beth Medrash Govoha as “an institute for advanced Talmudic scholarship. Its primary objective is to produce Talmudic scholars.” Its undergraduate studies program “is designed to provide the student with a thorough foundation in the basic areas of Talmudic knowledge according to the traditional model of Talmudic scholarship.” The graduate studies program “aims to promote advanced Jewish scholarship and research in classical Talmudic and cognate studies. In addition, it is concerned with professional orientation by providing programs to prepare these scholars as teachers and administrators in secondary Torah schools and institutions of higher Talmudic studies, as practicing Rabbis and as experts in Rabbinical jurisprudence.” *See*

<http://nces.ed.gov/collegenavigator/?s=NJ&l=3%2b5&id=183804#accred> (Exhibit 5).

30. The approved grant application by Beth Medrash Govoha (“BMG”) for Bond Act funds for construction of academic space states that “BMG is renowned for its rigorous Talmudic studies program” (BMG Academic Space Grant Application (excerpted) at 23, Exhibit 6); that it is “the college of choice for New Jersey residents seeking a degree in Talmudic studies” (*id.* at 24); that “[s]tudents come to BMG because they know that the breadth and scope of the topics

and levels in Talmudic studies offered at BMG cannot be found anywhere else in the United States” (*id.* at 24); that its mission statement in part provides that it strives to “offer the broadest Talmudic curriculum available in any such institute in the world, providing its students with the opportunity to study almost any area in the widest spectrum of Talmudic studies” (*id.* at 25); and that it “is dedicated to helping its students achieve the highest level of scholarship along with intensive commitment to academic excellence in every area of Talmudic studies” (*id.* at 33).

31. According to 2011 Office of the Secretary of Higher Education records, Beth Medrash Govoha has 79 faculty members, all of whom are male. *See*

<http://www.state.nj.us/highereducation/statistics/FacultyRaceSex2011.pdf> (Exhibit 7).

32. Office of the Secretary of Higher Education records confirm that Beth Medrash Govoha’s entire student body is also all-male. *See*

<http://www.state.nj.us/highereducation/statistics/Enr2012Sex.pdf> (Exhibit 8). Its 2012 enrollment is 2,696 students in its undergraduate program, all of whom are male (*id.*); its graduate studies program has 3,842 students, all of whom are male. *Id.*

33. Additionally, the U.S. Department of Education’s Institute of Education Sciences confirms Beth Medrash Govoha is an institution that is “Single sex: Men.” *See*

<http://nces.ed.gov/collegenavigator/?s=NJ&l=3%2b5&id=183804#accred> (Exhibit 5).

34. Further, while the Office of the Secretary of Higher Education does not disclose on its website the religious composition of institutes of higher education, it does disclose racial and ethnic composition. The Secretary of Higher Education’s records confirm that, in 2012, Beth Medrash Govoha’s entire undergraduate student body was white (96%) or non-resident alien (4%). *See* <http://www.state.nj.us/highereducation/statistics/Enr2012Race.pdf> (Exhibit 9). None

of the 2,696 undergraduate students were Black, Hispanic, Asian, Native American, Pacific Islander, or of multiple races. *Id.*

35. Beth Medrash Govoha's approved grant applications for Bond Act funds confirm that the grants will serve the institution's mission of providing theological education and training. The application for \$5,517,747 for construction of academic space reveals, among other facts, the following: "the project will significantly increase the capacity of BMG's academic programs" (BMG Academic Space Grant Application (excerpted) at 1, Ex. 6); the new facilities will include fourteen new classrooms, four new study halls, new faculty offices, a new library, and a computer workroom (*id.* at 5, 20); "[t]he proposed project will serve students at all levels of BMG's programs, including Undergraduates, Graduate Students, and Advanced Talmudic Fellows" (*id.* at 9, 33-34); the project "will increase the total student capacity of BMG's academic space by 1,130 students" (*id.* at 10); "100% of the gross square footage" of the academic space supported by the project "will be devoted to direct academic use or to facilities supporting the Academic Use" (*id.* at 23); and "[t]he proposed project also promotes *Innovation*, in setting new trends for tradition-steeped Talmudic studies programs" (*id.* at 32). The application for \$5,118,000 for Construction of Library and Research Center reveals, among other facts, the following: the project will "expand the academic capacity of the Institution" (BMG Library and Research Center Grant Application (excerpted) at 1, Exhibit 10); it "will significantly increase the capacity of BMG's academic programs and allow the Institution to offer increased access to its extensive research collections" (*id.*); the third floor of the building will contain "faculty and student meeting rooms, faculty offices, BMG's Department of Hebrew Studies and Student Writing Resource Center, the Department of Adult and Continuing Education, student internship advisors, BMG's Student Pathways to Success Advisement

Program, workrooms for Graduate Students and Academic Fellows, and larger rooms devoted to scholarly research and writing projects connected with the library” (*id.* at 6-7); the funding “is expected to decrease overall operating costs to the Institution” (*id.* at 10); it will “enabl[e] BMG to sustain and grow its academic program” (*id.* at 27); it will “provid[e] the infrastructure necessary for BMG to accommodate additional growth in enrollment” (*id.* at 29); the new library will make available “thousands of resources and texts in digital databases to directly support the academic research of Talmudic studies students at all levels of BMG’s programs” (*id.* at 32); the “proposed Library and Research Center also promotes Innovation, in setting new trends for tradition-steeped Talmudic studies programs” (*id.* at 37); the project “brings the Talmudic-studies program apace with technological advancements and academe’s increasing reliance on digital resources, while still ensuring that a full complement of traditional research texts is available” (*id.* at 38); and it will “provide the proper research materials, texts, and access to digital archives to support and advance the education of Undergraduates and Graduate students and Advanced Talmudic Fellows” (*id.*).

The \$645,323 Grant to Princeton Theological Seminary

36. The \$645,323 grant awarded to Princeton Theological Seminary was for three projects: \$241,722 for “IT infrastructure upgrade for library for expanded historical and theological research...,” \$113,712 for “Learning Spaces: Training Room,” and \$289,889 for “Revamped Cooper Conference Room.” All awards were from Higher Education Technology Infrastructure Act funds. *See* Exhibit 2.

37. Princeton Theological Seminary is a Presbyterian Christian seminary located in Princeton, New Jersey.

38. According to its website, Princeton Theological Seminary’s mission is as follows:

Mission Statement

Princeton Theological Seminary prepares women and men to serve Jesus Christ in ministries marked by faith, integrity, scholarship, competence, compassion, and joy, equipping them for leadership worldwide in congregations and the larger church, in classrooms and the academy, and in the public arena.

A professional and graduate school of the Presbyterian Church (U.S.A.), the Seminary stands within the Reformed tradition, affirming the sovereignty of the triune God over all creation, the Gospel of Jesus Christ as God's saving word for all people, the renewing power of the word and Spirit in all of life, and the unity of Christ's servant church throughout the world. This tradition shapes the instruction, research, practical training, and continuing education provided by the Seminary, as well as the theological scholarship it promotes.

In response to Christ's call for the unity of the church, the Seminary embraces in its life and work a rich racial and ethnic diversity and the breadth of communions represented in the worldwide church. In response to the transforming work of the Holy Spirit, the Seminary offers its theological scholarship in service to God's renewal of the church's life and mission. In response to God's sovereign claim over all creation, the Seminary seeks to engage Christian faith with intellectual, political, and economic life in pursuit of truth, justice, compassion, and peace.

To these ends, the Seminary provides a residential community of worship and learning where a sense of calling is tested and defined, where Scripture and the Christian tradition are appropriated critically, where faith and intellect mature and life-long friendships begin, and where habits of discipleship are so nourished that members of the community may learn to proclaim with conviction, courage, wisdom, and love the good news that Jesus Christ is Lord.

Adopted by the Board of Trustees, May 1996

See http://www.ptsem.edu/index.aspx?menu1_id=2030&menu2_id=2031&id=1237 (Exhibit 11).

39. Princeton Theological Seminary's approved applications for Higher Education Technology Infrastructure Act funding confirm that the grants will serve the institution's mission of providing theological education and training. In its application for Higher Education Technology Infrastructure Act funding for a Revamped Cooper Conference Room, Princeton Theological Seminary acknowledges that it is a "denominational school" (PTS Grant Application for Revamped Cooper Conference Room (excerpted) at 1, Exhibit 12) and its "mission is the

preparation of men and women for theological leadership.” *Id.* at 4. The funding awarded for the Revamped Cooper Conference Room would benefit the institution’s School of Christian Vocation and Mission (SCVM). *Id.* at 1. Princeton Theological Seminary describes SCVM as striving “to cultivate more informed people of faith, who are also equipped with the mindset, mentors, and practical skills needed to lead congregations, nonprofit organizations and community groups in the 21st Century.” *Id.*

40. Similarly, in its application for Higher Education Technology Infrastructure Act funding for a new training room, Princeton Theological Seminary acknowledges that it provides “graduate theological education” (PTS Grant Application for Learning Spaces (excerpted) at 1, Exhibit 13); that it “educates men and women of the State of New Jersey for traditional church leadership” (*id.* at 1); and that it is “accredited by the Association of Theological Schools” (*id.* at 1). The grant application states that the new training room “will have an immediate impact on training at the Seminary from an academic perspective” (*id.* at 13); that the training room will aid the endeavors of both students and faculty (*id.* at 15); that the project “will multiply the impact of the Seminary’s mission” of “the preparation of men and women for theological leadership” (*id.* at 25); that the project “will allow Princeton Seminary to continue as a leader in theological education” (*id.* at 28); “that the [p]roposed project is essential to the Seminary’s education mission” of “the preparation of men and women for ministry to congregations and for Christian leadership in communities and professional environments” (*id.* at 31); and that the project “mirrors the guiding principles established in the technology plan . . . which articulates the need to prepare men and women, in accordance with the Seminary’s stated mission, for all the many forms and vocations in ministry, in service to the church and the world” (*id.* at 32).

41. In its application for funding for “Enhanced IT Infrastructure for Renovated Luce Library,” Princeton Theological Seminary reiterates that its mission “is the preparation of men and women for theological leadership” (PTS Grant Application for Luce Library (excerpted) at 3, Exhibit 14) and notes that the funds sought in this particular application would enable the Seminary “to advance its ‘digital’ reach to the next level, able to offer its unparalleled resources for historical and theological research and reference to a vastly broader community....” (*id.* at 2). It further notes that, “[b]y strengthening our converged technologies, the Seminary is better able to fulfill its core mission....” *Id.* at 6. It describes one of the projects that would be advanced by the funding as being “based on the premise that to truly understand Biblical texts, the reader must also grasp the historical setting....The ultimate objective is ‘to revolutionize the visual display of the biblical world.’” *Id.* at 31.

42. The State of New Jersey, according to the New Jersey Secretary of Higher Education’s website, describes Princeton Theological Seminary as a “Theological Institution.” *See* http://www.nj.gov/highereducation/Program_Inventory/DegreeListings/Princeton_S.htm (Exhibit 15). The State further identifies Princeton Theological Seminary’s categorization under the Carnegie Classification system as “Special Focus Institutions – Theological seminaries, Bible colleges, and other faith-related institutions,” and notes that the Seminary is accredited by the Middle States Association of Colleges and Schools & Association of Theological Schools. *Id.*

43. The State also describes the courses of study at Princeton Theological Seminary as “Christian Education,” “Theological Professions” and “Theology – First Professional.” *Id.* The State’s site also sets forth the categorization of the courses of study pursuant to the U.S. Department of Education’s *Classification of Instructional Programs – 2010*. All courses of study at Princeton Theological Seminary are classified as either “Religious Education,”

“Theology/Theological Studies” or “Divinity/Ministry.” “Religious Education” is defined as “A program that focuses on the theory and practice of providing educational services to members of faith communities, *within the context of a particular religion, and that prepares individuals to serve as religious educators....*”

http://www.nj.gov/highereducation/Program_Inventory/DegreeListings/CIPs.htm#390401

(emphasis added) (Exhibit 4). “Divinity/Ministry” is defined as “*A program that prepares individuals for ordination as ministers or priests in any of the Christian religious traditions.*

Includes instruction in the theology and polity of a particular church, church law, liturgy and ritual, principles of pastoral ministry, homiletics, evangelism, church/parish organization and management, Christian ethics, church history, and related studies.” *Id.* (emphasis added).

“Theology/Theological Studies,” as noted in Paragraph 28 above, is defined as “A program that focuses on the beliefs and doctrine of a particular religious faith *from the intramural point of view of that faith.* Includes instruction in systematic theology, historical theology, moral theology, doctrinal studies, dogmatics, apologetics, and applications to specific questions of ecclesiastical polity and religious life.” *Id.* (emphasis added).

**FIRST CAUSE OF ACTION
VIOLATION OF ARTICLE I, PARAGRAPH 3
OF THE NEW JERSEY CONSTITUTION**

44. Plaintiffs incorporate by reference paragraphs 1 through 43 as if fully set forth herein.

45. Article I, Paragraph 3 of the New Jersey Constitution states, in pertinent part: “nor shall any person be obliged to pay tithes, taxes, or other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right or has deliberately and voluntarily engaged to perform.”

46. Article I, Paragraph 3 of the New Jersey Constitution forbids any taxpayer funds, including funds appropriated through the Bond Act or the Higher Education Technology Infrastructure Act, to be provided to “any church or churches, place or places of worship, or for the maintenance of any minister or ministry.”

47. Because Beth Medrash Govoha and Princeton Theological Seminary provide sectarian religious instruction, because they provide a place for sectarian religious study and religious activity, and because each prepares students for the ministry of a particular sect, the awards of taxpayer funds to Beth Medrash Govoha and Princeton Theological Seminary violate the prohibition on utilizing public tax money for a “church or churches, place or places of worship, or for the maintenance of any minister or ministry.”

48. By awarding and imminently intending to provide taxpayer funds to Beth Medrash Govoha and Princeton Theological Seminary, Defendants have violated or are threatening to imminently violate Article 1, Paragraph 3 of the New Jersey Constitution.

**SECOND CAUSE OF ACTION
VIOLATION OF THE LAW AGAINST DISCRIMINATION, N.J.S.A. 10:5-1 ET SEQ.**

49. Plaintiffs incorporate by reference paragraphs 1 through 48 as if fully set forth herein.

50. The Law Against Discrimination (hereinafter “LAD”) prohibits “public accommodations” as defined therein from discriminating in hiring or in the provision of services based on “race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait of any individual, or because of the liability for service in the Armed Forces of the United States or the nationality of any individual....”

51. Education facilities “operated or maintained by a bona fide religious or sectarian institution” are specifically excluded from the definition of “public accommodation” and, therefore, such organizations are not prohibited by the LAD from discriminating in employment or in the provision of services.

52. However, the State of New Jersey and its agencies are “public accommodations” as defined in the Act. As such, they are prohibited from discriminating in hiring or in the provision of services.

53. Public accommodations such as the State of New Jersey and its agencies are also prohibited by the LAD from providing sponsorship of, or conferring of special benefits on, an organization that engages in discrimination.

54. By awarding and imminently intending to provide more than ten million dollars of Bond Act funds to an organization (Beth Medrash Govoha) that discriminates on the bases of creed and sex, Defendants have violated or are threatening to imminently violate the Law Against Discrimination.

**THIRD CAUSE OF ACTION
VIOLATION OF ARTICLE I, PARAGRAPH 4
OF THE NEW JERSEY CONSTITUTION**

55. Plaintiffs incorporate by reference paragraphs 1 through 54 as if fully set forth herein.

56. Article I, Paragraph 4 of the New Jersey Constitution states, in pertinent part: “There shall be no establishment of one religious sect in preference to another.”

57. By awarding and imminently intending to provide public funding to institutions (specifically, Beth Medrash Govoha and the Princeton Theological Seminary) that provide sectarian educations and train students for the ministry of their respective religious sects,

Defendants have violated or are threatening to imminently violate Article I, Paragraph 4 of the New Jersey Constitution.

**FOURTH CAUSE OF ACTION
VIOLATION OF ARTICLE VIII, SECTION 3, PARAGRAPH 3
OF THE NEW JERSEY CONSTITUTION**

58. Plaintiffs incorporate by reference Paragraphs 1 through 57 as if fully set forth herein.

59. Article VIII, Section 3, Paragraph 3 of the New Jersey Constitution precludes the use of taxpayer dollars “for the use of any society, association or corporation.”

60. Article VIII, Section 3, Paragraph 3 requires grants of public funds to serve a public purpose, in that they must benefit the community as a whole and be directly related to functions of government.

61. By awarding and imminently intending to provide public funding to institutions that primarily train ministers of and provide instruction in selected faiths, including one institution that only admits males of the Jewish faith, Defendants have violated or are threatening to imminently violate Article VIII, Section 3, Paragraph 3 of the New Jersey Constitution through the expenditure of public funds on private, not public, purposes.

REQUEST FOR RELIEF

62. WHEREFORE, Plaintiffs request that this Court:

- (a) Declare that the award of the above-described grants under the Bond Act and HETIA to Beth Medrash Govoha and the Princeton Theological Seminary violates Article I, Paragraphs 3 and 4, and Article VIII, Section 3, Paragraph 3 of the New Jersey Constitution, and violates the New Jersey Law Against Discrimination;

- (b) Enjoin, preliminarily and permanently thereafter, Defendants, their employees, agents and assigns, from issuing any check or otherwise providing the above-described grant funding under the Bond Act and HETIA to Beth Medrash Govoha or the Princeton Theological Seminary;
- (c) Award Plaintiffs costs and attorneys' fees pursuant to the New Jersey Law Against Discrimination; and
- (d) Grant such other relief as the Court deems just and appropriate.



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Attorney for Plaintiff

Date: Dec. 10, 2013

NO JURY DEMAND

Plaintiffs do not demand trial by jury in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiffs designate Edward L. Barocas as trial counsel.

Dated: Dec. 10, 2013

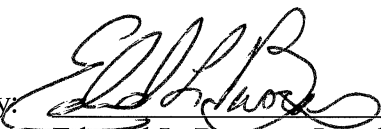


Edward L. Barocas, Legal Director
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Newark, NJ 07102

CERTIFICATION PURSUANT TO R. 4:5-1

Plaintiffs, via counsel, hereby certify that there are no other proceedings or pending related cases arising from the same factual dispute described herein. The matter in controversy is not the subject of any other action pending in any other court or a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, the undersigned knows of no other parties that should be made a part of this lawsuit. In addition, the undersigned recognizes the continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Dated: *Dec 10, 2013*

By: 
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