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## **Ben & Jerry's Israel Sues Unilever to Prevent Illegal Boycott of Israel**

**Washington, D.C., March 3:** The manufacturer and distributor of Ben & Jerry's in Israel announced today it is suing Unilever and its subsidiary, Ben & Jerry's, for unlawfully terminating its 34-year business relationship in order to boycott Israel. The lawsuit requests the U.S. federal court deem Unilever's termination illegal, enabling Israeli company American Quality Products (AQP) and its owner Avi Zinger to continue selling Ben & Jerry's products throughout Israel.

### **The Lawsuit**

According to the lawsuit, what Unilever demanded AQP do – boycott certain parts of Israel while continuing to sell in other parts of the country – is illegal under Israeli law, as well as U.S. law and policy. When AQP refused to comply with Unilever's unlawful demand, Unilever refused to renew its license. Terminating AQP's license solely because the company refused to break the law constitutes wrongful termination and breach of contract under U.S. law, which governs Unilever U.S. and its Ben & Jerry's subsidiary. Zinger and AQP are seeking an injunction from the U.S. court that would enable AQP to continue manufacturing and distributing Ben & Jerry products in all of Israel. The lawsuit was filed in the U.S. District Court of New Jersey, where Unilever U.S. is headquartered.

The Israeli laws Unilever directed AQP to violate include:

- Israel's non-discrimination law, which prohibits discrimination in the furnishing of a product or public service on the basis of race, religion, nationality, place of origin, gender, sexual orientation, age and residence and
- Israeli law prohibiting any person from knowingly calling for a boycott against Israel or an area under its control.

The following U.S. laws also prohibit anti-Israel boycotts:

- The U.S. Export Control Reform Act which prohibits companies from refusing to do business for boycott-related reasons;
- The U.S. Tax Code's reporting requirements for activities related to boycotts;
- The U.S.-Israel Trade and Commercial Enhancement Act; and
- Numerous state anti-discrimination policies and anti-boycott laws.

According to the lawsuit, Unilever is also violating the Israeli government's consent decree for the Unilever-Ben & Jerry's merger as well as numerous terms of the license agreement between AQP, Ben & Jerry's, and Unilever.

"For 34 years I have had a strong and incredibly positive working relationship with Ben & Jerry's, manufacturing and selling its ice cream in all parts of Israel, to Israelis and Palestinians. I refused Ben & Jerry's and Unilever's illegal demands, and as a result, they are threatening to close my business, affecting hundreds of Israeli and Palestinians workers and distributors," stated Zinger. "Ben & Jerry's and Unilever's actions are misguided, unlawful and immoral. Boycotting Israel should come with a heavy price tag, and therefore, we are taking Unilever to court. We expect the court to prevent Unilever from terminating my contract, since the only reason it's doing so is that I refused to break the law. Shame on Unilever for its wrongful attempt to boycott the state of Israel. There is still time to do the right thing. Renew my license and leave ice cream out of the political debate."

Zinger's diverse workforce includes new immigrants and refugees fleeing violence from other countries, as well as people with disabilities. These 170 Muslim and Jewish AQP workers, along with Palestinian suppliers and distributors, will lose their jobs when the contract expires.

Zinger has invested significantly in fostering Palestinian-Israeli coexistence and peace. Projects he has funded and developed include MEET, a three-year-program with the Massachusetts Institute of Technology to teach Palestinian and Israeli teens computer science and innovative leadership skills; Fruits of Peace, a project to strengthen economic cooperation between

Palestinian farmers and Israeli companies; Seeds for Peace which promotes co-existence between Palestinian and Israeli students; GLOBE, a NASA-sponsored educational program for Israeli Arab and Jewish students; and Kids4Peace, a school and summer program for Palestinian, Israeli and North American children dedicated to ending conflict and inspiring peace.

“Unilever’s unlawful action is detrimental not only to Avi Zinger and his company, but also to Avi’s employees; his Palestinian distributors and suppliers; and the general public,” stated Alyza Lewin, president of the [Louis D. Brandeis Center for Human Rights Under Law](#), one of the lawyers representing Zinger. “Unilever is destroying a successful business that provides jobs for refugees, new immigrants and the disabled; economic opportunity for Palestinians; financial support for Israeli-Palestinian peace and coexistence programs, and education and training for Palestinian students and farmers. Avi’s business makes Ben & Jerry’s available to *all* consumers throughout Israel – Palestinians and Israelis alike. Unilever is shutting all of this down, *only* because Avi refuses to agree to its demand that he boycott customers based on where they live – a move, which would harm Palestinian consumers most of all. By placing this unlawful demand on Avi, Unilever has breached its contract and opened itself up to public ridicule and sanction. It is time for Unilever to admit the error of its ways and reverse its discriminatory and self-destructive decision.”

Back in July, Unilever stated: “[a]lthough Ben & Jerry’s will no longer be sold in the Occupied Palestinian Territory, we will stay in Israel through a different arrangement.” Unilever’s promise is disingenuous. There is no lawful mechanism by which Unilever can discriminate against customers located in Israel’s territories. Because Israeli laws prohibit discrimination based on residence and boycotts of any part of Israel, no Israeli licensee can accommodate Unilever’s demand to halt distribution in the territories. Unilever’s boycott, therefore, amounts to an unlawful boycott of all of Israel. Indeed, soon after Unilever released its statement in July, Ben & Jerry’s Board quickly rejected it, implying that the Board supports a boycott of all of Israel.

### **Background**

After a decade of pressure by activists affiliated with the anti-Israel boycott movement known as BDS, Ben & Jerry’s ordered its Israeli licensee, AQP, to stop selling its products in what it calls “Occupied Palestinian Territory,” referring to areas over which Israel gained control during the 1967 War.

Since Ben & Jerry’s July announcement, the states of New Jersey, New York, Arizona, Florida, Illinois and Texas have divested from Unilever, withdrawing investments and holdings worth upwards of \$1 billion because Ben & Jerry’s action violates their anti-boycott laws. New Jersey pulled \$182 million while New York withdrew \$111 million. Unilever’s stock plunged more than 20% during the six months following Ben & Jerry’s announcement, and the company posted a \$26 billion loss in January.

Ben & Jerry’s decision prompted accusations of discrimination and anti-Semitism from critics noting that both companies sell products in countries with human rights violations, numerous disputed territories, and states that do not meet Ben & Jerry’s moral standards. Both co-founders [awkwardly](#) admitted this in an Axios interview last fall. Unilever sells products in Russia, Pakistan, Saudi Arabia, Syria, Venezuela and Iran. Ben & Jerry’s is sold in China, whose policies toward its Uyghur minority the U.S. calls “genocide.” The company has never criticized the sale of its products in other disputed lands, including Tibet, Crimea, Western Sahara, Kashmir and South Sudan. Ben & Jerry’s is also sold in Texas and Georgia despite policies on abortion and voting rights to which the brand objects, and in Brazil, the country responsible for the second-highest amount of tree loss. And Unilever itself continues to sell many of its products in the Areas, including Strauss ice cream.

“The hypocrisy of the BDS movement is truly reprehensible,” stated renowned Palestinian rights activist Bassem Eid. “The truth is that BDS actually harms those it ‘claims’ to help. Today it’s ice cream, but tomorrow it could be medicine, or lifesaving Israeli technology that will be denied to the Palestinian people in the name of BDS. This is an incredibly dangerous precedent, and if it is not reversed, it is Palestinian families that live in the West Bank that will suffer.”

Eid filed a lawsuit alleging Ben & Jerry’s decision is “counterproductive to peace and creates only more hatred, enmity and polarization.” He noted that “[i]f they poured all the money they are spending on boycotts into building factories and creating jobs in the West Bank and Gaza, it would go a long way to truly helping Palestinians.” Attorneys general from 12 states wrote to Unilever noting Israel is the only democratic nation in the region and has long been a force for peace and stability. Numerous members of Congress have asked the SEC to investigate.

Zinger and AQP are represented by L. Rachel Lerman and Alyza D. Lewin of The Louis D. Brandeis Center for Human Rights Under Law; Edward J. Dauber and Linda G. Harvey of Greenberg Dauber Epstein & Tucker; Nathan Lewin of Lewin & Lewin, LLP; and L. Marc Zell of Zell, Aron & Co.