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“Ethical Investing” by Rabbi Barry Leff: A Principled Concurrence

This paper was submitted, in May 2025, as a concurrence to “Ethical Investing: Praiseworthy, or Obligatory?” by Rabbi Barry Leff. Dissenting and concurring papers are not official positions of the CJLS.

In April of 2025 (5785), CJLS voted on Rabbi Barry Leff’s teshuvah “Ethical Investing: Praiseworthy or Obligatory” with the surprising result that it was approved with seven votes affirming it but a full twelve members of the committee abstaining.

זה אומר דרשני¹.

The teshuvah’s conclusions seemed, on their face, to be largely unobjectionable. In brief:

“Individual investors... who have no element of control, are not obligated to invest only in socially responsible companies. It is, however, meritorious to do so.

Managers of Jewish communal funds are encouraged to invest communal funds in socially responsible ways, both as an expression of Jewish values and to set an example for the community.”

Imagine being encouraged to invest in a highly polluting coal company, or a clothing manufacturer credibly tied to sweatshop labor or the manufacturer of weapons of war known to be available to any bidder. Actually, this does not require much imagination, since (בדידי הוה)² the investment advisors for my wife and me [AIR] initially refused our suggestion that they avoid certain investments and seek only socially responsible investments for us, arguing that they considered themselves bound by fiduciary responsibility to find us the strongest return, with the nature of the business not relevant to investment decisions. It took us some time and effort to talk them down.

It is experiences similar to that one that so commended this teshuvah and these unassailable conclusions to us. And that broad agreement, we submit, is the primary reason that overwhelmingly, those with hesitations about passing this teshuvah found themselves unable to vote no, and instead found themselves abstaining.

The rationale for the abstentions, as we understand it, was not substantive, but an unfortunate incursion of politics.

The primary objection to passing a call for ethical investing was the strength of the BDS movement and the feeling that such a teshuvah would immediately be used by those opposed to the State of Israel to pressure, particularly college administrations, to divest from Israel. As

¹ This begs for explanation.

² It happened to me.

several colleagues said: Now is not the right time for such a teshuvah. Years ago, they said, they would have gladly supported it, and perhaps they might again in the future, but at this moment they cannot, for they foresee it harming our community.

Understandable as a prudential decision, we nevertheless felt at the time of our vote and continue to feel today that this teshuvah is substantively correct³ and that it deserves CJLS approval.

In particular we note that the advice in the teshuvah is addressed to the individual Jewish investor and to Communal Jewish funds. All this teshuvah fundamentally asserts is that one's investments ought to be guided by one's own moral values. We believe, as does Rabbi Leff,⁴ that support of the State of Israel, the fulfillment of an age-old dream of the Jewish people, is a Jewish value which should impact Jewish investment choices.

Secular colleges are not Jewish institutions which owe their allegiance to Jewish values. But they are institutions that claim to educate, and to do so should stand firm by their commitments even in the face of pressure. Those seeking divestment from Israel are making a claim that Israel's behavior and perhaps very existence is immoral, a matter that may be debated on campus but is nowise a foregone conclusion. This specific claim is not affected by and should not affect the proposition that investing should be driven by moral considerations.

Another important point was made during the CJLS debate: that the issue regarding BDS is not actually about the substance of BDS, but rather whether one may / should use one's own moral calculus as a cudgel to coerce another's action. Nothing about this teshuvah's endorsement of using one's own moral compass in choosing investments speaks to the implicit immorality of bullying tactics. Additionally, nothing in this teshuvah suggests that it would be appropriate to employ the blunt instrument of imposing a blanket boycott on an entire country or divesting from all businesses operating there.

Someone offered the thought that the best defense against the push for BDS was to rely on one's fiduciary responsibility. But it is not the fiduciary argument that should stand against BDS, but this argument from the unacceptability of coercion.

Despite our unsettled times, moral investing is a value worth stating plainly and clearly as Rabbi Leff has done. Yishar koho.

³ Though not yet codified in a teshuvah from CJLS, a similar position was presented as part of "the wisdom of Conservative Judaism for contemporary Jews", in *The Observant Life*, published in 2012 in an article entitled "Commerce." In that article (see pages 503-4), the current executive of the Rabbinical Assembly, Rabbi Jacob Blumenthal (not yet then appointed to that position), writes "It would... be morally indefensible to invest directly in certain companies.... [I]ndividuals are encouraged to tailor their investments to avoid companies that specifically violate their... ethical sensibilities.... [E]thically sensitive Jewish investors should shape their investment strategy to match their moral values." An adaptation of this portion of Rabbi Blumenthal's article may be found on line at www.exploringjudaism.org, "A Jewish Lens on Investing and Gambling."

⁴ See his direct reference to BDS on p. 8 of his teshuvah.