

Supreme Court of the World Zionist Organization  
March 12, 2015

To:

The Honorable Members of the Zionist Supreme Court  
Fern Braniss, WZO legal adviser ([fernb@wzo.org.il](mailto:fernb@wzo.org.il))  
Herzl Makov ([hmakov@begincenter.il.co](mailto:hmakov@begincenter.il.co))  
Ms. Bracha Cohen ([BrachaC@wzo.org.il](mailto:BrachaC@wzo.org.il))

Reply of: The Zionist Organization of America (Appellant/Plaintiff)  
4 East 34<sup>th</sup> Street  
New York, New York 10016 USA  
Elizabeth Berney, Esq. ([lizberney@gmail.com](mailto:lizberney@gmail.com))  
Howard Katzoff, Esq. ([hkatzoff@zoa.org](mailto:hkatzoff@zoa.org))  
Morton Klein, National President ([mklein7@verizon.net](mailto:mklein7@verizon.net))  
Dr. Michael Goldblatt, Chairman ([mgoldblatt39@gmail.com](mailto:mgoldblatt39@gmail.com))

To: Hatikvah Slate (Respondent/Defendant):  
Hiam Simon ([hiam@ameinu.net](mailto:hiam@ameinu.net))  
Larry Lerner ([lilerner3215@gmail.com](mailto:lilerner3215@gmail.com))  
Kenneth Bob ([kennethbob@gmail.com](mailto:kennethbob@gmail.com))  
Judith Gelman ([judithgelman@gmail.com](mailto:judithgelman@gmail.com))  
Attorney Lechner  
Attorney

Copies to: AZM:  
Karen Rubinstein ([krubinstein@azm.org](mailto:krubinstein@azm.org))  
Rabbi Vernon Kurtz ([vkurtz@nssbethel.org](mailto:vkurtz@nssbethel.org))  
Susie Baumohl ([sbaumohl@azm.org](mailto:sbaumohl@azm.org))  
Judge Abraham Gafni ([gafni@law.villanova.edu](mailto:gafni@law.villanova.edu))

Chovei Zion slate:  
Rabbi Elie Abadie ([rabbi@ejsny.org](mailto:rabbi@ejsny.org))  
David Bibi ([davidbibi@gmail.com](mailto:davidbibi@gmail.com))  
Lana Eliyahu ([lane.eliyahu@gmail.com](mailto:lane.eliyahu@gmail.com))

“War is Peace.”

- George Orwell, *1984*

“Economic war is peace.”

- Essence of the Hatikvah Response, March 9, 2015

The Zionist Organization of America (ZOA) respectfully submits this brief reply (the “ZOA Reply”) to the response belatedly filed by the Hatikvah slate, dated March 9, 2015 (the “Hatikvah Response”).

### **A. The Hatikvah Slate Must Be Disqualified Because It Violates The WZO Constitution’s Continuous Anti-Discrimination Requirements**

1. ***This case concerns the Hatikvah slate’s discriminatory anti-Jewish anti-Israeli boycotts, sanctions and divestment (BDS) activity – which violates the WZO Constitution continuing membership requirements.*** As ZOA’s appeals brief pointed out, anti-Israel anti-Jewish boycotts are a form of economic warfare.
2. Notably, the Hatikvah Response ***admits*** that the Hatikvah slate engages in boycotts of businesses across the green line. As our appeal brief demonstrated, the Hatikvah slate boycott is far more extensive: Almost half of the Hatikvah slate groups also boycott all of Israel. However, both the Hatikvah slate’s admitted-to “over the green line” boycotts and its “all Israel” boycotts violate the WZO Constitution.
3. WZO Constitution Article 7(b) states that Zionist Federations must:  

“prevent the membership of bodies or individuals who adhere to or advocate discrimination based on ***origin, nationality***, race, gender or sexual orientation. . . .”<sup>1</sup>
4. WZO Constitution Article 2, Section 2A also reiterates that Zionism “rejects discrimination base on origin, nationality, race or gender.”

---

<sup>1</sup> World Zionist Constitution, [azm.org/WZO\\_constitution.pdf](http://azm.org/WZO_constitution.pdf)

5. The Hatikvah slate is in fact engaged in discrimination based on “origin” or “nationality.” The Hatikvah boycott singles out Israeli-Jewish-owned business such as Ahava cosmetics and kosher wineries and agricultural businesses. The Hatikvah slate “green line boycott” groups *only boycott* Israeli-Jewish owned businesses; Hatikvah does not boycott Arab-owned businesses over the green line. Thus, the Hatikvah boycotts discriminatorily target businesses based on the nationality and ethnicity of the business owner, in violation of WZO Constitution Article 7. Likewise, the Hatikvah slate groups that engage in “all Israel” boycott activities are targeting their boycott victims based on their Israeli-Jewish nationality.
6. WZO Constitution Article 10 makes the anti-discrimination requirements in Article 7 ongoing. WZO Constitution Article 10 explicitly provides that members may “at any time” be required to demonstrate that they meet the non-discrimination requirements of Article 7.
7. The fact that anti-discrimination is an *ongoing, continuous* WZO Constitutional *membership requirement* means that the Hatikvah slate is *not* entitled to run in the 2015 election simply because another Hatikvah slate with some of the same members ran in the 2006 and 2010. The fact that anti-discrimination is an ongoing, continuous membership requirement means that Judge Gafni’s decision allowing the Hatikvah slate to run in 2015 simply because *a* Hatikvah slate ran before is wrong.
8. The Hatikvah Response complains that disqualification is a drastic remedy. However, expulsion and sanctions and suspension of membership rights are precisely the remedies that the WZO Constitution Article 10 authorizes for violations of WZO Article 7.<sup>2</sup>

---

1. WZO Constitution Article 10 states: “The Executive may at any time require any Member to furnish that it has fulfilled the conditions of membership in accordance with Articles 5, 7, 8, 9. If a Member does not furnish such information within the time fixed by the Executive, the Outer Executive may propose to the Zionist Supreme Court the suspension of the rights of such Member in the World Zionist Organization, expulsion from the World Zionist Organization, or such sanctions as it deems fit.”

We are talking about serious offenses here. Anti-Jewish anti-Israel boycotts are a serious, dangerous and extremely damaging to the victims of those boycotts and to the entire Jewish people, and warrant serious remedies.

9. WZO Constitution Article 2, Section 2, also underscores the seriousness of the Hatikvah slate's discrimination against Jews and Israelis. This Constitutional provision states that the foundations of Zionism are "1. *The unity of the Jewish people, its bond to its historic homeland Eretz Yisrael, and the centrality of the State of Israel and Jerusalem, its capital, in the life of the nation. . . .*[and] 5. *Nurturing mutual Jewish responsibility, defending the rights of Jews as individuals and as a nation, representing national Zionist interests of the Jewish people, and **struggling against all manifestations of anti-Semitism.***"
10. ZOA's Appeals Brief contains quotes from Israeli officials on both the right and left of the political spectrum, explaining that these boycotts are anti-Semitic and designed to harm Israel. The divisive, discriminatory Hatikvah boycotts violate the WZO's foundational purpose of assuring Jewish unity, assuring the bond to Israel and Jerusalem, and struggling against all manifestations of anti-Semitism.
11. The ZOA would welcome a decision by this Court that the Hatikvah slate can run in the election if – and only if - all of the Hatikvah slate's constituent groups – Partners for Progressive Israel, Ameinu through its The Third Narrative subsidiary, Habonim Dror, Hashomer Hatzair, New Israel Fund, J Street, Open Hillel and Americans for Peace Now – immediately cease and desist from all of their discriminatory boycott and sanctions activities against Jews and Israel described in our Appeal Brief.
12. However, if these groups want to continue boycotting and/or sanctioning Jews and Israel, and/or funding such boycott activities, then the Hatikvah slate and its constituent members are violating the WZO Constitution and must be expelled and disqualified.

## **B. The Hatikvah Slate's Discriminatory Boycotts Solely Target Jews and Israelis, And Violate New York Law and Other Legal Authority**

13. Major Hatikvah slate members including PPI, New Israel Fund, and Ameinu are all headquartered in New York, and are hence bound by New York law, and other Hatikvah slate members also have significant New York connections, subjecting them to New York law.
14. As detailed in ZOA's Appeal Brief, the New York Human Rights Law, NY Executive Law, Article 15, Sec. 296(13) prohibits boycotts and blacklists based on creed or national origin, which also includes ancestry.<sup>3</sup> The Hatikvah slate boycotts and blacklists target Jewish-Israeli businesses, and hence violate New York's anti-boycott law.
15. ZOA's Appeal Brief moreover explained that the Hatikvah boycotts do not fall within the New York law's narrow exception for "boycotts to protest unlawful discriminatory practices." *See* ZOA Appeal Brief, Part IV, footnote 33, at page 25. (The Hatikvah Response falsely states that ZOA never addressed this exception.) This exception merely permits boycotts against employers who discriminatorily provide different pay and benefits to their employees based on the employees' creed, color, etc. The exception is inapplicable here. The Hatikvah slate boycott targets companies that pay and treat their employees – both Arab and Jewish – equally and fairly. The Hatikvah boycott has absolutely nothing to do with the employment practices of the companies that Hatikvah targets.

---

2. The New York law reads: "*It shall be an unlawful discriminatory practice (i) for any person to discriminate against, boycott or blacklist, or to refuse to buy from, sell to or trade with, any person, because of the race, creed, color, national origin, sexual orientation, military status or sex of such person, or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers, or (ii) for any person wilfully to do any act or refrain from doing any act which enables any such person to take such action. This subdivision shall not apply to: (a) Boycotts connected with labor disputes; or (b) boycotts to protest unlawful discriminatory practices.*" The term "national origin" also includes "ancestry." Art. 15, § 292.8.

16. Hatikvah slate groups such as PPI and Americans for Peace Now target Jewish-Israeli owned businesses simply because they are Jewish or Israeli businesses, who do some business in areas such as eastern Jerusalem, Ma'ale Adumim, Ariel and Hebron that PPI want to be "Judenrein" (clean of Jews). Hatikvah slate groups such as J Street, NIF and Open Hillel target Jewish or Israeli businesses throughout Israel simply because they are Jewish or Israeli.
17. The Hatikvah Response ignores the fact that Hatikvah slate member Ameinu (via its Ameinu-created The Third Narrative subsidiary) targets Jewish officials for sanctions for reasons that are discriminatory under New York law. See Appeal Br. Part IV, pages 2-26-25. Forbidding Jews to live or build houses in a particular locale is clearly discrimination. *Id.*
18. Under both the WZO Constitution and New York State Human Rights Law, members of the Hatikvah slate – including PPI, Ameinu and others – are engaged in discrimination against Jews and Israelis (as well as harming both Arabs and Jews). Accordingly, under the WZO Constitution, WZO and AZM must expel and disqualify the Hatikvah slate.
19. The Hatikvah Response also ignores the fact that the Hatikvah boycotts violate fundamental Jewish ethical law: the prohibition on interfering with another Jew's (or indeed any person's) livelihood and ability to make a living. (Hasagat Gevul, Deuteronomy/Devarim 19:14).

**C. This Case Is Not About The Hatikvah Slate's "Political" Views; It is About The Hatikvah Slate's Unlawful Boycotts**

20. In order to distract attention from the gist of this case and the Hatikvah slate's unlawful boycott activities, the Hatikvah Response falsely attempts to recast ZOA's claim into a "political" anti-free-expression claim.
21. This case is *not* about the Hatikvah slate's political views, or the slate's right to speak about its views.

22. There are other slates and organizations running in the World Zionist Congress election that share the very same political views as the Hatikvah slate. For instance, the Green slate promotes environmental issues. ZOA members are also active environmentalists. We and probably every slate believe in protecting the environment. Most slates, including ZOA, believe in women's rights. The most famous American Jewish feminist, Dr. Phyllis Chesler, is a prominent member of the ZOA slate list. Most of ZOA's executives are women. The Hatikvah slate's suggestion that ZOA seeks to disqualify the Hatikvah slate because of issues such as the environment or women is absurd.
23. Moreover, other slates including the American Reform Zionists (ARZA) share the Hatikvah slate's views favoring a so-called "two state solution" and opposing settlements. However, unlike the Hatikvah slate, ARZA and other slates express these views without engaging in discriminatory boycott activity against Jewish and Israeli businesses.
24. If this case were about "political views," the ZOA would have brought claims against all the other slates that share the Hatikvah slate's political views. The ZOA brought this case solely against the Hatikvah slate, because the Hatikvah slate engages in discriminatory boycotts, which are forbidden by the WZO Constitution.

**D. ZOA's Motive For Bringing This Case Is To Stop The Harm Caused By Anti-Israel, Anti-Jewish Boycotts**

25. In order to distract attention from the fact that the Hatikvah slate's harmful, discriminatory anti-Israel, anti-Jewish boycott activity violates the WZO Constitution, Jewish law, New York law and other legal authority, the belated Hatikvah Response resorts to "cynical" name calling and maligning the ZOA's motives for bringing this case.
26. The ZOA brought this case (at great effort and cost to itself) for purely altruistic and humanitarian motives: to stop the tremendous harm caused by discriminatory anti-Israel, anti-Jewish boycotts. Ending anti-Jewish boycotts and sanctions was an important

founding principle of the World Zionist Congress and the State of Israel. Theodore Herzl wrote that the scourge of anti-Jewish boycotts is one of the reasons why the Jewish people needed a Jewish state.

27. Boycotts are economic warfare, designed to delegitimize and destroy Jews and Israel. Please see Part 1, sections B through F of ZOA's appeal brief (pages 14-22) for a detailed discussion and evidence of the harm caused by anti-Israel anti-Jewish boycotts.
28. ZOA is also here today because one of ZOA's basic purposes, since ZOA's establishment in 1898, is to fight against anti-Semitism. ZOA's Appeals Brief contains quotes from Israeli officials on both the right and left of the political spectrum, explaining that these boycotts are anti-Semitic. As noted above, the WZO Constitution, Article 2, Section 2, also makes "*struggling against **all** manifestations of anti-Semitism*" one of the foundational principals of the WZO.
29. The ZOA prefers to avoid unnecessarily invoking the Holocaust, and thus ZOA's Appeal Brief did not mention the most infamous boycott. However, in light of the Hatikvah Response's scurrilous effort to justify the Hatikvah slate's anti-Jewish boycotts, it is perhaps appropriate to point out that the Nazi regime's first anti-Jewish action, the first action which began the Nazi's reign of terror against Jews, was the Nazi call for a boycott of Jewish-owned businesses on April 1, 1933.
30. ZOA brought this case because ZOA cares deeply about the plight of fellow Jews and Israelis. ZOA does not simply know about the harm caused by BDS from reading articles and watching videos. ZOA sees the damage caused by anti-Israel, anti-Jewish boycotters every day, first hand.
31. The ZOA is on college campuses throughout the United States, working day and night to defend Jewish students from BDS organizations who have been making Jewish students' lives a living hell, taunting, screaming at, downgrading and physically attacking Jewish students. The Hatikvah slate's official web page published on the AZM (American Zionist Movement) official election website, says



- that the leaders of Open Hillel and other extreme BDS groups are on the Hatikvah slate. The Hatikvah slate's Open Hillel organization is a partner with and front group for Students for Justice in Palestine (SJP). SJP has been *physically* attacking American Jewish college students. American Jewish students are ending up in hospitals with concussions and other serious injuries.
32. ZOA brought this case because ZOA cannot stand idly by when we see the Hatikvah slate participating in a scourge that is putting our college students into the hospital with life-threatening injuries.
  33. The ZOA also travels with our students to eastern Jerusalem, Judea and Samaria. We've seen that these areas are filled with 700,000 good, caring Jewish Israelis who are simply trying to make an honest living to support their families, and to live in peace with and employ their neighbors – including Arab Palestinians – at good wages, so that Arab Palestinians can also support their families. An analysis just printed in Forbes magazine explained that the closing of SodaStream's West Bank plant (after SodaStream was besieged by boycotters including the Hatikvah slate's leading organization, Partners for Progressive Israel) caused hundreds of Arabs to lose good jobs that were paying three (3) to five (5) *times more* than the prevailing wage. See *Boycott Israel Movement Stunts The Palestinian Economy*, Forbes, Feb. 22, 2015, <http://www.forbes.com/sites/carriesheffield/2015/02/22/boycott-israel-movement-stunts-the-palestinian-economy/>. The Forbes article notes that "last year the Palestinian Authority's official newspaper hailed working conditions for Palestinians employed by Israelis in West Bank settlements." *Id.*
  34. The ZOA's Appeal Brief also sets forth *Arab Palestinians'* statements that West Bank boycotters are ruining Arab Palestinians' livelihoods. See Appeal Brief. Part I.C., especially footnote 20 at page 19.
  35. ZOA thus also brought this case because Jewish law forbids Jews from damaging Jews and other persons' livelihoods. Damaging livelihoods is exactly what the Hatikvah slate is doing.

36. A slate that in fact discriminates against Jews and Israelis, and whose actions are leading to worldwide violent anti-Semitic attacks, violates the WZO Constitution's anti-discrimination provisions, and should be disqualified.

#### **E. The Hatikvah Slate's Discriminatory Boycotts Cannot Be Justified**

37. The Hatikvah Response contains smug, self-congratulatory unsupported assertions – that the Hatikvah slate engages in boycotts of businesses over the green line for the “Zionist” purposes of establishing peace and economic justice. However, the Hatikvah slate offers absolutely no evidence that any of its boycotts establish peace or economic justice.
38. The Hatikvah Response's stated rationale for boycotts is downright Orwellian. In George Orwell's famous book, *1984*, the government propaganda ministry – misleadingly called the “Ministry of Truth” states “War is Peace.” The Hatikvah slate's rationale for boycotts is similar. The Hatikvah Response essentially asserts: “Economic war is peace.” Simply put, boycotts are economic warfare; they are not peace, and cannot be justified by making unsupported claims that they bring peace.
39. When Jews boycott other Jews, it justifies and encourages boycotts against all Jews. When Jews boycott Israelis, it justifies and encourages boycotts against Israelis.
40. If you say that boycotting Jews and Israelis living in certain areas is justified to bring “peace and justice,” then you can say that boycotting Jews and Israelis in all of Israel is justified to bring “peace and justice.” You can say that anything is justified to bring “peace and justice.” You can say that boycotting every Jew throughout the world is justified to bring “peace and justice.” You can say that murdering all Jews is justified to bring “peace and justice.” People always assert justifications for anti-Semitic, discriminatory activity. The Nazis said that boycotting and enslaving and murdering Jews was justified because “the Jews are our misfortune” and a world without Jews would be pure.

41. This is why the Torah teaches us that purported ends do not justify discriminatory and unlawful means. Sages explain that one of the reasons that the word “tzedek” is repeated twice in “Tzedek, tzedek tirdof “ is because both the ends and the means must be righteous.
42. Accordingly, even if there was any “justice” to the Hatikvah slate’s purported goals, such goals would not justify the discriminatory means employed by the Hatikvah slate.
43. Moreover, the Hatikvah slate boycotts cover far more territory than businesses over the green line in eastern Jerusalem and Judea and Samaria. Three of the eight Hatikvah slate organizations (Open Hillel, J Street and NIF) – that is, almost half the Hatikvah slate groups - support and promote boycotts of all of Israel. Moreover, the directors of the other Hatikvah slate groups such as Ameinu are the very same people who serve as directors and officials of these “all-Israel” boycott groups. The Hatikvah slate does not even bother to try to justify its all-of-Israel boycotts. There is no justification for these or any of the Hatikvah slate boycotts.
44. ZOA’s appeal brief pointed out and demonstrated with reams of evidence that the Hatikvah boycotts – both its “over the green line” boycotts and its ‘full Israel” boycotts - harm the very people and goals that the Hatikvah Response falsely argues that it helps. The Hatikvah boycotts cause Jewish business owners and their highly-paid Arab workers economic harm, and damage peaceful co-existence. The Forbes article cited above explains that: “The BDS movement inflames rather than enlightens global dialogue around the peace process. Israel invests heavily in Palestine; the rest of the world doesn’t bother.”<sup>4</sup>
45. If the Hatikvah slate really cared about “economic justice” or “peace,” it would start businesses in Judea and Samaria and employ Palestinian Arabs there at good wages. Instead, the Hatikvah slate is trying to destroy the Jewish businesses that are actually doing

---

<sup>4</sup> *Boycott Israel Movement Stunts The Palestinian Economy*, Forbes, Feb. 22, 2015, <http://www.forbes.com/sites/carriesheffield/2015/02/22/boycott-israel-movement-stunts-the-palestinian-economy/>.

something real to help their neighbors. The real purpose of the Hatikvah slate's BDS activities is to hurt and discriminate against Israeli Jews who it disagrees with. The slate's actions (which speak louder than words) reveal that the Hatikvah slate does not really care about the fate of Arab Palestinians, economic justice or peace.

**F. The Entire Hatikvah Slate Is Involved In and/or Responsible For Boycott and/or Sanctions Activity Against Jews and Israelis**

46. Paragraph 38 of the Hatikvah Response admits that the Hatikvah slate promotes boycotts over the green line. The Hatikvah Response nonetheless attempts to argue elsewhere that only "part" of the slate – namely, Partners for Progressive Israel – promotes boycotts. In fact, virtually the entire Hatikvah slate promotes boycotts and/or sanctions against Jews and Israel in one or more of the various forms of discriminatory BDS. Hatikvah organizations Partners for Progressive Israel (PPI) and Americans for Peace Now both promote boycotts over the green line; plus 3 Hatikvah organizations (Open Hillel, J Street, and New Israel Fund) promote or fund BDS against all of Israel; 2 organizations (Hashomer Hatzair and Habonim Dror) are simply youth arms of other groups; and the remaining organization, Ameinu, has interlocking dual directorates with BDS-promoter J Street plus it promotes sanctions against Israeli officials through the Ameinu-created "The Third Narrative."
47. Moreover, the entire Hatikvah slate is intertwined. The numerous interconnections among the "HaTikvah" slate organizations, include shared offices, shared websites, referrals to each other's website resource pages, overlapping directors and officers, overlapping founders, etc. Partners for Progressive Israel, Ameinu, Habonim Dror, and Hashomer Hatzair all share the same office address, and all helped to form the predecessor to J Street's campus organization (which routinely brings BDS movement speakers to college campuses). ZOA's Appeal Brief also documented that these four organizations plus the other four organizations on the Hatikvah slate have interlocking directorates – that is, they share many of the same officers and directors. See Appeal Brief Part V.G at pages 46-48, and Part V.A.(b)&(c) at pages 31-32 (including footnote 48, PPI & Ameinu tax filings).

48. Thus, the entire Hatikvah slate is involved in boycott and or sanction activity and is intertwined with and supports one another's boycott and divestment activities. The Hatikvah Response's attempt to carve out just one organization fails.
49. The Hatikvah Response also wrongly argues that the Zionist Supreme Court should ignore the presence on the Hatikvah slate of the Hatikvah slate's other four BDS organizations: J Street, Open Hillel, Americans for Peace Now (APN) and New Israel Fund (NIF). There is no reason to ignore the presence of these organizations, all of which support BDS. Three of these organizations support BDS against all of Israel. The Hatikvah slate's own slate page on the AZM website states that the *leaders* of all of these organizations are part of the Hatikvah slate.
50. The official Hatikvah slate page on the AZM website states right at the top of the page:
- “The Hatikvah slate is comprised of *leaders of a variety of organizations, including J Street, New Israel Fund, Americans for Peace Now, Open Hillel* and the Jewish Labor Committee along with Rabbis, social and environmental activists, academics, arties and others *who have joined with Ameinu, Habonim Dror, Hashomer Hatzair and Partners for Progressive Israel.*”**  
([https://vote.election-america.com/azm/bios/Hatikva\\_Slate.pdf](https://vote.election-america.com/azm/bios/Hatikva_Slate.pdf))
51. ZOA's appeal brief extensively documents the BDS activities of the Hatikvah slate organizations. To very briefly summarize this:
52. **Partners for a Progressive Israel (PIP)** (a major member of the “Hatikvah” slate) promotes discriminatory boycotts of Jewish Israel businesses in 170 industries in Jerusalem, Hebron, Ariel, Efrat, Ma’ale Adumim, etc. *right on PIP's website*. Partners for a Progressive Israel's Chairman Theodore Bikel also promotes cultural/artistic boycotts including boycotting the new Israeli-Jewish arts facility in Ariel. See ZOA Appeal Brief, Part V.A, pages 26-29. Also see the ZOA Appeal Brief Appendix for lists of Jewish-Israeli companies boycotted by PPI.

53. **Ameinu** (another major member of the Hatikvah slate), through an Ameinu-created subsidiary organization called “The Third Narrative,” lobbies U.S. and European governments to impose severe financial and visa sanctions on Jewish Israeli government officials whom Ameinu disagrees with. Ameinu’s top officials also double as J Street officials or are tied closely to J Street, which engages in extensive de facto promotion of BDS. .See ZOA Appeal Brief, Part V.A(2), pages 30-32.
54. **Habonim Dror** and **Hashomer Hatzair** are merely youth arms of PPI and Ameinu. See ZOA Appeal Brief, Part V, page 32.
55. **“Open Hillel”**: The confusingly-named “Open Hillel” group tries to force the well-known and long-time campus organization Hillel International to provide platforms to promote the global BDS movement – and to bring in speakers that promote Israel’s destruction. “Open Hillel” was formed in 2012 to attempt to abolish Hillel International’s “Standards of Partnership.” Hillel International’s reasonable “Standards of Partnership” prohibit campus Hillel facilities from hosting organizations that promote BDS against Israel. “Open Hillel” brings in speakers who say that Israel should be destroyed and cease to exist. “Open Hillel” is working together with the anti-Israel anti-Semitic hate group “Students for Justice in Palestine” (SJP). SJP members have violently attacked Jewish students on college campuses. .See ZOA Appeal Brief, Part V.C., pages 33-36.
56. **Americans for Peace Now (APN)**: APN openly promotes boycotts of Jewish Israeli businesses in eastern Jerusalem and Judea and Samaria. . See ZOA Appeal Brief, Part V.D., pages 36-37.
57. **New Israel Fund (NIF)**: NIF spent large sums of money erecting the BDS infrastructure, and continues to fund BDS groups and their co-conspirators. NIF grantees Adalah, B’Tselem and Breaking the Silence also provided the false information to Judge Goldstone which formed the basis of the false (and since discredited) Goldstone report that accused Israel of war crimes. The BDS movement uses the false Goldstone report as one of its chief weapons to promote BDS against

Israel. The “US Campaign for the Academic & Cultural Boycott of Israel” has a web page entitled “Sections of Goldstone Report Very Useful for BDS and related campaigns.” NIF-funded B’Tselem’s board publicly called for “*effective sanctions*” against Israel. B’Tselem creates, distributes, shows at BDS-promotional events and places on its website numerous distorted anti-Israel videos, to malign Israel and promote BDS. NIF-funded Adalah promotes BDS by speaking at “apartheid weeks” sponsored by “BDS Geneva” and other worldwide BDS groups. NIF grantee Sheikh Jarrah Solidarity Movement promotes cultural/artistic BDS, and collaborates with the global BDS movement, including accusing Israel of “fascism” and invented crimes to promote BDS. *See* ZOA Appeal Brief, Part V.F, pages 42-46., and page 37.

58. **J-Street:** J Street promotes, honors, and gives major platforms to the leaders of the global BDS movement (including Mustafa Barghouti) at its national conferences and brings top BDS leaders to college campuses. J Street also promotes BDS on J Street’s website video. *See* ZOA Appeal Brief, Part V.E, pages 37-42.

### **G. The Hatikvah Slate Platform Page Is False and Misleading And Should Be Removed From AZM’s Website**

59. The Hatikvah slate’s platform page falsely states that the Hatikvah slate works to “**combat** the Boycott, Divestment, Sanctions (BDS) movement.” As set forth above and documented in the ZOA Appeal Brief, the Hatikvah slate organizations promote BDS and/or sanctions against Jews and Israel.
60. Thus, the Hatikvah slate’s official platform page on World Zionist Congress election website tells voters the exact opposite of what the Hatikvah slate members are really doing. It is unconscionable election fraud to mislead World Zionist Congress voters with such falsehoods.

### **H. The Hatikvah Slate’s Name is Misleading And Should Not Be Permitted**

61. The name “Hatikvah” has longstanding nationalist meaning. The name immediately brings to mind Israel’s national anthem, which speaks of the soul of a Jew yearning for 2000 years to return and live in freedom in Zion and Jerusalem. *See* ZOA Appeal Brief Part VII at pages 53-55.
62. The name “Hatikvah” has never meant the hope to boycott and sanction Israel. It is thus misleading for a slate whose constituent members promote boycotts and sanctions to use the “Hatikvah” name.
63. Many voters will only look at the slate name – and not investigate further or read the slates’ platforms. Moreover, even if voters read the HaTikvah slate’s platform, voters will still not know the truth about the slate, because the Hatikvah slate’s platform omits and lies about its constituent members BDS activities. Thus the Hatikvah slate’s misleading name compounds the problems created by the Hatikvah slate’s misleading platform.
64. The fact that the Hatikvah name was used in the 2006 and 2010 elections is irrelevant. At the time of the past elections, the slate was not involved in BDS activity. Moreover, BDS promoters J Street, NIF, APN and Open Hillel first joined the Hatikvah slate for the 2015 election.

### **I. The Hatikvah Response Should Be Stricken And Disregarded Because It is Late**

65. The Hatikvah Response was submitted late, and thus should be stricken and disregarded. On February 9, 2015, the Zionist Supreme Court ordered that the Hatikvah slate was required to submit its Response by March 1, 2015. The Hatikvah Response was dated (at the bottom of the Response) on March 9, 2015 – nine days after the due date, and was sent to the ZOA (by the WZO) on March 10, 2015 – *ten days after the due date*. This was *only two (2) days prior to the Zionist Supreme Court hearing*. The late Hatikvah Response appears to have been designed to unfairly cause disadvantage to the ZOA. Because the Hatikvah Response was so late, the Hatikvah Response



should be stricken and not considered by the Honorable Zionist Supreme Court.

66. The Hatikvah slate has NEVER bothered to send the Hatikvah Response or any other court papers to the ZOA – even though the ZOA sent all its court filings to the Hatikvah slate. The ZOA also repeatedly sent emails asking the Hatikvah slate for copies of any responsive papers, and *never received any court papers from the Hatikvah slate*. As mentioned above, just 2 days prior to the scheduled hearing, on March 10, 2015, the *WZO* (*not* the Hatikvah slate) sent the Hatikvah Response dated March 9, 2015 to ZOA. The Hatikvah slate’s failure to send the ZOA its Response or any other legal papers also appears to have been designed to cause unfair disadvantage to the ZOA.
67. In addition, the Hatikvah slate filed its belated Response in Hebrew, without providing a translation, despite the fact that all the parties to this case speak English and the evidence is all in English, and the Hatikvah slate knows that the ZOA’s attorney is not fluent in Hebrew. The Hatikvah slate appears to have failed to provide an English version or translation of its belated Response to further cause unfair disadvantage to the ZOA. Because of the belated and unfair litigation tactics of the Hatikvah slate, the ZOA had to obtain a translation and put together this reply in less than two days.
68. The ZOA respectfully submits that, in addition to striking and disregarding the Hatikvah Response, the Honorable Zionist Supreme Court **should require the Hatikvah slate to pay the ZOA’s legal and translating fees, due to the Hatikvah slate’s unfair litigation tactics, including the Hatikvah slate’s belated filing just 2 days before the hearing, failure to provide English papers or translations, and failure to send the ZOA any of its legal papers.**

#### **J. The ZOA Complaint Is Timely**

69. The Hatikvah Response’s argument that the ZOA should have brought its claim ten (10) years ago makes no sense. The members of the Hatikvah slate were not boycotting Jewish Israeli businesses ten years ago. Thus, there was no reason to bring a case about

- discriminatory boycotts before those boycotts existed. The Hatikvah slate's boycott activities only started during the past few years, *after* the last Zionist Congress election. Moreover, as documented in ZOA's complaint and appeal, Hatikvah slate member Ameinu first started its "The Third Narrative" call for severe international sanctions against Israeli officials whom it disagrees with in December 2014, the very same month that the ZOA initiated its complaint.
70. Further, the fact that *some* of the current organizations ran together as the Hatikvah slate in 2006 or 2010 is irrelevant, because slate compositions change all the time. It was uncertain who would run on the Hatikvah slate in 2015. The slate compositions / affiliates were not due until the end of December 2014.
71. On December 26, 2015, the American Zionist Movement (AZM) Executive Director wrote an email revealing that she was still uncertain of the composition of the 2015 Hatikvah slate. After ZOA's Ms. Berney sent **four emails** on Dec. 25, 2014 and Dec. 26, 2014, asking AZM which slate Partners for Progressive Israel was running on and who PPI's slate partners were, and what the objection procedure was, AZM Executive Director Karen Rubinstein responded on December 26, 2014 asking ZOA to file a complaint in 2 days and stating:
- "To the best of my knowledge*** the Hatikvah slate is comprised of Ameinu, PPI, Habonim-Dror, Hashomer-Hatzair. ***I do not know of others and will only know when the full list of affiliates is submitted.***" (Email from Karen J. Rubinstein to Liz Berney sent Friday Dec. 26, 2014, 9:02 a.m, with copies sent to AZM's Susie Baumohl and Judge Gafni, Howard Katzoff, Morton Klein, and the WZO's Fern Braniss.)
72. In fact, the list of organizations that AZM provided on December 26, 2014 was incomplete. An article published on January 9, 2015 revealed the names of the four additional organizations whose leaders were on the 2015 "Hatikvah slate." These four new member organizations of the 2015 Hatikvah slate all support boycotts against all or part of Israel. These four new groups were not affiliated with the Hatikvah slate in 2006 or 2010. ZOA filed a supplement to its

complaint as soon as it learned about these new members of the Hatikvah slate.

73. Accordingly, the ZOA timely filed its complaint. It is absurd to argue that this complaint should have been filed 10 years ago, before the Hatikvah slate's boycotts of Jewish Israeli businesses began, and before the new boycott-supporting partners joined the Hatikvah slate, whose composition for 2015 was unknown until January 2015.

#### **K. There Is Absolutely No Basis For Assessing Attorneys' Fees Against ZOA**

74. Incredibly, the Hatikvah Response requests that the ZOA should pay the Hatikvah slate's attorneys fees. This outrageous request is surely the ultimate act of Chutzpah.
75. The Hatikvah slate bases its request for fees on the fact that ZOA did not attend the WZO-CEB hearing. The Hatikvah Response misleadingly fails to mention the fact that it was impossible for ZOA to attend because ZOA did not receive any proper notice of the WZO-CEB hearing. The ZOA was first notified of the WZO-CEB hearing only about *30 minutes* before the hearing occurred, when ZOA's Ms. Berney received a phone call in New York (at approximately 6:30 in the morning, New York time) advising her that the hearing would take place in half an hour. It is unfortunately impossible to fly from New York to Jerusalem in half an hour. Ms. Berney requested that she be connected to participate in the hearing via telephone, and was told that she would receive a telephone call. However, the WZO-CEB never called Ms. Berney. Ms. Berney was informed afterwards that the WZO-CEB did not have the facilities to make the phone call, and that friends of the ZOA argued on ZOA's behalf.
76. Moreover, the ZOA clearly participated in the WZO-CEB process by filing extensive briefing papers with the WZO-CEB well prior to the WZO-CEB hearing. This is far more than the Hatikvah slate bothered to do. To the best of ZOA's knowledge, the first and ***only*** legal papers that the Hatikvah slate ever bothered to file in this entire litigation

was the belated Hatikvah Response dated March 9, 2015, which the WZO sent to ZOA two days ago, on March 10, 2015.

77. It is also surprising that the Hatikvah slate has the gall to ask for legal fees when the Hatikvah slate did so little in this case. To the best of ZOA's knowledge, the Hatikvah slate never bothered to file anything in any of the previous stages of this litigation.
78. It is also galling that the Hatikvah slate is asking for fees when it has such "unclean hands." The Hatikvah slate filed its sole Response extremely late in order to cause disadvantage to the ZOA, failed to provide an English translation in order to cause disadvantage to the ZOA, and failed to ever send a single legal filing to the ZOA.
79. In addition, the Hatikvah Response engages in Orwellian double-speak, essentially saying that "economic war is peace." ZOA should be awarded fees for having to respond to the Hatikvah slate's absurd arguments.
80. Thus, the Hatikvah slate should pay legal fees to the ZOA (and the ZOA should pay nothing to the Hatikvah slate).

## **L. Conclusion**

81. BDS is a cancer, spreading throughout the world, fomenting vicious anti-Semitism. Just one day before this Honorable Zionist Supreme Court hearing, Jewish newspapers published the news that "the South African Jewish Board of Deputies released a statement expressing concern that the Boycott, Divestment and Sanctions (BDS) movement against Israel is creating a climate of increased anti-Semitism in South Africa . . . . On Sunday, ***BDS supporters threatened to slaughter Jews*** at a rally outside of the South African Zionist Federation near Johannesburg." *South African Jewish Group Raises Concern Over Growing BDS-Linked Antisemitism*, The Algemeiner, March 11, 2015, at <http://www.algemeiner.com/2015/03/11/south-african-jewish-group-raises-concern-over-growing-bds-linked-antisemitism/>

82. If the BDS-promoting Hatikvah slate is permitted to run in the 2015 World Zionist Congress election, this will set a bad precedent. The premier World Zionist Organization could be seen as implicitly or explicitly endorsing, or at least finding acceptable, the boycott of Jews and Israel. This will encourage still more BDS, and more anti-Semitic attacks.
83. The ZOA thus respectfully requests that its Appeal be granted.

Respectfully submitted,

The Zionist Organization of America

By:

Elizabeth Berney, Esq. (liz@zoa.org)

Howard Katzoff, Esq. (hkatzoff@zoa.org)

Morton Klein, ZOA National President (mklein7@verizon.net)

Dr. Michael Goldblatt, ZOA National Chairman (mgoldblatt39@gmail.com)