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SJE/STC/14317/1

CM.SEGALL.L6828.R

4 January 1995

BY FAX NO: 081 452 8669

Dear Sirs

**SEGALL v THE SECRETARY OF STATE FOR THE ENVIRONMENT and
THE UNITED SYNAGOGUE ERUV COMMITTEE**

Thank you for your letter dated 21st December 1994 enclosing a copy of the unsworn Affidavit of Clive Moore in support of your client's application for leave, and your fax of 3rd January 1995.

Before receipt of your Affidavit, it was our intention to accept the Order of the Court and neither oppose nor support the Order sought.

However, Mr Moore's draft Affidavit contains a significant inaccuracy of fact in the second paragraph. It is stated that a copy of the unsworn Affidavit of Jeffrey Segall was served by hand on the First Respondent and Second Respondent on 31st October 1994. In fact, you only purported to serve, so far as the Second Respondent is concerned, documents on Messrs Fibbens Fox who were at no stage instructed to accept service on behalf of the Second Respondent in these proceedings. The important point however is that at no stage did you serve Messrs Fibbens Fox (or the Second Respondent itself) with the sworn Affidavit of Jeffrey Segall. You only served Messrs Fibbens Fox with the Notice of Motion and the corrected Notice of Motion.

We would accordingly invite you to correct the contents of the second paragraph of Mr Moore's Affidavit either by swearing a corrective Affidavit or by amending the draft. If you are not prepared to take this step, we will as a matter of necessity instruct Counsel purely for the purpose of ensuring that the correct facts are before the Court (and for no other purpose) and will look to you for the costs. If however you take the steps set out in this letter, it is not our intention to appear on the hearing.

Yours faithfully

FLADGATE FIELDER