

HM 179.1.2025c

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Dissent to “Ethical Investing: Praiseworthy, or Obligatory”

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

In his *teshuvah*, “Ethical Investing: Praiseworthy, or Obligatory,” Rabbi Leff broaches the timely and crucial topic of how we can best align our Jewish values with the way we invest our funds. We are grateful for his bringing forward this question, which addresses sensitive issues pertaining to personal financial decisions and its larger impact, the repercussions of which are indeed wide-ranging, both individually and communally. Jewish individuals and institutions ethically investing their money is a core Jewish value. Money itself is morally neutral—it is neither good nor bad, right nor wrong. However, how we use money is rarely morally neutral. Every time we spend money—whether on a pack of gum or a car—we contribute to all the systems and processes that brought that item into being.

All the more so, when we invest in a company—at any level—we are potentially supporting everything associated with that company. Rabbi Leff ultimately rules that ethical investing is an obligation when the investor has a significant stake, meaning they are an owner or have some level of control. In cases where that control is lacking, ethical investing is deemed praiseworthy but not obligatory. Rightly so, Rabbi Leff encourages Jewish communal funds to be invested ethically.

We do not object to any of these points; rather, our abstention was rooted in questions of nuance. We believe the *teshuvah* could have been sharper in many areas, particularly in underestimating the influence of the average investor, even with a smaller stake. Furthermore, the *teshuvah* does not address an issue that is especially relevant to younger people thinking ahead to retirement. Many young adults are increasingly relying on investing as a key component of securing their financial futures, given the uncertainty of the political and economic climate. If investing is to become a necessity for most families, what guidelines can be established to help them invest ethically?

Lifnim Mishurat haDin

Ultimately, what influenced our abstention was our belief that this *teshuvah* could have—and should have—set a higher standard for individuals, families, and institutions alike. To that end, as Rabbi Jill Jacob has persuasively written, a “budget is a values document.”¹ How we invest, both individually and communally, is not a neutral,

¹ Jacobs, Jill. *Where Justice Dwells: A Hands-on Guide to Doing Social Justice in your Jewish community*. Jewish Lights Publishing, 2011, 121.

harmless proposition. While investing is legal—both from the perspective of civil secular law and Jewish law—halakhic ideals should challenge us to accept additional layers of social responsibility.

In BT Bava Metzia 30b, we learn that Jerusalem was destroyed because its courts ruled only according to the letter of the law and not *lifnim mishurat hadin*—a moral framework that exceeds the limits of the legal system. Jewish observance depends on living an ethical and sacred life beyond the minimal requirements.²

Rabbi Leff is correct to differentiate between the overall impact of individual investors vs. organizations, but we would have hoped to see a more developed analysis that would take into account how we could think and act more strategically as an organized collective. As such, we would better equip ourselves to live our Jewish values *lifnim mishurat hadin* and cause the least harm possible in our investments. In particular, the *piskei din* of the *teshuvah* stopped short of unpacking the moral responsibilities that Jewish investors, living *lifnim mishurat hadin*, must uphold when considering, or working to reshape, the practices and profiles of the companies in which they invest.

The Role and Power of Individual Investors and the Investing Conundrum of this Generation

When we discuss ethical investing from a Jewish lens, we must ask ourselves: What does ownership mean? Who are we, and how do we function in this equation as individuals, as families, as workers, as managers, and/or as consumers?

We must also differentiate between different categories of investments. For example, how do (and should) we distinguish between companies that profit from the sale of weapons, fossil fuels, tobacco, pornography, or pharmaceutical companies engaged in unethical behaviors? One of the formidable ethical challenges investing poses is the extent to which most companies are ultimately tied to some form of exploitative, unethical labor practices—either directly, by a company itself, or by one of its partners.

The way the *teshuvah* reads, the individual cannot be held accountable for the companies in which they invest, suggesting that any individual investor typically inherently lacks agency. But in reality, an investor who holds even just \$2,000 in stock is entitled to file a shareholder proposal according to Rule 14a-8 of the Securities Exchange Act of 1934,³ which can be put up for a vote at the annual shareholders' meeting. There is a whole sub-industry of ESG investors (and now anti-ESG investors) who file these proposals; while these new proposals do not always come through, many have led to pro-ESG changes.

² Isaac of Corbeil, in *Sefer Mitzvot haKatan (SeMaK)*, canonized *lifnim mishurat hadin* as positive commandment #26.

See also "Donating One's Body to Medical Education and Research" Y.D. 336:1.2024 by Rabbi Pamela Barmash, 11-12, who cites BT Ketubbot 97a and BT Talmud Hullin 35b as an examples of this principle

³ <https://www.govinfo.gov/content/pkg/COMPS-1885/pdf/COMPS-1885.pdf>

Additionally, even totally passive investors are able to vote in annual board elections and also on executives' compensation packages.⁴ According to the Securities Act of 1933, Individual investors also are entitled to sue the company in which they are invested.⁵ These are a few examples of the ways in which individual shareholders wield far more power than Rabbi Leff's *teshuvah* suggests.

Rabbi Leff accurately characterizes investment as a profit-generating vehicle. It bears mentioning, however, that at least in the US at the time of this writing, especially in light of steadily decreasing pension cutbacks, investing has become crucial for retirement planning. With social security systems having been stripped down in the United States during the last 10 years, investing in diversified funds has, for many Americans, become a vital facet of long-term financial planning.

As noted in the *teshuvah*, the more ethical limitations one places on their investments, the less likely it becomes for one to experience the same kind of growth one might from a standard, diversified portfolio. Especially for investors who rely on these funds to support themselves and their families, there is another serious personal ethical consideration which warrants our attention. On this other end of the spectrum, we have to exercise caution in not enacting a principle that is fundamentally unviable for our communities, as per the concept of found in BT Avodah Zara, 36a *ein goz'rin gezerah al ha-tzibbur ella im kein rov ha-tzibbur y'kholin la'amod bah*.⁶

Pathways Forward

Ultimately, our tradition demands that we approach all financial decisions not only with technical legality but with a commitment to our deepest moral principles. Yet we lack a practical, nuanced model that can be shared broadly and implemented in real life. With that in mind, we pose some open questions and some paths forward:

1. What are our "lines in the sand"?

When Ivan Boesky, a major donor and former trustee, was exposed for insider trading and fined \$100 million, the Jewish Theological Seminary drew a clear line by removing his name from its library and distancing itself from his legacy.⁷ Rabbi Leff references *ma'arit ayin* (the appearance of wrongdoing) in the context of Jewish communities investing in companies that mistreat workers. But harmful labor practices are widespread across global supply chains. How should individuals and families

⁴<https://www.sec.gov/newsroom/speeches-statements/jones-cii-2022-03-08>

⁵ https://www.law.cornell.edu/wex/securities_act_of_1933

⁶ אמר רבי יוחנן: ישבו רבתינו ונדקו על שמן שלא פשט איסורו ברוב ישראל, וסמכו רבתינו על דברי רבן שמעון בן גמליאל ועל דברי רבי אלעזר בר צדוק, שהיו אומרים: אין גוזרין גזירה על הצבור אלא אם כן רוב צבור יכולין לעמוד בה. BT Horayot 3b-4a expresses a similar idea.

⁷<https://www.nytimes.com/1986/11/26/nyregion/metro-datelines-boesky-library-to-change-name.html#:~:text=The%20Jewish%20Theological%20Seminary%20will,at%20the%20request%20of%20Mr>

respond when they are knowingly invested in companies complicit in such abuses?⁸

2. How can the CJLS and other Jewish institutions (e.g., the RA⁹ and USCJ¹⁰) lead in providing concrete measures and models?

This could be an opportunity to create ethical investing guidelines¹¹ that offer practical tools for individuals, families, and institutions. Clear instruments and frameworks would help ensure that Jewish values are upheld in every aspect of financial life.

Kehillot must contend with these questions individually. Such conversations will offer our communities and *marei d'atra* the opportunity to dialogue so as to establish communal standards that feel both responsible, in the spirit of *lifnim mishurat hadin*, and economically viable.

The CJLS has recently initiated a series of practical how-to guides, and this topic would be a fruitful area for offering communities structured guidance, including guiding questions, sources, and halakhically-informed overviews of different investment opportunities.

Two out of the three investing tracks offered by the Jewish Retirement Board (JRB) allow investors to engage in what is termed ethical investing. Another communal opportunity would be for the USCJ and URJ to jointly articulate shared values and to invite the greater liberal Jewish community to participate in vision-aligned investment strategies.

3. How can this be just the beginning to this crucial conversation?

There is ultimately no neat conclusion here, but—considering the perpetually evolving natures of the stock market, the economy, and the scope of legal business practices in the United States—we believe that the parameters of any conclusive *pesak din* here will need to be re-litigated from time to time.

⁸<https://www.business-humanrights.org/en/from-us/media-centre/new-data-reveals-migrant-worker-abuse-in-global-supply-chains/>

⁹ The RA code of conduct, while it mentions personal financial conduct should be ethical, does not mention investing: <https://www.rabbinicalassembly.org/sites/default/files/2025-01/final-code-of-conduct-2025.docx.pdf>

¹⁰ The USCJ has an investments committee that has to do with investments but the USCJ does not have a statement on ethical investing. Ethical investing is not a part of their suggestions for congregational financial sustainability: <https://uscj.org/leadership/financial-sustainability/>

¹¹ Exploring Judaism has a few articles written by Rabbi Jacob Blumenthal on the topic of ethical investing and business practices which serves as a great resource for laity. <https://www.exploringjudaism.org/learning/ethics/business-ethics/a-jewish-lens-on-investing-and-gambling/>