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February 11, 2021

Steven Gold
General Counsel
ActBlue
PO Box 441146
Somerville, MA 02144-0031

Via Email

Dear Mr. Gold

On behalf of Zachor Legal Institute the undersigned respectfully asks ActBlue to investigate the account of an organization known as Palestinian Academic and Cultural Boycott of Israel (“**PACBI**”), a hate group that is controlled by a coalition of organizations that the United States and other countries have designated as foreign terror organizations.

By way of background, Zachor Legal Institute has been active in legal issues relating to civil liberties and the Constitution and has an active United States Supreme Court practice. The founder of Zachor Legal Institute is the author of a number of legal papers analyzing constitutional issues with an emphasis on anti-discrimination laws and the First Amendment. Relevant for the purposes of this letter are the founder’s papers “The BDS Movement: That Which We Call A Foreign Boycott, By Any Other Name, Is Still Illegal” (the “**RWU Paper**”, published in the Roger Williams Law Review and available for download at https://docs.rwu.edu/rwu_LR/vol22/iss1/2/) and “Boycotting The Boycotters: Turnabout Is Fair Play Under The Commerce Clause And The Unconstitutional Conditions Doctrine” (the “**Campbell Paper**”, published in the Campbell Law Review and available for download at https://www.campbelllawreview.com/s/Boycotting-the-Boycotters_-Turnabout-Is-Fair-Play-Under-the-Comme-xys5.pdf).

PACBI is a foreign organization that is part of a coalition that founded the governing body of the so-called “Boycott, Divest and Sanction” Movement (“**BDS Movement**”). Among the other members of this coalition are the designated terror groups Hamas, Popular Front for the Liberation of Palestine, Palestine Islamic Jihad, Popular Front for the Liberation of Palestine-

General Command and Palestinian Liberation Front.¹ As the independent and non-partisan Jerusalem Center for Public Affairs detailed in its 2019 report on the PACBI’s terror links, “The PACBI Deception Unmasked: Terror Links and Political Warfare Masquerading as Human Rights”, PACBI not only is a founding member of the coalition that controls the BDS Movement (the BDS National Committee, or “BNC”), “PACBI and the terror-linked BNC are operationally the same organization: PACBI serves as the ‘face’ of the BNC. PACBI and the BNC share the same website, mailing list, and staff members, indicating a strong overlap in the BDS Movement’s leadership roles... PACBI’s leaders and coordinators have actively supported Islamic and Palestinian terrorists. PACBI activists have also led violent protests....”²

While some supporters whitewash the BDS Movement’s genocidal aims and its ultimate objective of ethnically cleansing Jews from their historic homeland in Israel, even those on opposite ends of the political spectrum in the United States from current President Biden to former Secretary of State Pompeo and 2020 Presidential candidate Andrew Yang, agree that the BDS Movement is a racist hate group³ and a front for terror groups.⁴

While the BDS Movement (including BNC affiliates) has regularly been de-platformed from social media and crowdfunding sites for violating rules regarding hate activity, including by DonorBox in 2018, it appears that ActBlue has allowed PACBI to raise funds through ActBlue Charities.⁵

We have two general concerns about PACBI’s usage of ActBlue’s services.

¹ Dan Diker and Adam Shay, JERUSALEM CENTER FOR PUBLIC AFFAIRS, “The PACBI Deception Unmasked: Terror Links and Political Warfare Masquerading as Human Rights” (2019), available at https://jcpa.org/pdf/PACBI_unmasked_web.pdf.

² *Id.* at 5-6.

³ *See, e.g.*, President Biden’s description of BDS as anti-Semitic, “Biden Draws Ire of Palestinian Activists for Shunning BDS Efforts, ALJAZEERA.COM (May 21, 2020), available at <https://www.aljazeera.com/news/2020/5/21/biden-draws-ire-of-palestinian-activists-for-shunning-bds-efforts> (Biden said the movement “singles out Israel – home to millions of Jews – and too often veers into anti-Semitism, while letting Palestinians off the hook for their choices.”); *see also*, then-Secretary of State Mike Pompeo’s 2020 description of BDS as anti-Semitic, United States Department of State press statement titled “Identifying Organizations Engaged in Anti-Semitic BDS Activities”, November 19, 2020, available at <https://www.state.gov/identifying-organizations-engaged-in-anti-semitic-bds-activities/> and 2020 Democratic presidential candidate and current New York City mayoral candidate Andrew Yang’s op-ed deeming BDS to be anti-Semitic, Forward.com (January 22, 2021), available at <https://forward.com/opinion/462603/andrew-yang-mayoral-race-new-york-city-jewish-community/> (“Not only is BDS rooted in antisemitic thought and history, hearkening back to fascist boycotts of Jewish businesses, it’s also a direct shot at New York City’s economy.”)

⁴ In 2018, Zachor Legal Institute finalized a study investigating the ties between certain designated foreign terror organizations, including the PFLP, and groups operating on university campuses. That study resulted in a report that was sent to the United States Department of Justice, recommending an investigation into the presence of terror groups on U.S. campuses under the federal material support to terror statute, 18 U.S. Code § 2339A. A copy of the letter can be downloaded at <https://zachorlegal.org/wp-content/uploads/2018/11/Final-DOJ-Letter.pdf?189db0&189db0>. *See, also*, the RWU Paper.

⁵ While a search through ActBlue’s directory using the search terms either PACBI or BDS/BNC found no results, the BDS Movement’s website, <https://bdsmovement.net/donatefromus>, states that donations made for the benefit of PACBI are “Secured by ActBlue Charities”. *See Exhibit A*. It may be the case that this is an unauthorized use of the ActBlue name, but we welcome any clarification as to ActBlue’s involvement with fundraising for PACBI or BDS generally.

First, as a terror-backed hate group, PACBI's activities constitute a violation of ActBlue's terms of service, as ActBlue does not allow illegal, obscene, threatening, defamatory or otherwise injurious content.⁶ In addition to promoting antisemitism generally, PACBI's role in the governing body of the BDS Movement implicates it as violating various anti-discrimination including state anti-BDS laws⁷ and is involved in providing material support to designated terror organizations that are part of the BNC. This clearly violates ActBlue's term of service regarding illegal activity.

Second, there can be no question that when PACBI raises funds through ActBlue, those funds are being used by the BNC and its designated terror group members in violation of 18 U.S.C. 2339B, which prohibits any party from providing material support to designated terror organizations. See the RWU Paper beginning at page 99 for an exhaustive analysis of how support for BDS violates 18 U.S.C. 2339B; see, also, the Campbell Paper for further details on the ties between BDS affiliates and designated terror organizations. Indeed, other companies have recently deplatformed BDS for the very same offenses of violating their terms of service and using the platforms to provide material support in violation of 18 U.S.C. 2339B.⁸

Further, by facilitating fundraising on behalf of an affiliate of designated terror organizations, ActBlue is likely in violation of the following federal laws either alone or as part of a enterprise, as such term is defined in 18 U.S. Code §§1961-1968 (the Racketeer Influence and Corrupt Organizations Act, or RICO):

1. Conspiracy to provide funds, goods, and services to a Specially Designated Terrorist under Executive Order 13244 as authorized pursuant to 50 U.S.C. §§ 1701–1706;
2. Providing funds, goods, and services to a Specially Designated Terrorist under Executive Order 13244 as authorized pursuant to 50 U.S.C. §§ 1701–1706;
3. Conspiracy to commit money laundering under 18 U.S.C. § 1956(h); and
4. Money laundering in fact under 18 U.S.C. § 1956(a)(2)(A).

By not taking action against PACBI (and other hate groups that promote BDS), ActBlue is not only failing to enforce its own use policies, it is potentially in violation of numerous anti-discrimination laws as well as laws that prohibit the provision of support to terror groups and their affiliates.

We urge ActBlue to review PACBI's ActBlue account in light of the facts presented here to determine whether ActBlue can continue to provide services to this hate group.

⁶<https://secure.actblue.com/content/fineprint>.

⁷ See the RWU Paper and the Campbell Paper, respectively, for fulsome discussions of how BDS violates anti-terror financing laws as well as anti-discrimination laws.

⁸ <https://www.theverge.com/2020/9/24/21453935/zoom-facebook-youtube-cancel-talk-leila-khaled-san-francisco-state-university>

Zachor can provide ActBlue with more detailed reports on the matters summarized in this letter upon your request. Please feel free to contact us at the email address listed in the header of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Greendorfer". The signature is fluid and cursive, with the first name "Marc" written in a larger, more prominent script than the last name "Greendorfer".

Marc Greendorfer
President
Zachor Legal Institute

Exhibit A

<https://bdsmovement.net/donatefromus>

Donate

Your donation will be tax-exempt as it is made to a 501(c)(3) organization.

Your support is essential to keep this movement growing.

PACBI, on behalf of the BDS movement.



Amount	Payment	Details
Secured by ActBlue Charities		
CHOOSE AN AMOUNT		
Your contribution will benefit PACBI.		
\$10	\$25	
\$50	\$100	
\$250	\$ <input type="text"/>	