

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BLAINE COLEMAN,

Plaintiff,

vs.

Case No. 11-cv-15207

Hon. Mark A. Goldsmith

ANN ARBOR TRANSPORTATION
AUTHORITY, MICHAEL FORD,
TRANSIT ADVERTISING GROUP AA, and
RANDY ORAM,

Defendants.

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**PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
AND/OR TEMPORARY RESTRAINING ORDER**

By this motion and pursuant to Rule 65 of the Federal Rules of Civil Procedure, plaintiff Blaine Coleman seeks a temporary restraining order, preliminary injunction, or both, ordering defendants to accept and display plaintiff's advertisement on terms no less favorable than those given to other advertisers.

A supporting brief accompanies this motion.

Local Rule 7.1(a) requires plaintiff to ascertain whether this motion will be opposed. Plaintiff's counsel telephoned counsel for defendant Ann Arbor Transportation Authority on November 28, 2011, to explain the nature of this motion and its legal basis. Plaintiff's counsel requested but did not obtain concurrence in the relief sought.

Respectfully submitted,

/s/ Daniel S. Korobkin

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Dated: November 29, 2011

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**BRIEF IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER**

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STATEMENT OF ISSUE PRESENTED

Whether the court should temporarily restrain and/or preliminarily enjoin defendants from refusing to run plaintiff's ad because plaintiff is likely to prevail on his claim that defendants' refusal to run his ad violates the First and Fourteenth Amendments.

CONTROLLING AND APPROPRIATE AUTHORITY FOR THE RELIEF SOUGHT

United Food & Commercial Workers Union, Local 1099 v. Sw. Ohio Reg'l Transit Auth.,
163 F.3d 341 (6th Cir. 1998)

INTRODUCTION

Defendants Ann Arbor Transportation Authority (“AATA”) and its agents refuse to display plaintiff Blaine Coleman’s advertisement on the exterior of AATA public buses because, they say, the content of the ad does not comply with their advertising policy. Mr. Coleman, an Ann Arbor resident and political activist, brings this First Amendment lawsuit challenging that policy on its face and as applied.

The ad reads “Boycott Israel, Boycott Apartheid.” Although AATA may not like the ad, and it may be controversial, the First Amendment prohibits the government from picking and choosing between the speech it likes and the speech it would rather not see or hear. Under First and Fourteenth Amendment law that has been clearly established in this circuit for over a decade, Mr. Coleman is entitled to temporary and/or preliminary injunctive relief. *See generally United Food & Commercial Workers Union, Local 1099 v. Sw. Ohio Reg’l Transit Auth.*, 163 F.3d 341 (6th Cir. 1998). He therefore requests that this court order defendants to run his ad immediately on terms no less favorable than those given to other advertisers.

BACKGROUND AND FACTS

Blaine Coleman is an Ann Arbor resident and activist who is committed to increasing public awareness about what he perceives as the second-class treatment of Palestinians by the government of Israel. To that end, he wishes to purchase advertising space on the outside of an AATA bus for an ad that reads “Boycott Israel, Boycott Apartheid.” For years, AATA buses have carried a wide array of advertisements, including ads with messages about important social issues, ads promoting religion, and even ads supporting candidates running for public office. However, AATA refuses to run Mr. Coleman’s ad. AATA’s refusal to run the ad is based on its content. (Plaintiffs’ Verified Complaint, Exhibit A, ¶¶ 14-18.)

Background: Activism and Advocacy Regarding Israel and Palestine

Mr. Coleman is one of many Americans who have strong political opinions about Israel and Palestine. He is neither the first nor the last such person to express his views about this issue in a variety of public forums. (*Id.* ¶ 19.)

Indeed, the relationship between the Israeli government and the Palestinian people is a subject of grave importance in international politics. It is often the subject of fierce debate at the United Nations. In the United States, candidates for public office frequently discuss their support of Israel and whether they support Palestinian statehood. (Exhibits B, C, D, and E.)

Americans are generally more supportive of Israel than Palestinians. According to a 2011 Gallup poll, 68 percent of Americans say they have favorable views toward Israel and 63 percent say they sympathize more with Israelis than with Palestinians. (Exhibit F.)

However, it is also the case that some people and organizations criticize the Israeli government for its policies regarding Palestine. For example, in December 2010, Human Rights Watch issued a report entitled “Separate and Unequal: Israel’s Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories.” The report states that the Israeli government is responsible for a “two-tier system of laws, rules, and services” and alleges that “[s]uch treatment, on the basis of race, ethnicity, and national origin, . . . violates the fundamental prohibition against discrimination under human rights law.” (Exhibit G.)

Some critics of the Israeli government’s policies use the word “apartheid” to describe conditions in Palestine.¹ Among those who have used the word “apartheid” to describe the plight of the Palestinians is former President Jimmy Carter, who published a book in 2006 entitled

¹ “Apartheid” is an Afrikaans word and a common description of South Africa’s policies of racial segregation and discrimination during the twentieth century. *See* American Heritage Dictionary of the English Language 82 (5th ed. 2011); Black’s Law Dictionary 111 (9th ed. 2009); 1 World Book Encyclopedia 562 (2011).

“Palestine: Peace Not Apartheid.” Other notable public figures to have drawn analogies between apartheid in South Africa and conditions in Palestine include South African Archbishop Desmond Tutu and United Nations special rapporteur John Dugard. (Exhibits H, I, J, and K.)

Decades ago, activists organized an economic boycott of South Africa to protest apartheid in that country. Inspired by the boycott of South Africa, some critics of the Israeli government’s policies toward Palestinians now urge a boycott of Israel. (Exhibit L.)

Using the term “apartheid” to describe the Israeli government’s treatment of Palestinians is contentious. Many people are offended by the comparison and are opposed to any form of boycott. Supporters of Israel frequently speak out on this important political issue. The Human Rights Watch report was widely criticized, as was President Carter for using the word “apartheid” in the title of his book.

As with any high-profile political issue, many organizations and interest groups have launched media and public awareness campaigns to express a range of views and opinions about the Israeli-Palestinian conflict. For example, a pro-Israel organization called the Emergency Committee for Israel recently began purchasing advertising space in newspapers and billboards criticizing President Obama for not being sufficiently supportive of Israel. (Exhibits M and N.)

Meanwhile, those who support a boycott of Israel also express their views in public forums. For example, an organization called the Committee for a Just Peace in Israel and Palestine expresses its message by purchasing advertising space in public transportation areas. Ads stating “End U.S. military aid to Israel” have appeared on the side and rear panels of public buses in Chicago and Portland, in subway stations in New York and Boston, and inside subway cars in Washington, D.C. (Exhibit O.)

AATA's Refusal To Run Blaine Coleman's Ad

Mr. Coleman also wishes to advocate a boycott of Israel by purchasing ad space on public buses. AATA is a local unit of government that operates buses throughout the Ann Arbor area—including on and near the campus of the University of Michigan, where plaintiff believes students are likely to be inquisitive about international relations, human rights, and political activism. AATA buses regularly display ads on their exterior rear and side panels. These exterior bus ads represent a unique opportunity to express one's message of choice because the ad is essentially a moving billboard seen by thousands of drivers and pedestrians who cross paths with the bus. According to the "Top 10 Reasons to Advertise on AATA Buses!" featured on defendants' website, the "unique environment of bus advertising allows for endless creative possibilities." (Exhibit A, ¶¶ 32-36; Exhibits P, Q, and R.)

Mr. Coleman first contacted defendants in late December 2010, requesting via email information about how to purchase advertising space for the outside of an AATA bus. He requested a copy of any rules regarding the bus ads. He also asked how much it would cost to purchase an ad on the side or back of the bus that runs along State Street, South University, and North University on and near the University of Michigan campus in Ann Arbor. Initially, no one responded to Mr. Coleman's email. He sent several more emails in January requesting the same information, and he included a copy of the ad he wishes to run on the side or back of an AATA bus. (Exhibit A, ¶¶ 37-38.)

Mr. Coleman's ad features the following message in large, bold print:

Boycott "Israel"

Boycott Apartheid

The ad also contains a cartoonish black-and-white image that depicts a skeleton-like figure holding a skull in its right hand and a bone in its left. (Exhibit A-1.)

In February 2011, defendant Randy Oram emailed Mr. Coleman and identified himself as the president of the company that handles advertising for AATA buses. Mr. Oram requested that all communications regarding placing an advertisement on an AATA bus be directed exclusively to him. Mr. Oram's email stated that he could not post Mr. Coleman's ad because it was prohibited by AATA advertising policy. (Exhibit A, ¶¶ 42-43.)

AATA's Advertising Policy and Practice

Although Mr. Oram did not specify what about Mr. Coleman's ad violated AATA's advertising policy, he did provide a copy of that policy, which states in full:

The AATA, by permitting commercial advertising in or on its vehicles, shelters, information material, buildings, and benches, does not thereby intend to create a public forum. Further, AATA requires that such advertising comply with specified standards to further the purposes of providing revenue for AATA, increasing ridership, and assuring that AATA riders will be afforded a safe and pleasant environment. AATA reserves the right to approve all advertising, exhibit material, announcements, or any other display and their manner of presentation. All advertising must be considered in good taste and shall uphold the aesthetic standards as determined by AATA.

Advertising in or on AATA vehicles, in AATA shelters, buildings, benches or informational material which does any of the following shall be prohibited.

1. Contains false, misleading, or deceptive material.
2. Promotes an illegal activity.
3. Advocates violence or crime.
4. Infringes copyright, service mark, title or slogan.
5. Defames or is likely to hold up to scorn or ridicule a person or group of persons.

6. States or implies the endorsement of a product or service by AATA.
7. Supports or opposes the election of any person to office or supports or opposes any ballot proposition.
8. Contains material which is obscene, as defined by MCL 752.362, or sexually explicit, as defined by MCL 722.673, and as such statutes shall be amended or supplemented.
9. Promotes alcohol or tobacco products.

(Exhibit A, ¶¶ 44-45, and Exhibit S.)

Following Mr. Oram's rejection of Mr. Coleman's ad, plaintiff's counsel investigated AATA's policy and practice with regard to advertising on its buses. AATA's disclosures pursuant to a public records request reveal that in recent years defendants have rejected only one advertisement other than Mr. Coleman's. (Exhibit T.) Furthermore, defendants evidently do not follow their own written advertising policy, as AATA buses have carried campaign ads supporting candidates for public office. (Exhibits U and V.) Indeed, AATA buses carry ads containing a wide variety of messages. For example, in the past few years AATA has run ads with the following messages:

- "Every 9 ½ minutes someone in the U.S. is infected with HIV."
- "Two-Faced Landlords Can Be Stopped. Housing Discrimination Is Against the Law."
- "Domestic Violence. It happens here."
- "In Washtenaw County black babies are 3x more likely to die than white babies."
- "Breastfeeding makes babies smarter."
- An ad for NorthRidge Church that reads: "NorthRidge Church is For Hypocrites. NorthRidge Church is For Fakes. NorthRidge Church is For Liars. NorthRidge Church is For Losers."
- 2WordStory.com, a website featuring the stories of people who "experienced the life changing love and grace of Jesus Christ."

- “Joan Lowenstein for Ann Arbor’s 15th District Court Judge: a voice of reason.”

(Exhibits V, W, X, Y, Z, AA, BB, CC, and DD.) Thus, it appears that defendants are willing to carry ads about virtually any subject matter—regardless of whether the ad is selling a commercial product, conveying information about important social issues, advocating the election of candidates for public office, or spreading religious gospel.

AATA Reaffirms the Decision To Reject Mr. Coleman’s Ad

In August 2011, plaintiff’s counsel contacted AATA’s board of directors and defendant Ford on Mr. Coleman’s behalf and requested that they immediately run Mr. Coleman’s ad. (Exhibit EE.) On November 17, 2011, AATA’s board of directors denied that request, passing a formal resolution “affirm[ing] the . . . decision to reject the advertisement” and, based on AATA’s advertising policy, “concur[ring] with [a] recommendation” of a subcommittee “that the ad continue to be rejected.” (Exhibit FF.)

LEGAL STANDARD FOR PRELIMINARY INJUNCTIONS

In ruling on a motion for preliminary injunctive relief, a district court must consider the following factors:

- (1) the likelihood that the party seeking the preliminary injunction will succeed on the merits of the claim;
- (2) whether the party seeking the injunction will suffer irreparable harm without the grant of the extraordinary relief;
- (3) the probability that granting the injunction will cause substantial harm to others; and
- (4) whether the public interest is advanced by the issuance of the injunction.

Washington v. Reno, 35 F.3d 1093, 1099 (6th Cir. 1994). The same factors are considered on a motion for a temporary restraining order. *See Tocco v. Tocco*, 409 F. Supp. 2d 816, 823-24 (E.D. Mich. 2005). Where “a party seeks a preliminary injunction on the basis of the potential

violation of the First Amendment, the likelihood of success on the merits often will be the determinative factor.” *Connection Distributing Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998).

ARGUMENT

Plaintiff is entitled to temporary or preliminary injunctive relief because he is likely to prevail on the merits of his claim that defendants’ refusal to run his ad violates his rights to free expression and due process under the First and Fourteenth Amendments.

As a legal matter, plaintiff’s motion is straightforward, as there is already a published Sixth Circuit decision directly on point: *United Food & Commercial Workers Union, Local 1099 v. Southwest Ohio Regional Transit Authority*, 163 F.3d 341 (6th Cir. 1998). In that case, the court granted a preliminary injunction under similar circumstances, holding that a public transit authority’s content-based rejection of a bus ad violated the First and Fourteenth Amendments. The Southwest Ohio Regional Transit Authority (“SORTA”) had rejected a pro-union advertisement for being controversial and not aesthetically pleasing. The Sixth Circuit determined that SORTA’s advertising space was a public forum; SORTA therefore could not censor ads on the basis of their content. The Sixth Circuit further held that SORTA’s advertising policy was facially unconstitutional because it was not viewpoint-neutral and it was unconstitutionally vague. As explained below, *United Food* compels the same result here.

A. It is likely that plaintiff will succeed on the merits because defendants’ advertising space is a designated public forum, their advertising policy is not viewpoint neutral, and the policy is unconstitutionally vague.

There are four reasons why plaintiff is likely to prevail on the merits in this case. First, AATA advertising space is a designated public forum, meaning that the First Amendment prohibits defendants from censoring or rejecting plaintiff’s ad on the basis of its content. Second, even if AATA advertising space is not a designated public forum, its advertising policy is nonetheless facially unconstitutional under the First Amendment because it is not viewpoint-

neutral. Third, the advertising policy is facially unconstitutional under the Fourteenth Amendment because it is void for vagueness. And fourth, the policy is unconstitutionally vague as applied to plaintiff's ad because it is not clear that the ad is actually prohibited by the policy.

1. Defendants' refusal to run plaintiff's ad violates the First Amendment because AATA advertising space is a designated public forum where content-based discrimination is prohibited.

"The Supreme Court has adopted a forum analysis for use in determining whether a state-imposed restriction on access to public property is constitutionally permissible." *United Food*, 163 F.3d at 349. There are four types of forums: the traditional public forum, the designated public forum, the limited forum, and the nonpublic forum. *See Miller v. City of Cincinnati*, 622 F.3d 524, 534-35 (6th Cir. 2010) (describing the four types of forums). Traditional public forums are areas such as sidewalks and parks that "have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." *Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009) (internal quotation marks omitted). A designated public forum is any other public property that the government intends to open up for the same purpose as a traditional public forum. *Id.* A limited forum, by contrast, is public property that may be used only by certain groups or for the discussion of certain subjects. *Id.* at 470. A nonpublic forum is government-owned property that is not open for public communication at all. *Miller*, 622 F.3d at 535.

First Amendment protections are at their apex in traditional and designated public forums, and they are less robust in limited and nonpublic forums. In a traditional or designated public forum, any government restriction on the content of speech is subject to strict scrutiny. *Id.* at 534. In a limited or nonpublic forum, by contrast, speech restrictions may be content-

based. *Id.* at 535. However, even in limited and nonpublic forums, restrictions on speech must be viewpoint-neutral. *Id.*

In *United Food*, 163 F.3d at 349-55, SORTA argued that it was permitted to exclude ads from its buses based on their content because the ad space was a limited or nonpublic forum. *Id.* at 350. The Sixth Circuit disagreed. Finding that SORTA had created a designated public forum, the court invalidated SORTA's content-based exclusion of the plaintiff's ads. *Id.* at 349-55.

United Food compels the same conclusion in this case for five reasons, all explained in more detail below. First, AATA's written policy does not determine what kind of forum it has created. *See id.* at 352. Second, although the written policy states that it is not a public forum, defendants' actual practice is not to enforce the written policy. *See id.* at 353. Third, AATA runs a wide array of advertisements, including political ads and public-issue ads. *See id.* at 355. Fourth, defendants rarely reject ads. *See id.* at 353-54. And fifth, their criteria for whether an ad will be accepted or rejected are unclear. *See id.* at 352, 354.

a. AATA's written policy is not dispositive.

In *United Food*, SORTA's written policy stated that its advertising space was not a public forum. *Id.* at 352. Notwithstanding the written policy, the Sixth Circuit held that SORTA's advertising space was a designated public forum. *Id.* at 355. It reached that conclusion by examining SORTA's actual practice in comparison to its written policy. *Id.* at 352-53.

The same comparison must be made in this case. AATA's policy (like SORTA's) states that it does not intend to open a public forum. (Exhibit S.) But to determine what kind of forum it actually created, the court "must closely examine whether in practice [AATA] has consistently enforced its written policy." *Id.* at 353. Based on AATA's actual practice, the evidence is overwhelming that its advertising space, like SORTA's, is a designated public forum.

b. AATA's actual practice is not to enforce its written policy.

As the Sixth Circuit warned in *United Food*, “evidence . . . demonstrating that SORTA has not consistently followed its written policy, but instead has maintained an ad hoc policy where the acceptability of an advertisement depends on the whim of the decision-maker, . . . would strongly suggest that SORTA has created a public forum.” *Id.* at 353 n.6. Applying that rule to this case, AATA has created a public forum because AATA does not consistently follow its own written policy.

First, AATA runs political campaign ads. (Exhibits U and V.) Because AATA's written policy says it prohibits advertising that “[s]upports or opposes the election of any person to office or supports or opposes any ballot proposition” (Exhibit S), the fact that AATA accepts such ads in practice demonstrates that it does not consistently enforce its own written policy.

Second, the one ad AATA has rejected in recent years does not violate the policy. (Exhibit T.) Public records indicate that defendants refused to run an ad because it depicted a man who was not wearing a shirt. Although their written policy prohibits obscenity or sexually explicit material as defined by M.C.L. §§ 752.362 or 722.673, a bare-chested man does not fall into either of those categories.² It thus appears that the ad was rejected based on “the whim of the decision-maker” or “an ad hoc policy,” not a written policy that is consistently enforced. *See id.* at 353 n.6.

c. AATA runs a wide array of political and public-issue ads.

The fact that AATA runs political campaign ads is important for another reason. Because political ads “by their very nature generate conflict,” AATA's practice of accepting them

² Exhibit T also indicates that the ad was rejected for being “controversial.” *United Food* held that even in a limited or nonpublic forum it is unconstitutional to reject an ad for that reason. *Id.* at 361-62.

“signals a willingness on the part of the government to open the property to controversial speech.” *Id.* at 355.

Indeed, AATA has accepted a wide array of non-commercial advertisements, including public-issue ads about HIV, domestic violence, race, breastfeeding, and religion. (Exhibits W, X, Y, Z, AA, BB, CC, and DD.) “Acceptance of a wide array of advertisements, including political and public-issue advertisements, is indicative of the government’s intent to create an open forum.” *Id.* And “once [a public transit agency] permits messages of all sorts to grace its buses, it may not then select among the submitted messages based on their content.” *Id.*

d. AATA rarely rejects ads.

AATA’s creation of a designated public forum is also demonstrated by how rarely ads are rejected. Defendants rejected only one ad besides plaintiff’s in the two-year period preceding the date of his attorney’s request for public records. (Exhibit T.) In *United Food*, the court noted that SORTA had rejected five ads during a three-year period and found it significant that “SORTA has rejected few advertisements since [its advertising] Policy’s inception.” *Id.* at 354 (comparing the record to that of a Third Circuit case in which the public transit authority had “exercised its control over only three ads”). Here, too, defendants’ rejection of only one other ad “suggests that [AATA] may permit virtually unlimited access to its advertising space or grants permission as a matter of course.” *Id.* at 353.

e. AATA’s criteria for allowing or prohibiting ads is unclear.

The government creates a designated public forum if its criteria for allowing or prohibiting speech in a purportedly limited or nonpublic forum are unclear. *See id.* at 352 (“[W]e will hold that the government did not create a public forum only when its standards for inclusion and exclusion are clear”). In *United Food*, the Sixth Circuit concluded that

SORTA had created a designated public forum because “the lack of definitive standards guiding the application of SORTA’s advertising policy permits SORTA . . . to reject a proposed advertisement deemed objectionable for any reason.” *Id.* at 354. As explained in Subsection A.3 below, AATA’s advertising policy—like SORTA’s in *United Food*—is unconstitutionally vague on its face. Therefore, its advertising space, just like SORTA’s, is a designated public forum.

In sum, defendants operate a designated public forum. Their content-based restriction of plaintiff’s speech is presumptively unconstitutional, and it is likely plaintiff will succeed on the merits of this First Amendment claim.

2. Even if AATA’s advertising space is not a designated public forum, its advertising policy is facially unconstitutional because it is not viewpoint-neutral.

In limited and nonpublic forums, the government may restrict speech based on content but not viewpoint. *Miller*, 622 F.3d at 535. Content-based restrictions disallow topics of speech, whereas viewpoint-based restrictions disallow the expression of particular messages or views about a given topic. *See Rosenberger v. Rector & Visitors of University of Virginia*, 515 U.S. 819, 829 (1995). “Although a speaker may be excluded from a nonpublic forum if he wishes to address a topic not encompassed within the purpose of the forum, . . . the government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject.” *Cornelius v. NAACP Legal Defense & Educ. Fund, Inc.*, 473 U.S. 788, 806 (1985).

In *United Food*, the Sixth Circuit held that even if SORTA’s advertising space was not a designated forum, its written advertising policy was unconstitutional on its face because it allowed for viewpoint discrimination. *United Food*, 163 F.3d at 360-63. In this case, AATA’s written policy suffers from the same constitutional infirmity.

SORTA's policy was unconstitutional because it prohibited "controversial" advertisements. The court held that the restriction was overbroad because it allowed SORTA officials to exclude ads based on the viewpoint they expressed. *Id.* at 361. Although the policy in some sense applied "equally" to all controversial viewpoints on any topic, it nonetheless violated the First Amendment because it favored speakers who had a non-controversial message or viewpoint about any topic over speakers with a controversial message or viewpoint about the same topic. *Id.* at 362. Because "it [was] the *treatment* of a subject, not the subject itself, that [was] disfavored," *id.* (internal quotation marks omitted; emphasis in original), the restriction could not be upheld even in a limited or nonpublic forum.

AATA's policy is viewpoint-discriminatory in the same way. Although the policy does not prohibit ads for being controversial, it prohibits ads that are "likely to hold up to scorn or ridicule a person or group of persons." (Exhibits S and FF.) This restriction does not exclude a subject of speech; it excludes a viewpoint about subjects that may otherwise be discussed.

Plaintiff's ad reads "Boycott Israel, Boycott Apartheid," which defendants may think violates their policy's "scorn or ridicule" clause.³ But what will defendants do with an ad that says "Support Israel, Land of Equality"? Such an ad expresses a different view about the same subject and is plainly not prohibited by the "scorn or ridicule" clause. AATA's policy, by requiring or allowing defendants to display ads with some viewpoints about a subject and to reject ads with other viewpoints about the same subject, is facially unconstitutional.

Consider another example: the "Not Pro-Israel" ads sponsored by the Emergency Committee for Israel and placed on billboards and in newspapers in New York. (Exhibits M and

³ As argued in Subsection A.4 below, because it is not clear that plaintiff's ad is likely to hold up to scorn or ridicule "a person or group of persons," defendants also violate the Fourteenth Amendment by refusing to run plaintiff's ad on this basis.

N.) Those ads display a photograph of President Obama shaking hands with Palestinian President Mahmoud Abbas and a message criticizing President Obama for not being sufficiently supportive of Israel. Defendants might say that such ads would be prohibited on AATA buses because they “hold up to scorn or ridicule” President Obama. But what would they do with an ad that features the same photograph and says “Thank you, President Obama, for being a friend to Palestine”? Again, the ad expresses a different view about the same subject—a view that is not “likely to hold up to scorn or ridicule a person or group of persons.” The policy is not viewpoint-neutral.

In sum, because AATA’s policy, like SORTA’s, allows for the “*treatment* of a subject, not the subject itself, [to be] disfavored,” *United Food*, 163 F.3d at 362, it is facially unconstitutional—regardless of whether the relevant forum is public or nonpublic. It is likely plaintiff will succeed on the merits of this First Amendment claim.

3. AATA’s advertising policy is facially unconstitutional under the Fourteenth Amendment because it is void for vagueness.

In addition to being facially unconstitutional for not being viewpoint-neutral, AATA’s advertising policy is facially unconstitutional under the void-for-vagueness doctrine. Once again, *United Food* is directly on point. *See id.* at 358-60. SORTA’s policy was held unconstitutionally vague on its face, and the same outcome is compelled here.

The Sixth Circuit described the void-for-vagueness doctrine as follows:

Due process requires that we hold a state enactment void for vagueness if its prohibitive terms are not clearly defined such that a person of ordinary intelligence can readily identify the applicable standard for inclusion and exclusion. Not only do vague laws trap the innocent by not providing fair warning, but laws that fail to provide explicit standards guiding their enforcement impermissibly delegate basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory application. The absence of clear standards guiding the discretion of the public official

vested with the authority to enforce the enactment invites abuse by enabling the official to administer the policy on the basis of impermissible factors. Quite simply, the danger of censorship and of abridgment of our precious First Amendment freedoms is too great where officials have unbridled discretion over a forum's use.

Id. at 358-59 (citations, internal quotation marks, and alterations omitted). If an "official's decision to limit speech is not constrained by objective criteria, but may rest on ambiguous and subjective reasons," then the policy at issue is unconstitutionally vague. *Id.* at 359 (internal quotation marks omitted).

SORTA's policy required advertisements to be "aesthetically pleasing." *Id.* at 352.

Because "aesthetics is a vague term that invites subjective judgments," the Sixth Circuit held that SORTA's policy was unconstitutionally vague on its face. *Id.* at 360.

We have no doubt that the application of the term "aesthetically pleasing" will substantially vary from individual to individual, since what is contemptuous to one may be a work of art to another. Since it is not susceptible to objective definition, the "aesthetically pleasing" requirement grants SORTA officials the power to deny a proposed ad that offends the officials' subjective beliefs and values under the guise that the ad is aesthetically displeasing. It is precisely this danger of arbitrary and discriminatory application that violates the basic principles of due process.

Id. (citations, internal quotation marks, and alterations omitted).

AATA's advertising policy is equally vague. It states that "[a]ll advertising must be considered in good taste and shall uphold the aesthetic standards as determined by AATA." (Exhibits S and FF.) *United Food* directly addressed the inherent vagueness of an "aesthetics" requirement. *Id.* AATA's "good taste" requirement, moreover, is no less problematic. Indeed, "good taste" is practically a synonym for "aesthetically pleasing." In *Aubrey v. City of Cincinnati*, 815 F. Supp. 2d 1100 (S.D. Ohio 1993) (which is cited by *United Food*, 163 F.3d at 359), the court had "no hesitancy" in concluding that the Cincinnati Reds' ban on baseball park banners that are not in "good taste" was facially unconstitutional because it "leaves too much

discretion in the decision maker without any standards for that decision maker to base his or her determination.” *Id.* at 1104. Thus, by giving officials virtually unfettered discretion to reject ads based on poor taste and undefined aesthetic standards, AATA’s policy—just like SORTA’s—creates a “danger of arbitrary and discriminatory application that violates the basic principles of due process.” *United Food*, 163 F.3d at 360. It is likely plaintiff will succeed on the merits of this Fourteenth Amendment claim.

4. Defendants’ refusal to display plaintiff’s ad violates plaintiff’s right to due process because the ad is not clearly prohibited by AATA’s advertising policy.

AATA’s advertising policy suffers from a second major due process defect. In addition to its “good taste” clause being unconstitutionally vague on its face, its “scorn or ridicule” clause is unconstitutionally vague as applied to the ad Mr. Coleman wishes displayed in this case. Thus, even if the “scorn or ridicule” clause were viewpoint-neutral, it would not justify defendants’ decision to reject plaintiff’s ad.

The policy prohibits ads that are “likely to hold up to scorn or ridicule *a person or group of persons*.” (Exhibits S and FF [emphasis added].) Plaintiff’s ad, which levels criticism at a *country* and encourages a boycott of that country, does not hold up any “person or group of persons” to scorn or ridicule. At most, plaintiff’s ad holds up to scorn or ridicule a foreign country or its government. Because Israel is not “a person or group of persons,” defendants may not reject plaintiff’s ad on that basis.

As stated above, due process requires that “prohibitive terms” be “clearly defined such that a person of ordinary intelligence can readily identify the applicable standard for inclusion and exclusion.” *United Food*, 163 F.3d at 358-59; *see also id.* at 352 (“[W]e will hold that the government did not create a public forum only when its standards for inclusion and exclusion are clear”). If speech in a limited forum is not clearly prohibited by a policy’s objective terms,

then an official's decision to prohibit that speech violates due process because it is based on an impermissibly arbitrary and subjective exercise of discretion.

Furthermore, even if a regulation is not impermissibly vague on its face, it is subject to a due process challenge when its application in a particular case "failed to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden." *Palmer v. City of Euclid*, 402 U.S. 544, 545 (1971) (per curiam) (internal quotation marks omitted); *see also United States v. Salisbury*, 983 F.2d 1369, 1378 (6th Cir. 1993) (holding "multiple voting" statute void for vagueness as applied). And where the regulation in question "abuts upon sensitive areas of basic First Amendment freedoms," *Grayned v. City of Rockford*, 408 U.S. 104, 109 (1972), "a more stringent vagueness test should apply," *Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982).

Here, the "scorn or ridicule" clause in AATA's advertising policy specifically applies to ads directed at "a person or group of persons." (Exhibits S and FF.) An ad that says "Boycott Israel, Boycott Apartheid" is directed at a country and its government's policies. If AATA wishes to include countries and governments in the list of entities that cannot be held up to scorn or ridicule by the ads on its buses, it must make that standard clear. Absent such clarity, "the acceptability of an advertisement" that criticizes a country or government "depends on the whim of the decision-maker." *United Food*, 163 F.3d at 353 n.6. Due process demands more. Accordingly, plaintiff is likely to prevail on the merits of this Fourteenth Amendment claim.

B. The remaining preliminary injunction factors favor plaintiff.

Once the court determines that plaintiff is likely to succeed on the merits of his First and Fourteenth Amendment claims, a preliminary injunction is warranted. *See Miller v. City of Cincinnati*, *supra*, 622 F.3d at 540 ("Because the plaintiffs have established a substantial

likelihood of success on their free speech and void-for-vagueness claims, there appears to be no issue as to the existence of the remaining preliminary injunction factors.”). The three remaining factors—irreparable harm to the plaintiff, harm to others, and the public interest—all weigh in plaintiff’s favor. *See United Food*, 163 F.3d at 363-64 (finding in plaintiffs’ favor on the three remaining preliminary injunction factors).

The second factor in the preliminary injunction analysis, after likelihood of success on the merits, is whether plaintiff will suffer irreparable harm without the injunctive relief. “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). “The Supreme Court has unequivocally admonished that even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief.” *Newsom v. Norris*, 888 F.3d 371, 378 (6th Cir. 1989). As demonstrated above, AATA’s refusal to run Mr. Coleman’s ad infringes on his First Amendment rights. Therefore, the second factor weighs in plaintiff’s favor.

The third factor is whether granting the injunction will cause substantial harm to others. The Sixth Circuit has held that a party cannot claim harm from an injunction if the conduct to be enjoined violates the Constitution. *See Tyson Foods v. McReynolds*, 865 F.2d 99, 103 (6th Cir. 1989) (“Holly Farms has suffered no injury as a result of the preliminary injunction [because it] has no right to the unconstitutional application of state laws.”). Here, too, AATA has no right to censor advertising on the basis of content or viewpoint, or to enforce an advertising policy that is unconstitutionally overbroad and vague on its face. Accordingly, the irreparable harm plaintiff will suffer by being deprived of his First and Fourteenth Amendment rights substantially outweighs any harm defendants will suffer by respecting them.

The final factor is whether the public interest will be served by an injunction. Again, plaintiff's likelihood of success on the merits of his First and Fourteenth Amendment claims largely disposes of the public interest factor. "When a constitutional violation is likely, . . . the public interest militates in favor of injunctive relief because it is always in the public interest to prevent violation of a party's constitutional rights." *Miller*, 622 F.3d at 540 (internal quotation marks omitted). In this case, the public interest factor weighs in favor of preliminary injunctive relief because, as demonstrated above, "a constitutional violation is likely." *Id.*

CONCLUSION

The court should enter a temporary restraining order, preliminary injunction, or both, ordering defendants to accept and display plaintiff's advertisement on terms no less favorable than those given to other advertisers.

Respectfully submitted,

/s/ Daniel S. Korobkin
 Daniel S. Korobkin (P72842)
 Michael J. Steinberg (P43085)
 Kary L. Moss (P49759)
 American Civil Liberties Union Fund
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 2966 Woodward Avenue
 Detroit, Michigan 48201
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Dated: November 29, 2011

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2011, I electronically filed the foregoing document and its attachments with the Clerk of the Court using the ECF system; enclosed the document and its attachments with the complaint and summons being served on all defendants by registered mail with restricted delivery and return receipt requested; and served the document and its attachments on Jerold Lax (P16470), attorney for defendant Ann Arbor Transportation Authority, by email at jlax@psedlaw.com.

/s/ Daniel S. Korobkin
Daniel S. Korobkin (P72842)

INDEX OF EXHIBITS

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X: “Two-Faced Landlords Can Be Stopped. Housing Discrimination Is Against the Law.”

Y: “Domestic Violence. It happens here.”

Z: “In Washtenaw County black babies are 3x more likely to die than white babies.”

AA: “Breastfeeding makes babies smarter.”

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BLAINE COLEMAN,

Plaintiff,

Case No. 11-cv-15207

vs.

Hon. Mark A. Goldsmith

ANN ARBOR TRANSPORTATION
AUTHORITY, MICHAEL FORD,
TRANSIT ADVERTISING GROUP AA, and
RANDY ORAM,

Defendants.

DECLARATION OF DANIEL S. KOROBKIN

1. I am the plaintiff's attorney in the above-captioned case, and I prepared the exhibits to the motion for preliminary injunction and/or temporary restraining order.

2. Attached as Exhibit A is the plaintiff's verified complaint, which has also been filed as docket entry #1.

3. Attached as Exhibit B is "Remarks at an Open Debate of the Security Council on the Middle East," dated October 24, 2011, and printed from the website of the United States Department of State at <http://www.state.gov/p/io/rm/2011/176080.htm>.

4. Attached as Exhibit C is "The Arab Spring Finds Itself Upstaged by a New Season," dated September 22, 2011, and printed from the website of the New York Times at <http://www.nytimes.com/2011/09/23/world/middleeast/israeli-palestinian-dispute-upstages-arab-spring-at-united-nations.html>.

5. Attached as Exhibit D is “Romney would up defense aid to Israel,” dated October 27, 2011, and printed from the website of the Jerusalem Post at <http://www.jpost.com/International/Article.aspx?id=240955>.

6. Attached as Exhibit E is “The Candidates on the Israeli-Palestinian Conflict,” dated September 19, 2008, and printed from the website of the Council on Foreign Relations at <http://www.cfr.org/world/candidates-israeli-palestinian-conflict/p14756>.

7. Attached as Exhibit F is “Americans Maintain Broad Support for Israel,” dated February 28, 2011, and printed from the website of Gallup, Inc. at <http://www.gallup.com/poll/146408/americans-maintain-broad-support-israel.aspx>.

8. Attached as Exhibit G is an excerpt from “Separate and Unequal: Israel’s Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories,” dated December 2010 and printed from the website of Human Rights Watch at http://www.hrw.org/sites/default/files/reports/iopt1210webwcover_0.pdf.

9. Attached as Exhibit H is an image of the front cover of “Palestine: Peace, Not Apartheid” by Jimmy Carter, published by Simon & Schuster in 2006.

10. Attached as Exhibit I is “Speaking frankly about Israel and Palestine” by Jimmy Carter, dated December 8, 2006, and printed from the website of the Los Angeles Times at <http://www.latimes.com/news/printedition/la-oe-carter8dec08,0,444047.story>.

11. Attached as Exhibit J is “Tutu condemns Israeli ‘apartheid,’” dated April 29, 2002, and printed from the website of BBC News at <http://news.bbc.co.uk/2/hi/1957644.stm>.

12. Attached as Exhibit K is “UN envoy hits Israel ‘apartheid,’” dated February 23, 2007, and printed from the website of BBC News at http://news.bbc.co.uk/2/hi/middle_east/6390755.stm.

13. Attached as Exhibit L is “Enough. It’s time for a boycott” by Naomi Klein, dated January 9, 2009, and printed from the website of The Guardian at <http://www.guardian.co.uk/commentisfree/2009/jan/10/naomi-klein-boycott-israel>.

14. Attached as Exhibit M is “US-based NGO pushes message: Obama ‘not pro-Israel,’” dated September 20, 2011, and printed from the website of the Jerusalem Post at <http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=238649>.

15. Attached as Exhibit N is “Pro-Israel, Anti-Obama Billboards Plastered Across NYC,” dated September 13, 2011, and printed from the website of Commentary Magazine at <http://www.commentarymagazine.com/2011/09/13/pro-israel-anti-obama-billboards-nyc/>.

16. Attached as Exhibit O are “New Yorkers Bring Messages to NYC Subways Calling for Peace and Justice in Palestine/Israel,” “Jewish Voices for Peace Boston joins national campaign: End unconstitutional U.S. military aid to Israel,” “We’re rolling in Chicago—again and again!”, “Portland launches biggest-ever ‘Be on our side’ transit ad,” and “Washington, DC welcomes the ‘Be on our side’ campaign,” all printed from the website of the Committee for a Just Peace in Israel and Palestine at <http://www.twopeoplesonefuture.org/>.

17. Attached at Exhibit P is “About AATA,” printed from the website of defendant Ann Arbor Transportation Authority (“AATA”) at <http://www.aata.org/about.asp>. The website identifies defendant as “a not-for-profit unit of government” that “operates the local public transit system for the greater Ann Arbor-Ypsilanti area.”

18. Attached as Exhibit Q is the “Overview” section of the website of defendant Transit Advertising Group AA (“TAG”), printed from <http://www.iobillboard.com/TAGAAaata.html>. The website identifies AATA buses as “moving billboards” that “find the crowds” on the “University of Michigan’s campuses.”

19. Attached as Exhibit R is “Top 10 Reasons to Advertise on AATA Buses!”, printed from TAG’s website at <http://www.iobillboard.com/top10.jpg>. The “Top 10 Reasons” include “endless creative possibilities.”

20. Attached as Exhibit S is AATA’s response to my request under the Michigan Freedom of Information Act for its advertising policies.

21. Attached as Exhibit T is AATA’s response to my request under the Michigan Freedom of Information Act for all proposed advertisements that have been rejected since July 1, 2009, and all documentation reflecting the reason(s) for the rejection.

22. Attached as Exhibit U is AATA’s response to my request for a list of all advertisements it displayed in 2008. The list reflects that an ad was purchased by the Committee to Elect Margaret Connors. Upon information and belief, Margaret Connors was a candidate for district judge at that time. AATA informed me that a copy of the Margaret Connors ad would be available only after performing an extensive and expensive search.

23. Attached as Exhibit V is AATA’s response to my request for a copy of the ad purchased by Joan Lowenstein in 2008.

24. Attached as Exhibits W, X, Y, Z, AA, BB, and CC are copies of ads AATA provided in response to my request under the Michigan Freedom of Information Act.

25. Attached as Exhibit DD is “About Us,” printed from the website of “2 Word Story” at <http://2wordstory.com/about-us/>. The website features the stories of people who “experienced the life changing love and grace of Jesus Christ.”

26. Attached as Exhibit EE is a copy of a letter I sent to AATA and defendant Ford on August 12, 2011.

27. Attached as Exhibit FF is "Response to American Civil Liberties Union Request," dated November 17, 2011, printed from <http://annarborchronicle.com/wp-content/uploads/2011/11/AATABoardResAdvert.pdf>.

I make this declaration pursuant to 28 U.S.C. § 1746 and declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.



Daniel S. Korobkin

Executed the 28th day of November, 2011.

Exhibit A

Verified Complaint

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BLAINE COLEMAN,

Plaintiff,

Case No.

vs.

Hon.

ANN ARBOR TRANSPORTATION
AUTHORITY, MICHAEL FORD,
TRANSIT ADVERTISING GROUP AA,
and RANDY ORAM,

Defendants.

Daniel S. Korobkin (P72842)
Michael J. Steinberg (P43085)
Kary L. Moss (P49759)
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Attorneys for Plaintiff

VERIFIED COMPLAINT

INTRODUCTION

1. If the First Amendment means anything, it means that the government may not censor political expression based on the content or viewpoint of the speaker's message.

2. Plaintiff Blaine Coleman wishes to purchase advertising space on the side of a public bus in Ann Arbor, Michigan to advocate the boycott of Israel because of its policies toward Palestinians.

3. The advertisement would say "Boycott Israel, Boycott Apartheid."

4. The Ann Arbor Transportation Authority ("AATA") refuses to run Mr. Coleman's advertisement, citing an advertising policy that is unconstitutional on its face and as applied.

5. Mr. Coleman's message may be controversial, but that is a reason it must be protected by the First Amendment, not censored. Those who are offended by speech they don't like may—and should—use the First Amendment to speak back. It is not the role of the government to prohibit offensive speech.

6. Mr. Coleman therefore requests that the court order AATA to run his ad. The court should also declare AATA's policy unconstitutional and award damages.

JURISDICTION AND VENUE

7. This court has jurisdiction under 28 U.S.C. §§ 1331 and 1343 because this is a civil action arising under the Constitution and laws of the United States seeking redress for the deprivation, under color of state law, of a right secured by the Constitution of the United States.

8. Venue is proper under 28 U.S.C. § 1391(b) because the events giving rise to the plaintiff's claim occurred within the Eastern District of Michigan.

PARTIES

9. Plaintiff Blaine Coleman is a resident of Washtenaw County.

10. Defendant Ann Arbor Transportation Authority (“AATA”) is a unit of government that operates the local public transit system for the greater Ann Arbor-Ypsilanti area.

11. Defendant Michael Ford is Chief Operating Officer of AATA.

12. Defendant Transit Advertising Group AA (“TAG”) is a private entity doing business in Michigan. TAG is AATA’s agent for ad sales and placement on AATA buses. TAG acts jointly and in concert with AATA to implement AATA’s advertising policy.

13. Defendant Randy Oram is President of TAG.

FACTS

Summary of Allegations

14. Blaine Coleman is an Ann Arbor resident and activist who is committed to raising awareness about how Palestinians are treated by Israel.

15. Mr. Coleman wishes to purchase advertising space on the outside of an AATA bus for an ad that reads “Boycott Israel, Boycott Apartheid.”

16. For years, AATA buses have carried a wide array of advertisements, including ads with messages about important social issues, ads promoting religion, and even ads supporting candidates running for public office.

17. However, AATA refuses to run Mr. Coleman’s ad.

18. AATA refuses to run the ad because of its content.

Background: Activism and Advocacy Regarding Israel and Palestine

19. Mr. Coleman is one of many Americans who have strong political opinions about Israel and Palestine. He is neither the first nor the last such person to express his views about this issue in a variety of public forums.

20. Indeed, the relationship between the Israeli government and the Palestinian people is a subject of grave importance in international politics. It is often the subject of fierce debate at the United Nations. In the United States, candidates for public office frequently discuss their support of Israel and whether they support Palestinian statehood.

21. Americans are generally more supportive of Israel than the Palestinians. According to a 2011 Gallup poll, 68 percent of Americans say they have favorable views toward Israel and 63 percent say they sympathize more with Israelis than with Palestinians.

22. However, it is also the case that some people and organizations criticize the Israeli government for its policies toward Palestinians.

23. For example, in December 2010, Human Rights Watch issued a report entitled “Separate and Unequal: Israel’s Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories.” The report states that the Israeli government is responsible for a “two-tier system of laws, rules, and services” in the West Bank and East Jerusalem. It alleges that “[s]uch different treatment, on the basis of race, ethnicity, and national origin and not narrowly tailored to meet security or other justifiable goals, violates the fundamental prohibition against discrimination under human rights law.”

24. Some critics of the Israeli government’s policies use the word “apartheid” to describe conditions there.

25. “Apartheid” is an Afrikaans word and a common description of South African policies of racial segregation during the twentieth century.

26. Former President Jimmy Carter and South African Archbishop Desmond Tutu have both drawn analogies between apartheid in South Africa and conditions in Palestine.

27. Inspired in part by a successful boycott movement against South Africa during the 1980s and 1990s, some critics of the Israeli government's policies toward Palestinians now urge a boycott of Israel in some form.

28. Using the term "apartheid" to describe how Palestinians are treated by Israel is contentious. Many people are offended by the comparison and are opposed to any form of boycott against Israel.

29. Supporters of Israel frequently speak out on this important political issue. The Human Rights Watch report was widely criticized, as were President Carter and Desmond Tutu for using the word "apartheid" in connection with Israel.

30. As with any high-profile political issue, many organizations and interest groups have launched media and public awareness campaigns to express a range of views and opinions about the Israeli-Palestinian conflict. For example, a pro-Israel organization called the Emergency Committee for Israel recently began purchasing advertising space in newspapers and billboards criticizing President Obama for not being sufficiently supportive of Israel.

31. Meanwhile, those who support a boycott of Israel also express their views in public forums. For example, an organization called the Committee for a Just Peace in Israel and Palestine expresses its message by purchasing advertising space in public transportation areas. Ads stating "End U.S. military aid to Israel" have appeared on the side and rear panels of public buses in Chicago and Portland, in subway stations in New York and Boston, and inside subway cars in Washington, D.C.

AATA's Refusal To Run Blaine Coleman's Ad

32. Mr. Coleman also wishes to raise awareness about the treatment of Palestinians by purchasing ad space on the exterior of public buses to advocate for a boycott of Israel.

33. In Ann Arbor, AATA buses travel on and near the campus of the University of Michigan, where students are likely to be inquisitive about international relations, human rights, and political activism.

34. AATA buses regularly display ads on their exterior rear and side panels.

35. These exterior bus ads represent a unique opportunity to express one's message of choice because the ad is essentially a moving billboard seen by thousands of drivers and pedestrians who cross paths with the bus.

36. According to the "Top 10 Reasons to Advertise on AATA Buses!" featured on defendant TAG's website, the "unique environment of bus advertising allows for endless creative possibilities."

37. Mr. Coleman first contacted defendants in late December 2010, requesting via email information about how to purchase advertising space for the outside of an AATA bus. He requested a copy of any rules regarding the bus ads. He also asked how much it would cost to purchase an ad on the side or back of the bus that runs along State Street, South University, and North University on and near the University of Michigan campus in Ann Arbor.

38. No one responded to Mr. Coleman's email response. He sent several more emails in January requesting the same information, and he included a copy of the ad he wishes to run on the side or back of an AATA bus.

39. Mr. Coleman's ad is reproduced as Attachment #1 to this complaint.

40. The ad features the following message in large, bold print:

Boycott "Israel"

Boycott Apartheid

41. The ad also contains a cartoonish black-and-white image that depicts a skeleton-like figure holding a skull in its right hand and a bone in its left.

42. In February 2011, defendant Randy Oram emailed Mr. Coleman and identified himself as the president of the company that handles advertising for AATA buses. Mr. Oram requested that all communications regarding placing an advertisement on an AATA bus be directed exclusively to him.

43. Mr. Oram's email stated that he could not post Mr. Coleman's ad because it was prohibited by AATA advertising policy.

AATA's Advertising Policy and Practice

44. AATA's advertising policy states:

The AATA, by permitting commercial advertising in or on its vehicles, shelters, information material, buildings, and benches, does not thereby intend to create a public forum. Further, AATA requires that such advertising comply with specified standards to further the purposes of providing revenue for AATA, increasing ridership, and assuring that AATA riders will be afforded a safe and pleasant environment. AATA reserves the right to approve all advertising, exhibit material, announcements, or any other display and their manner of presentation. All advertising must be considered in good taste and shall uphold the aesthetic standards as determined by AATA.

Advertising in or on AATA vehicles, in AATA shelters, buildings, benches or informational material which does any of the following shall be prohibited.

1. Contains false, misleading, or deceptive material.
2. Promotes an illegal activity.
3. Advocates violence or crime.
4. Infringes copyright, service mark, title or slogan.
5. Defames or is likely to hold up to scorn or ridicule a person or group of persons.

6. States or implies the endorsement of a product or service by AATA.
7. Supports or opposes the election of any person to office or supports or opposes any ballot proposition.
8. Contains material which is obscene, as defined by MCL 752.362, or sexually explicit, as defined by MCL 722.673, and as such statutes shall be amended or supplemented.
9. Promotes alcohol or tobacco products.

45. Mr. Oram did not identify which of the above provisions allegedly prohibited Mr. Coleman's ad.

46. Upon information and belief, AATA almost never rejects advertisements for failure to comply with its advertising policy.

47. In fact, directly contrary to its written advertising policy, AATA runs political campaign ads. In 2008, AATA ran political campaign advertisements supporting Joan Lowenstein and Margaret Conners for district court judge.

48. AATA ads contain a wide variety of messages. AATA buses carry ads selling commercial products, conveying information about important social issues, advocating the election of a candidate for public office, and spreading religious gospel.

49. For example, in the past few years AATA has run advertisements with the following messages:

- "Every 9 ½ minutes someone in the U.S. is infected with HIV."
- "Two-Faced Landlords Can Be Stopped. Housing Discrimination Is Against the Law."
- "Domestic Violence. It happens here."
- "In Washtenaw County black babies are 3x more likely to die than white babies."
- "Breastfeeding makes babies smarter."

- An ad for NorthRidge Church that reads: “NorthRidge Church is For Hypocrites. NorthRidge Church is For Fakes. NorthRidge Church is For Liars. NorthRidge Church is For Losers.”
- 2WordStory.com, a website featuring the stories of people who “experienced the life changing love and grace of Jesus Christ.”
- “Joan Lowenstein for Ann Arbor’s 15th District Court Judge: a voice of reason.”

AATA Reaffirms the Decision To Reject Mr. Coleman’s Ad

50. In August 2011, Mr. Coleman’s ACLU attorneys wrote a letter to AATA’s board of directors and defendant Ford on Mr. Coleman’s behalf. The letter warned AATA its advertising policy was unconstitutional and that its refusal to run Mr. Coleman’s ad violated his right to free speech under the First Amendment and due process under the Fourteenth Amendment. The letter cited *United Food & Commercial Workers Union, Local 1099 v. Southwest Ohio Regional Transit Authority*, 163 F.3d 341 (6th Cir. 1998), holding under similar circumstances that a public transit authority’s content-based rejection of a bus ad violated the First and Fourteenth Amendments. The letter requested that AATA accept Mr. Coleman’s advertisement on the same terms and conditions that it accepts all other advertisements.

51. On November 17, 2011, AATA’s board of directors met to consider the ACLU’s letter and request regarding Mr. Coleman’s advertisement. By formal resolution, the AATA board “affirm[ed] the . . . decision to reject the advertisement” and “concur[red] with [a] recommendation” of a subcommittee “that the ad continue to be rejected.” In support of its resolution, the AATA board cited the following provisions of its advertising policy:

The AATA, by permitting commercial advertising in or on its vehicles, shelters, information material, buildings, and benches, does not thereby intend to create a public forum. Further, AATA requires that such advertising comply with specified standards to further the purposes of providing revenue for AATA, increasing ridership, and assuring that AATA riders will be afforded a safe and pleasant environment. AATA reserves the right to approve all

advertising, exhibit material, announcements, or any other display and their manner of presentation. All advertising must be considered in good taste and shall uphold the aesthetic standards as determined by AATA.

Advertising in or on AATA vehicles, in AATA shelters, buildings, benches or informational material which does any of the following shall be prohibited.

5. Defames or is likely to hold up to scorn or ridicule a person or group of persons.

CAUSES OF ACTION

52. Plaintiff's counts and claims against defendants are all brought under 42 U.S.C. § 1983, which provides that every person acting under color of state law who deprives another person of his or her constitutional rights, or causes such a deprivation, is liable at law and in equity.

53. At all times relevant to this complaint, defendants acted and are acting under color of state law.

54. Defendants' refusal to run Mr. Coleman's ad has restricted and continues to restrict Mr. Coleman's ability to convey his political message to the public and to participate in debate on a matter of public concern. He has suffered and continues to suffer mental anguish and distress from this diminished ability to express his views and from the knowledge that his message has been restrained, censored, and singled out by the government as unwelcome in a public forum. Defendants' acts and omissions have caused and are causing irreparable harm such that there is no adequate remedy at law.

COUNT ONE

VIOLATION OF THE FIRST AMENDMENT

DISCRIMINATION ON THE BASIS OF CONTENT AND VIEWPOINT

55. Defendants' refusal to accept plaintiff's ad has violated and continues to violate his First Amendment right to freedom of speech and expression.

56. Defendants operate a designated public forum. They have unconstitutionally discriminated against plaintiff, and continue to do so, based on the content of his advertisement.

57. Alternatively, defendants operate a limited or nonpublic forum. They have unconstitutionally discriminated against plaintiff, and continue to do so, based on the viewpoint expressed in his advertisement.

COUNT TWO

VIOLATION OF THE FIRST AMENDMENT

FACIAL CHALLENGE — OVERBREADTH

58. Defendants' advertising policy is facially unconstitutional under the overbreadth doctrine of the First Amendment.

59. Defendants operate a designated public forum and its policy discriminates or allows for discrimination based on content.

60. Alternatively, defendants operate a limited or nonpublic forum and its policy discriminates or allows for discrimination based on viewpoint.

COUNT THREE

VIOLATION OF THE FOURTEENTH AMENDMENT

VAGUENESS AS APPLIED

61. Defendants' refusal to accept plaintiff's ad has violated and continues to violate his Fourteenth Amendment right to due process.

62. The criteria defendants used and are using to prohibit plaintiff's ad are not clearly defined such that a person of ordinary intelligence can readily determine whether the ad is allowable or prohibited.

63. Defendants and their agents have exercised and are exercising unbridled discretion to prohibit plaintiff's ad, unconstrained by sufficiently objective criteria, such that their exclusion of plaintiff's ad rests on ambiguous and subjective reasons.

COUNT FOUR

VIOLATION OF THE FOURTEENTH AMENDMENT

FACIAL CHALLENGE — VAGUENESS

64. Defendants' advertising policy is facially unconstitutional under the vagueness doctrine of the Fourteenth Amendment.

65. Defendants' advertising policy is not clearly defined such that a person of ordinary intelligence can readily identify the applicable standard for inclusion or exclusion.

66. The absence of clear standards in defendants' advertising policy grants defendants and their agents unbridled discretion, not constrained by objective criteria, such that their exclusion of advertising content may rest on ambiguous and subjective reasons.

RELIEF REQUESTED

Plaintiff requests that the court:

- a. assert jurisdiction over this matter;
- b. declare that defendants have violated and are violating plaintiff's rights under the First and Fourteenth Amendments to the United States Constitution;
- c. declare that defendants' advertising policy is facially unconstitutional under the First and Fourteenth Amendments to the United States Constitution;
- d. grant plaintiff temporary, preliminary, and permanent injunctive relief ordering defendants to accept and display plaintiff's advertisement on terms no less favorable than those given to other advertisers;
- e. grant plaintiff temporary, preliminary, and permanent injunctive relief ordering defendants not to enforce or apply AATA's advertising policy;
- f. award plaintiff damages;
- g. award plaintiff costs and a reasonable attorney's fee under 42 U.S.C. § 1988; and
- h. grant any other relief the court deems appropriate.

Respectfully submitted,

/s/ Daniel S. Korobkin

Daniel S. Korobkin (P72842)

Michael J. Steinberg (P43085)

Kary L. Moss (P49759)

American Civil Liberties Union Fund
of Michigan

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msteinberg@aclumich.org

Dated: November 28, 2011

VERIFICATION

I verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations pertaining to me in the foregoing Verified Complaint are true and correct to the best of my knowledge and belief.

Executed on the ^{23rd} A day of November, 2011.



Blaine Coleman

Attachment #1 to Plaintiff's Verified Complaint

Boycott "Israel"



**Boycott
Apartheid**

Exhibit B

“Remarks at an Open Debate of the Security Council on the Middle East”
U.S. Department of State
Oct. 24, 2011



Home » Under Secretary for Political Affairs » Bureau of International Organization Affairs » Remarks » 2011 International Organization Affairs Speeches/Remarks » Remarks at an Open Debate of the Security Council on the Middle East

Remarks at an Open Debate of the Security Council on the Middle East

Remarks

Susan E. Rice

U.S. Permanent Representative to the United Nations , U.S. Mission to the United Nations

New York, New York

October 24, 2011

Thank you, Madame President, and thank you, Under Secretary-General Pascoe, for your briefing.

I'll begin with the Israeli-Palestinian conflict.

The United States continues to work vigorously with the parties, the Quartet, and our international partners to resume negotiations on the basis of the September 23rd Quartet statement. That statement provides a clear and credible path back to the negotiating table, which is the only path to achieve the two-state solution we all seek. The Quartet statement reaffirms President Obama's vision for peace as laid out in his May remarks. President Abbas and Prime Minister Netanyahu have each agreed to send negotiators to Jerusalem for preparatory meetings with the Quartet envoys on October 26th. Thus, our focus remains on laying the groundwork for these and subsequent meetings leading to the two parties exchanging comprehensive proposals on territory and security by the end of the year, as outlined in the Quartet's timeline. We urge all members of this Council and all member states to unite to help create a positive climate for resuming negotiations.

Ultimately, it is the Israelis and the Palestinians who must live side by side. Only they can reach agreement on the painful issues that divide them: borders and security, refugees, and Jerusalem. We have been very clear that we believe Palestinian efforts to seek member-state status at the United Nations will not advance the peace process but rather will complicate, delay, and perhaps derail prospects for a negotiated settlement. Therefore, we have consistently opposed such unilateral initiatives. We will continue at the same time to exert every effort to bring the parties back to the negotiating table.



Like every American administration for decades, the Obama administration does not accept the legitimacy of continued Israeli settlement activity. The fate of existing settlements is one that must be dealt with by the parties, along with the other permanent-status issues, including the status of Jerusalem. For that reason, steps by the Government of Israel to advance significant new construction in Givat Hamatos are deeply disappointing.

The illegal trafficking of weapons in Gaza continues to pose a serious threat to civilians in Gaza, in Israel, and in Egypt. It must be stopped. With regard to Hamas, we reaffirm the importance of fulfilling the Quartet principles' commitment to nonviolence, recognition of Israel's right to exist, and recognition of previous agreements. We call again on Palestinians and Israelis to take constructive actions to promote peace and to avoid actions that complicate this process or undermine trust.

The United States is very pleased that Gilad Shalit has finally been reunited with his family after five long years in captivity.

Madame President, I will now turn to the crisis in Syria. For more than seven months, ordinary Syrians have taken to the streets to demand respect for their most fundamental human rights. The Asad regime has met these peaceful protests with brutal and escalating violence. According to the United Nations, the death toll has surpassed 3,000. It is tragic that Asad's barbaric acts have recently been met by silence from this Council.

The United States welcomes the Arab League's renewed efforts to stop the violence, to allow the Syrian people to exercise their rights to freedom of expression and assembly, and to bring about a peaceful transition to democracy. We are very skeptical, however, that the Asad regime has any intention of allowing the opposition to meet in an environment free of intimidation. We again call for full and unfettered access by credible, professional observers, including human rights monitors, the UN Human Rights Council's Commission of Inquiry, and international observers. In addition, we strongly deplore the violent incursions and raids into Lebanon by Syrian security forces that have resulted in death and injury.

Turning to Yemen, we welcome the Council's adoption on Friday of Resolution 2014, addressing the grave situation there. Each day that passes without a peaceful and orderly transition of power is another day that the Yemeni people are forced to live in danger and instability. We again urge all parties to cease violence and exercise maximum restraint. We will continue to work intensively with the international community to support the Yemeni people's aspirations for democracy and protection of their basic human rights.

Madame President, we are pleased that the Government of Lebanon has reaffirmed that it will uphold Lebanon's international commitments, including Lebanon's agreement with the Special Tribunal. We believe it is of the utmost importance that Lebanon fulfill its funding obligations to the Special Tribunal within the coming weeks. We remain deeply committed to the full implementation of Resolutions 1559, 1680, and 1701. The United States continues to support the Lebanese Armed Forces' ongoing efforts to assert control and maintain stability in southern Lebanon.

Finally, the United States congratulates the Tunisian people on the reported high turnout in Sunday's elections for a Constituent Assembly. This is a milestone on the Tunisian people's path from dictatorship to a democratic government founded upon respect for the will of its citizens. We look forward to working with the people and government of Tunisia, including the new Constituent Assembly, over the next phase of their country's historic transition.

Thank you, Madame President.

Exhibit C

“The Arab Spring Finds Itself Upstaged by a New Season”
The New York Times
Sept. 22, 2011

The New York Times Reprints

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the Descendants
COMING SOON

September 22, 2011

The Arab Spring Finds Itself Upstaged by a New Season

By NEIL MacFARQUHAR

UNITED NATIONS — Hillary Rodham Clinton, sharing a podium during the United Nations General Assembly with half a dozen of the world's most powerful political women, was waxing enthusiastic about the success of the Arab uprisings when she gave a sudden shout-out to Tunisia.

"Minister! Thank you, minister," Mrs. Clinton, the secretary of state, enthused as she pointed toward the country's new minister of women's affairs. "I think we should give Tunisia a round of applause."

By rights, this should be the year of Arab uprisings at the yearly gathering of presidents, kings and other potentates. Some of the world's longest-serving tyrants (and once star attractions among the weeklong marathon of speeches) have been overthrown. The fresh faces here represent nascent Arab governments that profess to want to follow the principles of human rights and good government that the United Nations embodies.

Undoubtedly there have been some thrilling moments for them — in particular a pantheon of world leaders spending several hours making somewhat self-congratulatory speeches about the success of the United Nations in supporting the Libyan rebels. But new tensions in the Palestinian-Israeli dispute largely overshadowed the Arab Spring.

The dispute that has preoccupied the building for the entire week is peaking Friday with dueling speeches less than an hour apart by Prime Minister Benjamin Netanyahu of Israel and Mahmoud Abbas, the Palestinian president, promising to further overshadow those fresh faces of the Arab Spring.

For Lilia Labidi, minister of women's affairs since the Tunisian revolution in January, her first giddy exposure to the United Nations rapidly dissipated. Her own appeal to the gathering for help in consolidating gains for women in Tunisia elicited little reaction, with Mrs. Clinton, President Dilma Rousseff of Brazil and various other female heads of state sweeping out of the meeting on empowering women without stopping for even a hello.

Ms. Labidi, although a guest of the United Nations, decided to go home.

"I cannot live here in such luxury," she said, noting that the \$700-a-day cost of her staying in New York would be better spent on a project for rural women.

"To the degree that the Arab Spring is important, one would have wanted more than a warm welcome and a group photograph — what am I bringing back to the Tunisian women?" she said over breakfast in a Midtown Manhattan coffee shop. "The attention of the world has to be much more engaged in our region."

Ms. Labidi, a soft-spoken professor of anthropology and clinical psychology, said she found it frustrating that the question she was asked the most by people had little bearing on her projects, like improving girls' access to elementary school. The question she heard over and over: What effect will the revolution have on Tunisian attitudes toward the Arab-Israeli conflict?

Ban Ki-moon, the United Nations secretary general, conducts a version of political speed-dating during the gathering, holding a 15-minute meeting with each delegation. Virtually every leader has brought up the need to solve the Israeli-Palestinian dispute, said a senior aide, while he could not remember any discussions about the Arab revolutions.

When they do come up, they tend to be the connection between the two, all the references about self-determination and political freedom throwing the spotlight on the lack of it for the Palestinians. "We cannot respond to this aspiration for freedom and democracy," President Nicolas Sarkozy of France said in his speech, "so splendidly and bravely expressed by the Arab peoples, by perpetuating a tragedy, that of the Israel-Palestine conflict."

If there was one new international political star at the gathering, it was Mustafa Abdel-Jalil, the leader of Libya's Transitional National Council, who drew the kind of attention that had photographers knocking one another to the ground in the scrums that developed around his movements. "Blessings go out to Libya!" yelled one woman repeatedly as the melee subsided.

"This is a great day for all Libyans inside and outside the country!" Mr. Abdel-Jalil said right after the Libya conference, walking around like the rest of the delegation with a smile permanently plastered to his face.

Of course, Col. Muammar el-Qaddafi caused quite a stir when he showed up in 2009, though that was inspired because he spoke for 90 minutes instead of the allotted 15; appeared to tear the charter of the United Nations while suggesting that the world body

move to his hometown, Surt (now embattled); and set off a media frenzy about where he would pitch his much-traveled, signature tent.

“Another abuse of Libyan resources!” recalled Ibrahim O. Dabbashi, Libya’s deputy permanent representative and one of the first Libyan diplomats to break with the government after the revolution erupted.

He added: “We felt then that he was just not a normal person. These new people are working in the interests of the Libyan people.”

In fact, this year’s gathering was suffering from something of a despot deficit, or at least the ranks of haranguers raging against the evils of capitalism and the West have been drastically thinned by revolutions or disease. President Hugo Chávez of Venezuela, undergoing chemotherapy treatment in Cuba, literally mailed it in, sending a letter to Mr. Ban demanding an independent Palestinian state.

President Mahmoud Ahmadinejad of Iran, much diminished at home by his confrontation with the country’s supreme leader, has said the same thing so many times at the United Nations that it has taken on the aura of a ritual monotony. When a Western ambassador was asked what he anticipated from Mr. Ahmadinejad’s speech, he quipped, “We are preparing our usual contingency walkout plan.”



Right on schedule, Mr. Ahmadinejad prompted a walkout by the United States and Europe by implying that conspiracies lay behind the Sept. 11 attacks and the Holocaust.

Events that actually concentrated on the Arab world tended to take place on the sidelines. Norway organized a seminar on the role of social media in confronting totalitarian governments, while France as current president of the Group of 8 economic powers held a meeting to reconfirm the international financial assistance pledged to the emerging governments.

There, at least, the Tunisian foreign minister, Mohammed Mouldi Kefi, provided the soaring rhetoric somewhat absent at the main event on Turtle Bay. In expressing the wish that Tunisia and other Arab countries would soon join the ranks of the world’s leading democracies, he said, “I hope that this unfinished symphony that we are now playing can become Beethoven’s ‘Ode to Joy.’ ”

Exhibit D

“Romney would up defense aid to Israel”
The Jerusalem Post
Oct. 27, 2011

October 27, 2011 Thursday 29 Tishri 5772 18:37 IST  Print  Back to original article

THE JERUSALEM POST

Israel's best-selling English daily and most-read English website

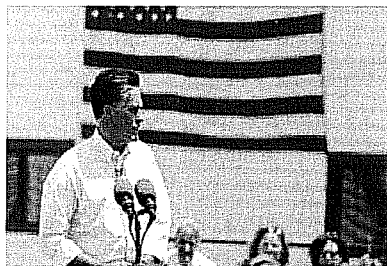


Photo by: REUTERS

Romney would up defense aid to Israel

By JTA
09/10/2011

US Republican presidential candidate delivers first major foreign policy speech of his campaign.

WASHINGTON (JTA) – Mitt Romney said he would increase defense assistance to Israel, raise the US military profile near Iran and recognize Israel as a Jewish state.

Romney, the former Massachusetts governor and front-runner in the bid to secure the Republican nomination for president, delivered the first major foreign policy speech of his campaign Friday at The Citadel, a military college in South Carolina.

He cast President Barack Obama's policies as contributing to Israel's isolation.

"I will bolster and repair our alliances," Romney said. "Our friends should never fear that we will not stand by them in an hour of need. I will reaffirm as a vital national interest Israel's existence as a Jewish state."

The Obama and Netanyahu governments have smoothed relations in recent months, and Israeli officials credit the administration with tightening defense ties and backing Israel at the United Nations.

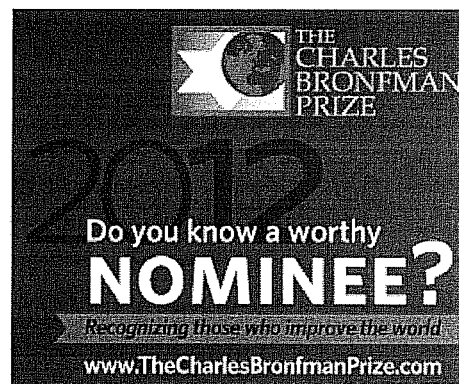
Obama also refers to Israel as a Jewish state, although he has not issued a formal declaration of such a recognition.

Romney suggested Israel might be further isolated by 2015 if Obama remains in office.

"Will Iran be a fully activated nuclear weapons state, threatening its neighbors, dominating the world's oil supply with a stranglehold on the Strait of Hormuz?" he asked. "In the hands of the ayatollahs, a nuclear Iran is nothing less than an existential threat to Israel.

Iran's suicidal fanatics could blackmail the world.

"By 2015, will Israel be even more isolated by a hostile international community? Will those who seek Israel's destruction feel emboldened by American ambivalence? Will Israel have been forced to fight yet another war to protect its citizens and its right to exist?" Romney said that as president he would "enhance our deterrent against the Iranian regime by ordering the regular presence of aircraft carrier task forces, one



in the Eastern Mediterranean and one in the Persian Gulf region. I will begin discussions with Israel to increase the level of our military assistance and coordination.

And I will again reiterate that Iran obtaining a nuclear weapon is unacceptable.”

He also said he would centralize US Middle East policy to ensure “that the Arab Spring does not fade into a long winter.”

The speech came a day after Romney published a list of his foreign policy advisers, including many who have been active in or are close to the pro-Israel community.

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Exhibit E

“The Candidates on the Israeli-Palestinian Conflict”
Council on Foreign Relations
Sept. 19, 2008

COUNCIL *on* FOREIGN RELATIONS

[Home](#) > [The Candidates On The Israeli-Palestinian Conflict](#)

Issue Tracker

Issue Trackers trace the positions of candidates from the 2008 presidential campaign on major issues related to foreign policy.

The Candidates on the Israeli-Palestinian Conflict

September 19, 2008

For decades, the Israeli-Palestinian conflict complicated and, indeed, sometimes undermined U.S. diplomatic goals in the Middle East and beyond. With roots going back thousands of years, the conflict's emotionally charged claims fuel religious, ideological, and proxy violence around the world. With some notable exceptions, candidates of both major U.S. parties put forth similar views on the conflict, stressing their commitment to defending Israel's right to exist and calling on the Palestinian leadership and extragovernmental factions to renounce terrorism. But beyond rhetoric, each candidate faces a similar challenge: crafting a position which balances the historic U.S. alliance with Israel against the widely recognized need to press Israel to agree an equitable peace with the Palestinians. Most—though not all—accept the notion that the Israeli-Palestinian conflict animates other conflicts far from the Holy Land.

Democratic Ticket

Barack Obama

Joseph R. Biden Jr.

Republican Ticket

John McCain

Sarah Palin

DEMOCRATIC TICKET ON ISRAELI-PALESTINIAN CONFLICT

Barack Obama

Democratic Party Nominee - President

President Obama has taken a strongly pro-Israel tone in addressing the conflict. In a May 2008 interview with the *Atlantic*, Obama said the concept of a Jewish state is "fundamentally just," and his commitment to Israeli security is "non-negotiable." In a speech before AIPAC in March 2007, Obama said the United States must "strengthen the hands of Palestinian moderates" and isolate Hamas. *Haaretz* U.S. correspondent Shmuel Rosner said that before AIPAC, Obama "sounded as strong as [Hillary] Clinton, as supportive as [President George] Bush, as friendly as [Rudy] Giuliani."

In April 2008, Barack Obama's campaign said he disapproved (*ABC News*) of former President Jimmy Carter's decision to meet with Hamas officials. Obama "does not support negotiations with Hamas until they renounce terrorism, recognize Israel's right to exist and abide by past agreements," Obama's campaign said. Despite his pledge to hold diplomatic talks with U.S. adversaries without preconditions, Obama called Carter's meeting with Hamas leaders "a bad idea." (*Reuters*) He has said his position on Hamas is "indistinguishable from the position of Hillary Clinton or John McCain." In May 2008, Obama also said he would not negotiate with Hezbollah (*ChiTrib*). His campaign has indicated that Obama would negotiate directly with Palestinian Authority President Mahmoud Abbas.

Obama has criticized Carter's characterization of Israel as an apartheid state. "There's no doubt that Israel and the Palestinians have tough issues to work out to get to the goal of two states living side by side in peace and security, but injecting a term like *apartheid* into the discussion doesn't advance that goal. It's emotionally loaded, historically inaccurate, and it's not what I believe," said Obama.

Obama has said Israeli settlements in Palestinian territories are "not helpful."

In May 2008, Obama Middle East adviser Daniel Kurtzer said the issue of Jerusalem must be included in any "serious" peace talks. (*Haaretz*)

Obama cosponsored the Palestinian Anti-Terrorism Act of 2006 and has called on the Palestinian leadership to "recognize Israel, to renounce violence, and to get serious about negotiating peace and security for the region."

Obama says he will "insist on fully funding military assistance to Israel" (*JPost*) and continue to cooperate with Israel on the development of the Arrow missile defense system.

Click [here](#) for this candidate's position on other top foreign policy issues.

Joseph R. Biden Jr.

Democratic Party Nominee - Vice President

Sen. Biden (D-DE) is a self-described Zionist. Biden believes the United States should maintain extremely close ties with Israel, because in his view, the Middle East has only progressed when "the Arab nations have known that there is no daylight between us and Israel," as he said in a March 2007 interview with *Forward*. Biden dismissed the Iraq Study Group's claims that the Israeli-Palestinian conflict is related to the problems of the Iraq War, saying on Shalom TV in March 2007 that Israel's behavior has "nothing to do" with Iraq.

Biden cosponsored the Palestinian Anti-Terrorism Act of 2006. That act, which passed, expressed U.S. support for a two-state solution. It also deemed the Palestinian Authority a terrorist organization and cut off all U.S. funding until it renounces terrorism, acknowledges Israel's right to exist, and holds up its former agreements with Israel. He has regularly supported military and financial aid packages to Israel throughout his long career on the Senate Foreign Relations Committee, of which he is now chairman.

Click [here](#) for this candidate's position on other top foreign policy issues.

REPUBLICAN TICKET ON ISRAELI-PALESTINIAN CONFLICT

John McCain

Republican Party Nominee - President

Sen. McCain (R-AZ) has described himself as "proudly pro-Israel." McCain argues that there can be no peace process "until the Palestinians recognize Israel, forswear forever the use of violence, recognize their previous agreements, and reform their internal institutions." McCain says he would be willing to use military force against Iran if it attains a nuclear weapon and poses a "real threat" to Israel.

He also believes the United States should continue to provide Israel with "whatever military equipment and technology she needs to defend herself." He has said that if elected president, he would "work to further isolate the enemies of Israel" like Syria, Hamas and Hezbollah, and he would "never pressure Israel to make concessions to states or movements committed to its destruction." (*JPost*)

In April 2008, McCain criticized former President Jimmy Carter for meeting with Hamas. He called Carter's meeting "a grave and dangerous mistake for an American leader."

McCain said Israel's military action in Lebanon in 2006 was justified. (*Arizona Daily Star*)

McCain cosponsored the Palestinian Anti-Terrorism Act of 2006.

Click [here](#) for this candidate's position on other top foreign policy issues.

Sarah Palin

Republican Party Nominee - Vice President

Palin says she does not think the United States should “second guess (ABC) the measures that Israel has to take to defend themselves, and for their security.” Palin met with AIPAC’s board of directors (MSNBC) in September 2008 to discuss the importance of the U.S.-Israeli relationship. In June 2008, Palin signed a resolution passed by the Alaska legislature congratulating Israel on the 60th anniversary of its founding, and affirming “strong bonds of friendship” between the United States and Israel.

Palin’s position on a two-state solution to the Israeli-Palestinian conflict is unknown. She has not publicly indicated whether she believes the United States should negotiate with Hamas.

Click [here](#) for this candidate's position on other top foreign policy issues.

DEMOCRATIC PRIMARY CANDIDATES ON ISRAELI-PALESTINIAN CONFLICT

Hillary Rodham Clinton

Democratic Primary Candidate

Though her advocacy (NYT) for Palestinian statehood in the 1990s drew criticism from American Jewish groups at the time, Sen. Clinton (D-NY) generally has aligned herself with pro-Israeli interests throughout her political career. In a February 2007 speech before the American Israel Public Affairs Committee (AIPAC), Clinton said Hamas, which took control of the Palestinian Authority in January 2006 and formed a coalition government with Fatah in February 2007, should not be recognized “until it renounces violence and terror and recognizes Israel’s right to exist.” Clinton also supports Israel’s “security wall,” which divides Israel from the West Bank with the declared purpose of preventing terrorist attacks.

Clinton cosponsored the Palestinian Anti-Terrorism Act of 2006. She also sponsored a Senate resolution in 2007 “calling for the immediate and unconditional release of soldiers of Israel held captive by Hamas and Hezbollah.” That resolution was approved. Since taking office in 2000, she has regularly supported military and financial aid packages to Israel.

In March 2008, Clinton condemned Hamas rocket attacks on southern Israel, and stressed Israel’s “right to defend its citizens.” She also criticized the Bush administration, which she said should have “been taking a much more active role in bringing international pressure on Hamas to stop its attacks.”

Martin Indyk, a former ambassador to Israel under the Clinton administration, was a foreign policy adviser to Clinton’s campaign. Indyk is director of the Brookings Institution’s Saban Center for Middle East Policy.

Editor’s Note: Sen. Clinton withdrew her candidacy for the Democratic presidential nomination on June 7, 2008.

Click [here](#) for this candidate's position on other top foreign policy issues.

Christopher J. Dodd

Democratic Primary Candidate

Sen. Dodd (D-CT) has taken a solidly pro-Israel stance throughout his political career, according to pro-Israel lobby groups. At a speech before AIPAC in October 2006, Dodd boasted that he has “supported substantial foreign aid for Israel” since he was first elected to the Senate in 1980. Dodd cosponsored the Palestinian Anti-Terrorism Act of 2006. He also cosponsored Clinton’s Senate resolution in April 2007 urging Hamas and Hezbollah to release captive Israeli soldiers. Dodd, a longtime member of the Senate Foreign Relations Committee, opposes the recognition of any Palestinian government including Hamas, which won the January 2006 Palestinian elections. Throughout his career he regularly has supported large financial and military aid packages for Israel.

Dodd says as president he would send former president Bill Clinton to the region “on a permanent basis for a while” to help negotiate a peace agreement. (*DesMoines Register*) Dodd joined Sen. John Kerry (D-MA) in a controversial trip (*BosGlobe*) to Syria in December 2006.

Editor's Note: Sen. Dodd withdrew his candidacy for the Democratic presidential nomination on January 3, 2008.

Click [here](#) for this candidate's position on other top foreign policy issues.

John Edwards

Democratic Primary Candidate

Edwards’ statements on the conflict have been generally supportive of Israel. In a speech in Herzliya, Israel, Edwards said that former Israeli Prime Minister Ariel Sharon showed “courage” in evacuating (*BosGlobe*) the settlements in the Gaza Strip in 2005. Edwards also said in that speech that Israel should “upgrade” its role in NATO, and possibly even become a member, and he sharply criticized the late Yasir Arafat in a vice presidential debate in the 2004 election. Yet pro-Israel lobbyists have criticized Edwards for choosing former Rep. David Bonior (*New York Sun*) as an adviser to his campaign. Writer Matthew Yglesias describes Bonior as “quite possibly the Israel lobby’s least-liked legislator in recent history.”

Editor's note: Edwards dropped out of the race for the Democratic nomination on January 30, 2008.

Click [here](#) for this candidate's position on other top foreign policy issues.

Mike Gravel

Democratic Primary Candidate

Gravel says the U.S., its allies, and regional actors should “sponsor direct negotiations between Israel and the Palestinian Authority, including Hamas” to forge a two-state solution.

Editor's Note: Mike Gravel ended his bid for the Democratic nomination on March 26, 2008. He then ran for the Libertarian Party's presidential nomination before announcing the end of his political career on May 25, 2008.

Click [here](#) for this candidate's position on other top foreign policy issues.

Dennis Kucinich

Democratic Primary Candidate

Rep. Kucinich (D-OH) is critical of Israeli use of force in the Palestinian territories. Although he has said that Hamas should renounce terrorism, he opposed the Palestinian Anti-Terrorism Act of 2006, arguing that the legislation would exacerbate a humanitarian crisis in the Palestinian territories. He said the United States should urge Israel to “accept the Palestinians' right

to self-determination and economic survival and humanitarian relief, for food, medical care, for jobs.

In July 2006, Kucinich expressed concern that Israel's response to the kidnapping of Israeli soldiers was disproportional and risked worsening conditions for Palestinian civilians. He called on Hamas to back down, but also argued that Israel should "halt its incursion into Gaza" and begin to work again toward a two-state solution.

Editor's Note: Rep. Kucinich withdrew his candidacy for the Democratic presidential nomination on January 25, 2008.

Click [here](#) for this candidate's position on other top foreign policy issues.

Bill Richardson

Democratic Primary Candidate

Richardson says that the United States must "re-engage" both parties in negotiations for peace and a two-state solution. "The suffering of the Palestinians is the most useful propaganda weapon the jihadists have," Richardson said in a May 2007 interview. Richardson says he would send former president Bill Clinton to the Middle East as a "peace envoy."

Editor's Note: Richardson withdrew his campaign for the Democratic presidential nomination on January 10, 2008.

Click [here](#) for this candidate's position on other top foreign policy issues.

REPUBLICAN PRIMARY CANDIDATES ON ISRAELI-PALESTINIAN CONFLICT

Sam Brownback

Republican Primary Candidate

Sen. Brownback (R-KS) calls Israel "a beacon of freedom and hope in an otherwise troubled region." He advocates a Palestinian state as soon as "the Palestinians have demonstrated their commitment to democracy, the rule of law, and their full acceptance of the State of Israel with Jerusalem as its capital."

Brownback cosponsored the Palestinian Anti-Terrorism Act of 2006. He also sponsored a resolution in the Senate that would recognize Jerusalem as the "undivided capital of Israel before the United States recognizes a Palestinian state." That resolution, first introduced in April 2007, has not yet been voted on. Brownback introduced the same resolution in the Senate to no avail in 2003 and 2005.

Editor's Note: Sen. Brownback withdrew his candidacy for the GOP presidential nomination on October 19, 2007.

Click [here](#) for this candidate's position on other top foreign policy issues.

James S. Gilmore

Republican Primary Candidate

Gilmore has made few statements on this topic, but appears to support Israel in its security measures. In a June 2007 Republican debate, Gilmore said the United States should pursue stability in the Middle East to protect its interests in Israel.

Editor's note: Gilmore withdrew his candidacy for the Republican nomination in July 2007.

Click [here](#) for this candidate's position on other top foreign policy issues.

Rudy Giuliani

Republican Primary Candidate

Giuliani has held up Israel as “the only outpost of freedom and democracy in the Middle East and the only absolutely reliable friend of the United States.” (*Haaretz*) In a 2002 speech, Giuliani stressed that Jerusalem must “remain the undivided capital” of Israel. He also said at that time that the Palestinian Authority is not a “moral equivalent” to the Israeli government, because “there is a difference between a nation based on law and democracy and one that harbors terrorism.” Giuliani called on the Palestinian Authority to create “institutions of political and economic freedom and religious toleration.” More recently, Giuliani has said that in his view it “makes no difference” whether the Palestinian Authority is run by Hamas or Fatah leader Mahmoud Abbas. At a March 2007 fundraiser, Giuliani also said that the United States should “not push any peace process” until the Palestinian Authority recognizes Israel’s right to exist and condemns terrorism.

Editor's note: *Giuliani dropped out of the race for the Republican nomination on January 31, 2008.*

Click [here](#) for this candidate's position on other top foreign policy issues.

Mike Huckabee

Republican Primary Candidate

Huckabee, who has taken nine trips to Israel in past 35 years, calls himself a “steadfast supporter” of Israel. On his campaign site, Huckabee pledges that as president, he would “ensure that Israel has access to the state-of-the-art weapons and technology she needs to defend herself from those who seek her annihilation.”

In October 2007, Huckabee said he believes a Palestinian state should be created (*Yeshiva World*), but that it should be moved away from Israel. He named Egypt and Saudi Arabia as possible locations.

Editor's Note: *Huckabee withdrew his candidacy for the Republican presidential nomination on March 4, 2008.*

Click [here](#) for this candidate's position on other top foreign policy issues.

Duncan Hunter

Republican Primary Candidate

Rep. Hunter (R-CA) says Israel should not give up “one inch” of territory. He supports Israel’s security wall and also says Israel should improve its missile defense system, with assistance from the United States, to “prevent the sort of attacks that country suffered during its war with Hezbollah.” Like Giuliani, Hunter says a peace process will be impossible until Palestinians “renounce terrorism and stop their attacks on the Israeli people.”

Editor's note: *Hunter dropped out of the race for the Republican nomination on January 19, 2008.*

Click [here](#) for this candidate's position on other top foreign policy issues.

Ron Paul

Republican Primary Candidate

Rep. Paul (R-TX) has criticized U.S. “meddling” in the Middle East, which, he says, “has only intensified strife and conflict.”

He has said U.S. financial aid to Middle Eastern countries is only “adding fuel to the fire” and is “foolish and unconstitutional.” He says Israel does not “need” U.S. aid (*Haaretz*), and insists he is “not anti-Israel in any way.” Though he advocates some U.S. diplomatic role in brokering an end to violence in the West Bank, he says the U.S. “should draw the line at any further entanglement.”

Paul spoke out against a July 2006 House resolution condemning attacks on Israel and “supporting Israel’s right to defend herself.” He argued that the resolution’s “strong message” could lead to an escalation of the war between Israel and Lebanon.

Editor's Note: Rep. Paul withdrew his candidacy for the Republican presidential nomination on June 12, 2008.

Click [here](#) for this candidate's position on other top foreign policy issues.

Mitt Romney

Republican Primary Candidate

Romney declared his commitment to “defeating the jihadists” around the world. His rhetoric regarding Israel largely focused on curbing Iran, rather than resolving tensions between Israel and Palestine. Still, in a speech at the 2007 Herzliya conference in Israel, Romney called on Arab states to stop providing financial support and weapons to Hamas and Hezbollah, and to pressure the Palestinians to “drop terrorism and recognize Israel's right to exist.” Romney also supports the security wall that divides the West Bank from Israel.

Editor's note: Romney dropped out of the race for the Republican nomination on February 7, 2008.

Click [here](#) for this candidate's position on other top foreign policy issues.

Tom Tancredo

Republican Primary Candidate

Rep. Tancredo (R-CO), who has campaigned tirelessly for a wall to separate the United States from Mexico, frequently has cited the effectiveness of the Israeli security wall cordoning off the West Bank. In 2004, Tancredo called on then-Prime Minister Ariel Sharon to “stop settlement expansion on the Palestinian side of the fence.” In 2006, Tancredo cosponsored the Palestinian Anti-Terrorism Act of 2006. He joined in resolutions condemning the late Palestinian leader Yasir Arafat during the early years of the Bush administration.

Editor's Note: Congressman Tancredo formally withdrew his candidacy for the GOP presidential nomination on December 20, 2007.

Click [here](#) for this candidate's position on other top foreign policy issues.

Tommy Thompson

Republican Primary Candidate

Thompson called the U.S.-Israeli alliance “essential” in fighting terrorism. He has not made many comments directly relating to the Israeli-Palestinian conflict or what his policy for the region would be if he were elected. He was criticized by many pro-Israel constituents for saying in a speech that earning money is “part of the Jewish tradition.” (*Haaretz*)

Editor's note: Thompson dropped out of the race for the Republican nomination on August 12, 2007.

Exhibit F

Gallup Poll

February 28, 2011

Americans Maintain Broad Support for Israel

U.S. adults nearly four times as likely to side with Israelis as with Palestinians

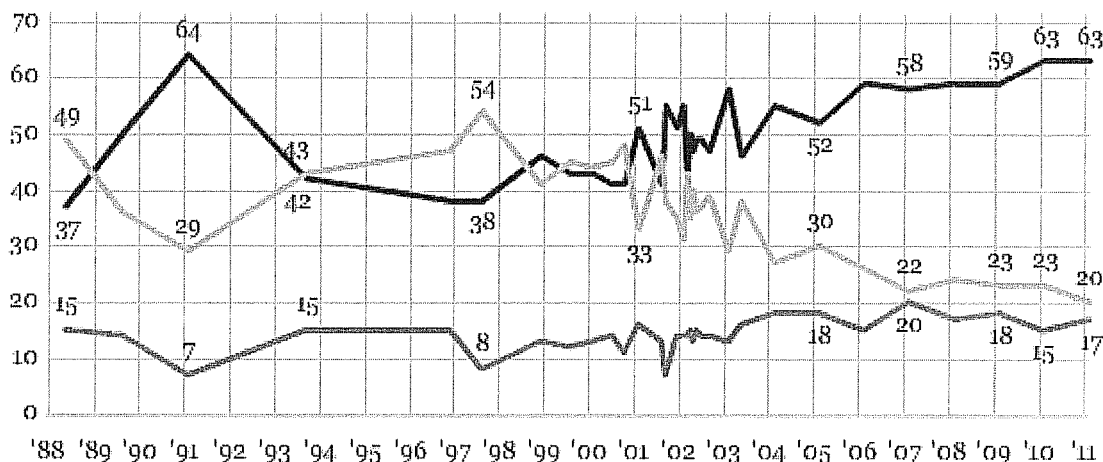
by Lydia Saad

PRINCETON, NJ -- Americans' views toward the Israeli-Palestinian conflict held fairly steady over the past year, with a near record-high 63% continuing to say their sympathies lie more with the Israelis. Seventeen percent sympathize more with the Palestinians.

Middle East Sympathies, Full Trend

In the Middle East situation, are your sympathies more with the Israelis or more with the Palestinians?

■ % Israelis ■ % Palestinians ■ % Both/Neither/No opinion



GALLUP

In measuring Americans' sympathies toward the disputants in the Israeli-Palestinian conflict since 1988, Gallup has found support for Israel consistently exceeding support for the Palestinians. However, the percentage who are neutral -- saying they sympathize equally with both, sympathize with neither, or expressing no opinion -- has shifted, with corresponding changes in support for Israel. While the reasons for these changes are not always evident, public neutrality was generally higher in the 1990s as the Palestinians and the Israelis often met at Clinton administration-sponsored peace summits.

Conversely, support for Israel increased during the 1991 Persian Gulf War, as well as immediately after the 9/11 attacks in 2001 and during the run-up to the 2003 Iraq war -- all events that may have enhanced Israel's perceived value to the U.S. as a Mideast ally. Sympathy toward Israel was also higher in polling conducted shortly after Hamas' victory in the 2006 Palestinian elections

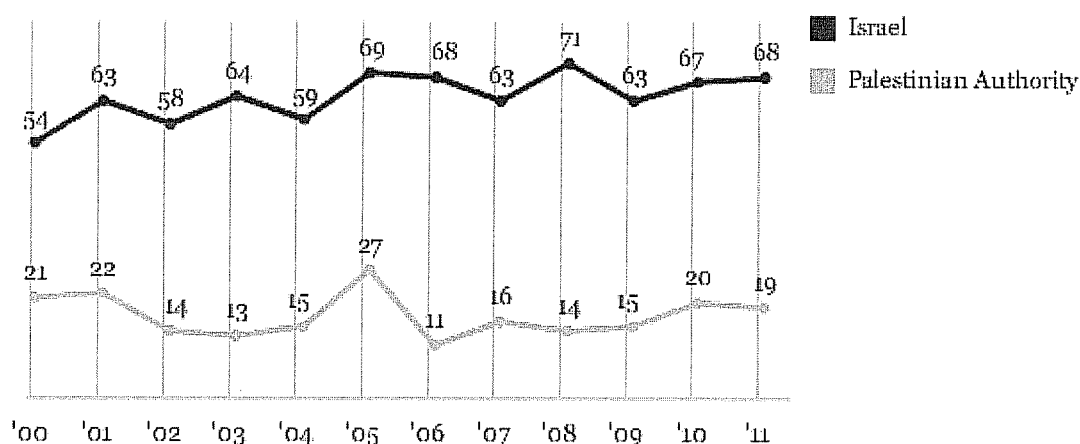
compared with the year prior, perhaps for the same reason.

The new results are from Gallup's Feb. 2-5, 2011, update of the annual Gallup World Affairs survey, conducted as the citizen uprising in Egypt was unfolding.

In addition to the heavy tilt toward Israel in U.S. public sympathies, the poll finds a wide gap in Americans' overall views of Israel and the Palestinian Authority, according to a question asking separately whether they view each very favorably, mostly favorably, mostly unfavorably, or very unfavorably. About two-thirds of Americans have a favorable opinion of Israel and 19% have a favorable opinion of the Palestinian Authority -- largely unchanged from February 2010.

Favorable Views Toward Israel and the Palestinian Authority

% Very/Mostly favorable



GALLUP

Range of Sympathy for Israel Bounded by Republicans and Liberals

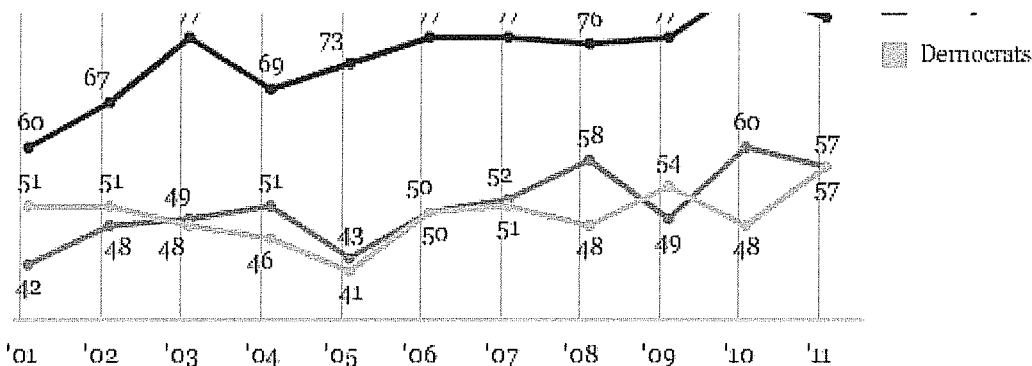
Republicans continue to be Israel's strongest U.S. supporters: 80% sympathize more with the Israelis in the conflict, substantially higher than the 57% of independents and Democrats sharing this view. A similar pattern is seen by political ideology, ranging from 74% among conservatives to 49% among liberals -- with liberals the least supportive of Israel of any group Gallup measured.

Over the past decade, Republicans have consistently shown greater support than Democrats for Israel; however, the partisan gap has widened, with Republicans becoming even more supportive between 2001 and 2003 and since 2009. Independents' support for Israel also increased to around 60% in recent years, up from 42% in 2001. At the same time, Democrats' support for Israel has been fairly flat.

Sympathy for Israelis vs. Palestinians in Mideast Situation, by Party ID

% Sympathize more with Israelis





GALLUP

All major U.S. population subgroups show greater sympathy for the Israelis than for the Palestinians. However, on a relative basis, Palestinians' greatest support is found among liberals (30%), followed by Democrats and those with postgraduate education (24% each).

Additionally, adults aged 18 to 34 are slightly less likely than those 55 and older to sympathize with the Israelis.

Sympathies in Middle East Situation More With Israelis or Palestinians?

Feb. 2-5, 2011

	Israelis	Palestinians	Both/Neither/ No opinion
	%	%	%
National adults	63	17	20
Men	65	17	18
Women	61	17	22
18 to 34 years	58	19	22
35 to 54 years	63	18	20
55 and older	67	14	20
Postgraduate	59	24	17
College grad only	66	15	20
Some college	70	16	14
No college	58	14	27
Republicans	80	7	13
Independents	57	18	25
Democrats	57	24	19
Conservative	74	9	16
Moderate	62	18	21

LIBERAL

49

30

21

GALLUP

Bottom Line

In recent years, with no major breakthroughs in the Mideast peace process and no resolution to the Hamas vs. Fatah political rift in the Palestinian Territories, Americans' sympathies toward the conflict's players have leaned heavily toward the Israelis. In fact, with more than 60% of Americans sympathizing with Israel since 2010, public support for the Jewish state has been stronger than at any time other than in 1991, when Israel was hit by Iraqi Scud missiles during the Gulf War.

Israel currently enjoys popular U.S. support across all major party groups and most major societal subgroups; however, sympathy for it is particularly strong among Republicans and, relatedly, among conservatives.

Survey Methods

Results for this Gallup poll are based on telephone interviews conducted Feb. 2-5, 2011, with a random sample of 1,015 adults, aged 18 and older, living in the continental U.S., selected using random-digit-dial sampling.

For results based on the total sample of national adults, one can say with 95% confidence that the maximum margin of sampling error is ± 4 percentage points.

Interviews are conducted with respondents on landline telephones (for respondents with a landline telephone) and cellular phones (for respondents who are cell phone-only). Each sample includes a minimum quota of 150 cell phone-only respondents and 850 landline respondents, with additional minimum quotas among landline respondents for gender within region. Landline respondents are chosen at random within each household on the basis of which member had the most recent birthday.

Samples are weighted by gender, age, race, education, region, and phone lines. Demographic weighting targets are based on the March 2010 Current Population Survey figures for the aged 18 and older non-institutionalized population living in continental U.S. telephone households. All reported margins of sampling error include the computed design effects for weighting and sample design.

In addition to sampling error, question wording and practical difficulties in conducting surveys can introduce error or bias into the findings of public opinion polls.

[View methodology, full question results, and trend data.](#)

For more details on Gallup's polling methodology, visit www.gallup.com.

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Exhibit G

Human Rights Watch Report
[excerpts]



ISRAEL/OCCUPIED PALESTINIAN TERRITORIES

Separate and Unequal

Israel's Discriminatory Treatment of Palestinians
in the Occupied Palestinian Territories

HUMAN
RIGHTS
WATCH



Separate and Unequal

**Israel's Discriminatory Treatment of Palestinians
in the Occupied Palestinian Territories**

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Separate and Unequal

Israel's Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories

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I. Summary

This report consists of a series of case studies that compare Israel's different treatment of Jewish settlements to nearby Palestinian communities throughout the West Bank, including East Jerusalem. It describes the two-tier system of laws, rules, and services that Israel operates for the two populations in areas in the West Bank under its exclusive control, which provide preferential services, development, and benefits for Jewish settlers while imposing harsh conditions on Palestinians. The report highlights Israeli practices the only discernable purposes of which appear to be promoting life in the settlements while in many instances stifling growth in Palestinian communities and even forcibly displacing Palestinian residents. Such different treatment, on the basis of race, ethnicity, and national origin and not narrowly tailored to meet security or other justifiable goals, violates the fundamental prohibition against discrimination under human rights law.

It is widely acknowledged that Israel's settlements in the West Bank, including East Jerusalem, violate international humanitarian law, which prohibits the occupying power from transferring its civilian population into the territories it occupies; Israel appears to be the only country to contest that its settlements are illegal. Human Rights Watch continues to agree with the nearly universal position that Israel should cease its violation of international humanitarian law by removing its citizens from the West Bank. This report focuses on the less-discussed discriminatory aspect of Israeli settlement policies, and analyzes serious and ongoing violations of other rights in that context.

The case studies in this report show that discriminatory Israeli policies control many aspects of the day-to-day life of Palestinians who live in areas under exclusive Israeli control and that those policies often have no conceivable security justification. For example, Jubbet al-Dhib is a 160-person Palestinian village to the southeast of Bethlehem that is often accessible only by foot because its only connection to a paved road is a rough, 1.5 kilometer-long dirt track. Children from Jubbet al-Dhib must walk to schools in other villages several kilometers away because their own village has no school. Jubbet al-Dhib lacks electricity despite numerous requests to be connected to the Israeli electric grid, which Israeli authorities have rejected; Israeli authorities also rejected an internationally donor-funded project that would have provided the village with solar-powered streetlights. Any meat or milk in the village must be eaten the same day due to lack of refrigeration; residents often resort to eating preserved foods instead. Villagers depend for light on candles, kerosene lanterns, and, when they can afford to fill it with gasoline, a small generator.

where ongoing discriminatory rights violations against Palestinians have contributed to the production of goods – for example, agricultural crops exported from settlements that use water from Israeli-drilled wells that have dried up nearby Palestinian wells, limiting Palestinians’ ability to continue cultivating their own agricultural lands and even gaining access to drinking water.

The United States should consider suspending financing to Israel in an amount equivalent to the costs of the Israeli government’s spending in support of settlements and the discriminatory policies documented in this report, since the US’s \$2.75 billion in annual military aid to Israel substantially offsets these costs.

Foreign governments also should ensure that laws and regulations granting tax exemptions for private, charitable donations or charitable organizations that support settlements are consistent with governmental obligations to ensure respect for international law, including human rights prohibitions against discrimination. For example, numerous US-registered tax-exempt organizations fund settlements that were established through discriminatory means of land confiscation, planning and construction, that exclude Palestinians from any similar benefits, and continue to violate the human rights of Palestinian residents of the West Bank through ongoing expansion and land confiscation, continued restrictions on freedom of movement, and other practices. The US Congress should request the General Accounting Office to prepare a report on the amounts and end-uses of tax-exempt funding flows to settlements, and the lawfulness of tax-exemptions for such support according to the US’s international obligations.

Israeli and multinational corporations and their subsidiaries profit from settlements in a variety of ways, including by receiving, producing, exporting, or marketing settlement agricultural and industrial goods, and by financing or constructing settlement buildings and infrastructure. Companies have directly contributed to discriminatory rights violations against Palestinians, for example through business activities based on lands that were unlawfully confiscated from Palestinians without compensation for the benefit of settlers, or activities that consume natural resources like water or rock quarries to which Israeli policies provide settlement industries preferential access, while denying equitable access to Palestinians. These businesses also benefit from Israeli governmental subsidies, tax abatements, and discriminatory access to infrastructure, permits, and export channels; Palestinian businesses deprived of equitable access to these government-provided benefits are sometimes as a result unable to compete against settlement-based companies in Palestinian, Israeli, or foreign markets.

Companies that benefit directly from discrimination should urgently and impartially review the impact of their activities on Palestinians' human rights and identify and implement plans to prevent and mitigate these violations, in accordance with their corporate codes of ethics and with international standards, such as the "Ruggie framework" developed by the Special Representative of the UN Secretary-General on business and human rights, and the Organization for Economic Co-operation and Development (OECD) guidelines for multinational enterprises, which require businesses to respect the human rights of those affected by their activities. In cases where companies' involvement in activities in the Occupied Palestinian Territories is found to contribute to serious violations of international law, including prohibitions against discrimination, companies should, in consultation with affected settlers and Palestinians, end such operations.

Background

This report focuses on East Jerusalem and on "Area C," the latter an administrative area that derives from the temporary agreement (known as "Oslo 2") signed by Israel and the Palestine Liberation Organization (PLO) in September 1995, which created and granted limited autonomy to the Palestinian Authority (PA) ahead of an as-yet unreached final status agreement. Oslo 2 divided the West Bank (excluding East Jerusalem) into three administrative areas—A, B, and C. As modified by subsequent agreements, Area A, which includes Palestinian cities and covers approximately 18 percent of the land of the West Bank, was transferred to the civil and military control of the PA.⁷ Israel retains military control over Area B, which covers 22 percent of the territory, including most of the built-up areas of the Palestinian villages, but transferred civil control to the PA.⁸ Israel retained full control of security, planning, and building in the remaining 60 percent of the West Bank (some 340,000 hectares of land), known as Area C, which includes Israeli settlements, main roads, and smaller Palestinian villages and agricultural lands. Most Palestinians live in Areas A and B. Some four percent live in Area C.

The rationale for the division was, in part, that the agreement granted the PA control of the majority of the Palestinian population, while leaving sparsely populated but extensive areas under Israeli control.⁹

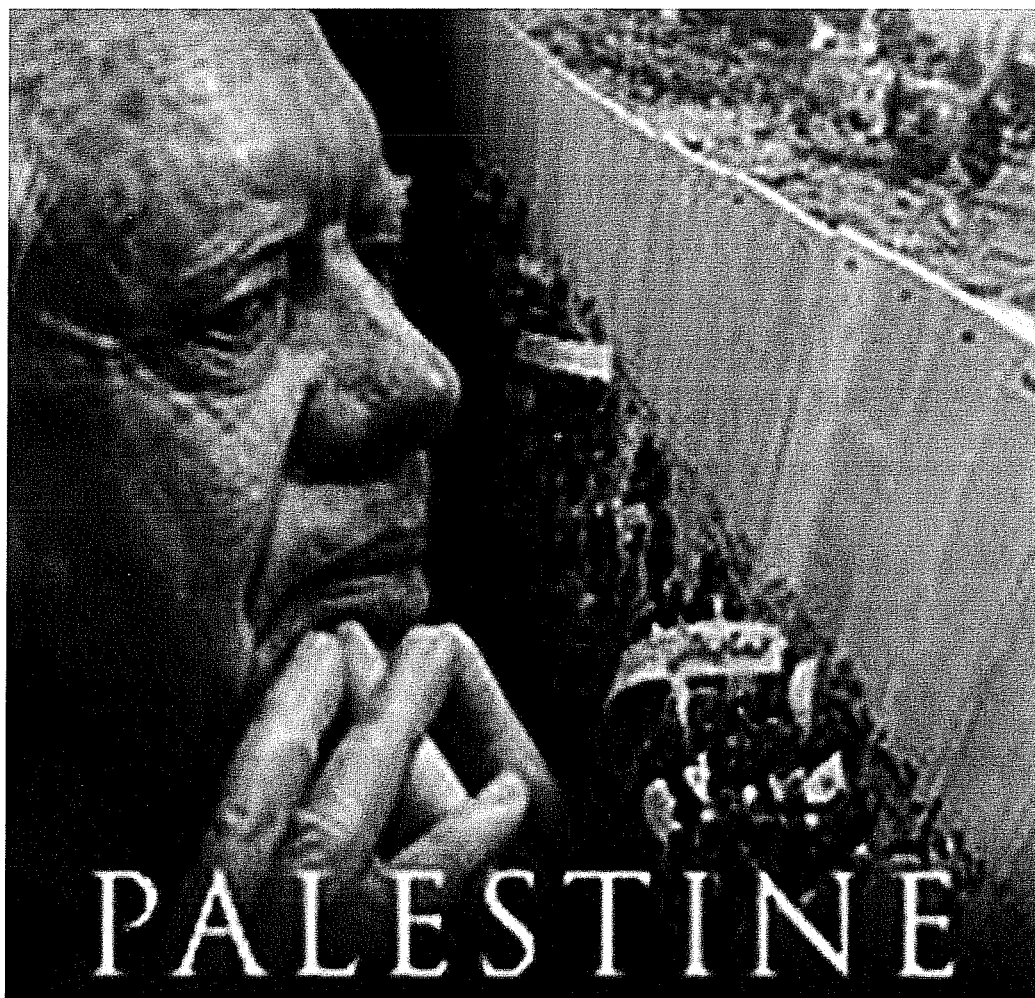
⁷ Later Israeli-Palestinian agreements (the Wye agreement, 1998; the Sharm el-Sheikh memorandum, 1999) slightly altered the Oslo agreements' administrative division of the West Bank.

⁸ The Israeli NGO Bimkom notes that the 1998 Wye agreement effectively increased the size of Area C—over which Palestinians have no planning control—to 63 percent of the West Bank. The Wye agreement prohibited "new construction" in three percent of the total area of the West Bank designated as "green areas and/or nature reserves."

⁹ As noted above, the Oslo agreements and subsequent Israeli-Palestinian agreements do not affect Israel's obligations as the occupying power under international humanitarian law.

Exhibit H

“Palestine: Peace, Not Apartheid” Book Jacket



PALESTINE

PEACE NOT

APARTHEID

JIMMY CARTER

Exhibit I

“Speaking frankly about Israel and Palestine” by Jimmy Carter
Los Angeles Times, Dec. 8, 2006

latimes.com/news/printedition/la-oe-carter8dec08,0,444047.story

latimes.com

Speaking frankly about Israel and Palestine

Jimmy Carter says his recent book is drawing knee-jerk accusations of anti-Israel bias.

By Jimmy Carter

the 39th president of the United States. His newest book is "Palestine: Peace Not Apartheid," published last month. He is scheduled to sign books Monday at Vroman's in Pasadena.

December 8, 2006

I signed a contract with Simon & Schuster two years ago to write a book about the Middle East, based on my personal observations as the Carter Center monitored three elections in Palestine and on my consultations with Israeli political leaders and peace activists.

advertisement

We covered every Palestinian community in 1996, 2005 and 2006, when Yasser Arafat and later Mahmoud Abbas were elected president and members of parliament were chosen. The elections were almost flawless, and turnout was very high — except in East Jerusalem, where, under severe Israeli restraints, only about 2% of registered voters managed to cast ballots.

The many controversial issues concerning Palestine and the path to peace for Israel are intensely debated among Israelis and throughout other nations — but not in the United States. For the last 30 years, I have witnessed and experienced the severe restraints on any free and balanced discussion of the facts. This reluctance to criticize any policies of the Israeli government is because of the extraordinary lobbying efforts of the American-Israel Political Action Committee and the absence of any significant contrary voices.

It would be almost politically suicidal for members of Congress to espouse a balanced position between Israel and Palestine, to suggest that Israel comply with international law or to speak in defense of justice or human rights for Palestinians. Very few would ever deign to visit the Palestinian cities of Ramallah, Nablus, Hebron, Gaza City or even Bethlehem and talk to the beleaguered residents. What is even more difficult to comprehend is why the editorial pages of the major newspapers and magazines in the United States exercise similar self-restraint, quite contrary to private assessments expressed quite forcefully by their correspondents in the Holy Land.

With some degree of reluctance and some uncertainty about the reception my book would receive, I used maps, text and documents to describe the situation accurately and to analyze the only possible path to peace: Israelis and Palestinians living side by side within their own internationally recognized boundaries. These options are consistent with key U.N. resolutions supported by the U.S. and Israel, official American policy since 1967, agreements consummated by Israeli leaders and their governments in 1978 and 1993 (for which they earned Nobel Peace Prizes), the Arab League's offer to recognize Israel in 2002 and the International Quartet's "Roadmap for Peace," which has been accepted by the PLO and largely rejected by Israel.

The book is devoted to circumstances and events in Palestine and *not* in Israel, where democracy prevails and citizens live together and are legally guaranteed equal status.

Although I have spent only a week or so on a book tour so far, it is already possible to judge public and media reaction. Sales are brisk, and I have had interesting interviews on TV, including "Larry King Live," "Hardball," "Meet the Press," "The NewsHour With Jim Lehrer," the "Charlie Rose" show, C-SPAN and others. But I have seen few news stories in major newspapers about what I have written.

Book reviews in the mainstream media have been written mostly by representatives of Jewish organizations who would be unlikely to visit the occupied territories, and their primary criticism is that the book is anti-Israel. Two members of Congress have been publicly critical. Incoming House Speaker Nancy Pelosi for instance, issued a statement (before the book was published) saying that "he does not speak for the Democratic Party on Israel." Some reviews posted on Amazon.com call me "anti-Semitic," and others accuse the book of "lies" and "distortions." A former Carter Center fellow has taken issue with it, and Alan Dershowitz called the book's title "indecent."

Out in the real world, however, the response has been overwhelmingly positive. I've signed books in five stores, with more than 1,000 buyers at each site. I've had one negative remark — that I should be tried for treason — and one caller on C-SPAN said that I was an anti-Semite. My most troubling experience has been the rejection of my offers to speak, for free, about the book on university campuses with high Jewish enrollment and to answer questions from students and professors. I have been most encouraged by prominent Jewish citizens and members of Congress who have thanked me privately for presenting the facts and some new ideas.

The book describes the abominable oppression and persecution in the occupied Palestinian territories, with a rigid system of required passes and strict segregation between Palestine's citizens and Jewish settlers in the West Bank. An enormous imprisonment wall is now under construction, snaking through what is left of Palestine to encompass more and more land for Israeli settlers. In many ways, this is more oppressive than what blacks lived under in South Africa during apartheid. I have made it clear that the motivation is not racism but the desire of a minority of Israelis to confiscate and colonize choice sites in Palestine, and then to forcefully suppress any objections from the displaced citizens. Obviously, I condemn any acts of terrorism or violence against innocent civilians, and I present information about the terrible casualties on both sides.

The ultimate purpose of my book is to present facts about the Middle East that are largely unknown in America, to precipitate discussion and to help restart peace talks (now absent for six years) that can lead to permanent peace for Israel and its neighbors. Another hope is that Jews and other Americans who share this same goal might be motivated to express their views, even publicly, and perhaps in concert. I would be glad to help with that effort.

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Exhibit J

“Tutu condemns Israeli ‘apartheid’”
BBC News, Apr. 29, 2002



CATEGORIES TV RADIO COMMUNICATE WHERE I LIVE INDEX SEARCH

**BBC NEWS**Front Page
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Letter From

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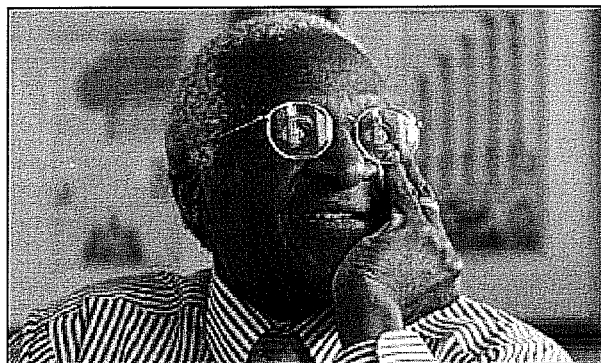
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You are in: World: **Africa**

Monday, 29 April, 2002, 11:55 GMT 12:55 UK

**Tutu condemns Israeli
'apartheid'**

AP

Letter From Tutu said 'oppression' would not bring security

America

UK

UK Politics

Business

Sci/Tech

Health

Education

Entertainment

Talking Point

In Depth

AudioVideo

South African Archbishop Desmond Tutu has accused Israel of practising apartheid in its policies towards the Palestinians.

The Nobel peace laureate said he was "very deeply distressed" by a visit to the Holy Land, adding that "it reminded me so much of what happened to us black people in South Africa".

In a speech in the United States, carried in the UK's Guardian newspaper, Archbishop Tutu said he saw "the humiliation of the

Palestinians at checkpoints and roadblocks, suffering like us when young white police officers prevented us from moving about".

The archbishop, who was a leading opponent of apartheid in South Africa, said Israel would "never get true security and safety through oppressing another people".

Archbishop Tutu said his criticism of the Israeli Government did not mean he was anti-Semitic.

"I am not even anti-white, despite the madness of that group," he said.

“The Jewish lobby is powerful - very powerful. Well, so what?”

**Archbishop
Desmond Tutu**

**ISRAEL & the
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Backing the bombers
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Distant hope
Arafat's successors?

Eyewitness

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Teenagers in uniform
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Intifada Q&A
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Jewish lobby

The archbishop attacked the political power of Jewish groups in the United States, saying: "People are scared in this country, to say wrong is wrong because the Jewish lobby is powerful - very powerful. Well, so what?"

"The apartheid government was very powerful, but today it no longer exists.

"Hitler, Mussolini, Stalin, Pinochet, Milosevic, and Idi Amin were all powerful, but in the end they bit the dust," he said.

Speaking at a conference called Ending the Oppression in Boston, Archbishop Tutu told delegates Jewish people had been at the forefront of the struggle against apartheid in South Africa.



Tutu said Israeli checkpoints were humiliating Palestinians

He asked: "Have our Jewish sisters and brothers forgotten their humiliation? Have they forgotten the collective punishment, the home demolitions, in their own history so soon?"

"Have they turned their backs on their profound and noble religious traditions?"

The archbishop said that while he condemned suicide bombings by Palestinian militants against Israel, Israeli military action would not bring security to the Jewish state.

Israel must "strive for peace based on justice, based on withdrawal from all the occupied territories, and the establishment of a viable Palestinian state on those territories side by side with Israel, both with secure borders," he said.

Centre
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Exhibit K

“UN envoy hits Israel ‘apartheid’”
BBC News, Feb. 23, 2007



UN envoy hits Israel 'apartheid'

By Alan Johnston
BBC News, Gaza

A UN human rights envoy has compared Israel's occupation of the Palestinian territories to elements of apartheid.

The UN's Special Rapporteur, John Dugard, describes the regime as being designed to dominate and systematically oppress the occupied population.

Mr Dugard is a South African professor of international law assigned to monitor Israeli human rights abuses.

He has extensively studied apartheid in South Africa and has compared it to what he saw under Israeli rule.

Special rapporteurs are independent experts appointed by the UN secretary general to present reports on human rights to the organisation.

" Throughout the West Bank ... settlers are given preferential treatment over Palestinians in terms of movement "

John Dugard
UN human rights envoy

Their findings do not represent UN policy.

In a new report, Mr Dugard says: "Israel's laws and practices certainly resemble aspects of apartheid".

He points to what he describes as "unashamed discrimination" against Palestinians in favour of Israeli settlers.

"It is difficult to resist the conclusion that many of Israel's laws and practices violate the 1966 Convention on the Elimination of all forms of Racial Discrimination," says the report.

"House demolitions in the West Bank and East Jerusalem are carried out in a manner that discriminates against Palestinians.

"Throughout the West Bank, and particularly in Hebron, settlers are given preferential treatment over Palestinians in terms of movement (major roads are reserved exclusively for settlers), building rights and army protection and laws governing family re-unification".

The report ranges widely over the events of the past year and focuses on the Israeli military assault on Gaza during the summer.

This came after Palestinian militants captured an Israeli soldier, who they are still holding.

The army also described its campaign as an effort to stop the firing of crudely-made rockets from Gaza into nearby Israeli towns and villages.

Militant groups like Islamic Jihad often describe these attacks as retaliation for army raids and killings.

During the reporting period, two Israelis died and 30 others were injured in these random

Palestinian attacks on civilian targets, and Mr Dugard says that they clearly constitute war crimes.

'Controlled strangulation'

But his report also condemns the two Israeli offensives launched to counter the missile threat from Gaza.

Four hundred Palestinians died, and some 1,500 were injured - many of them civilians. Three Israeli soldiers were killed.

Mr Dugard says that this was a "grossly disproportionate and indiscriminate" response that led to the army committing "multiple war crimes".

He also criticises the very tight controls that Israel maintains over the flow of goods and people in and out of Gaza.

These add to the poverty-stricken territory's chronic economic problems - contributing to mounting levels of unemployment and desperation.

Mr Dugard says that Israel is imposing a policy of "controlled strangulation" that is helping to give rise to a failed state on its doorstep.

The Israelis argue that their border controls around Gaza are necessary for security reasons.

Militants have attacked crossing points in the past, and a suicide bomber recently emerged from Gaza and killed three civilians in the Israeli resort city of Eilat.

And more broadly, Israel has dismissed Mr Dugard's report as being one-sided.

A foreign ministry spokesman, Mark Regev, said that it was a product of what he called "rank politicisation" of the UN's human rights apparatus.

"This is the promoting of partisan, one-sided political attitudes which frankly don't serve the interests of anyone who is seriously interested in human rights," Mr Regev said.

Story from BBC NEWS:
http://news.bbc.co.uk/1/hi/middle_east/6390755.stm

Published: 2007/02/23 18:33:29 GMT

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Exhibit L

“Enough: It’s time for a boycott” by Naomi Klein
The Guardian, Jan. 9, 2009

the **guardian**

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Enough. It's time for a boycott

The best way to end the bloody occupation is to target Israel with the kind of movement that ended apartheid in South Africa



Naomi Klein
The Guardian, Friday 9 January 2009

A [larger](#) | [smaller](#)

It's time. Long past time. The best strategy to end the increasingly bloody occupation is for [Israel](#) to become the target of the kind of global movement that put an end to apartheid in South Africa. In July 2005 a huge coalition of Palestinian groups laid out plans to do just that. They called on "people of conscience all over the world to impose broad boycotts and implement divestment initiatives against Israel similar to those applied to South Africa in the apartheid era". The campaign Boycott, Divestment and Sanctions was born.

Every day that Israel pounds [Gaza](#) brings more converts to the BDS cause - even among Israeli Jews. In the midst of the assault roughly 500 Israelis, dozens of them well-known artists and scholars, sent a letter to foreign ambassadors in Israel. It calls for "the adoption of immediate restrictive measures and sanctions" and draws a clear parallel with the anti-apartheid struggle. "The boycott on South Africa was effective, but Israel is handled with kid gloves ... This international backing must stop."

Yet even in the face of these clear calls, many of us still can't go there. The reasons are complex, emotional and understandable. But they simply aren't good enough. Economic sanctions are the most effective tool in the non-violent arsenal: surrendering them verges on active complicity. Here are the top four objections to the BDS strategy, followed by counter-arguments.

Punitive measures will alienate rather than persuade Israelis.

The world has tried what used to be called "constructive engagement". It has failed utterly. Since 2006 Israel has been steadily escalating its criminality: expanding settlements, launching an outrageous war against Lebanon, and imposing collective punishment on Gaza through the brutal blockade. Despite this escalation, Israel has not faced punitive measures - quite the opposite. The weapons and \$3bn in annual aid the US sends Israel are only the beginning. Throughout this key period, Israel has enjoyed a dramatic improvement in its diplomatic, cultural and trade relations with a variety of other allies. For instance, in 2007 Israel became the first country outside Latin America to sign a free-trade deal with the Mercosur bloc. In the first nine months of 2008, Israeli exports to Canada went up 45%. A new deal with the EU is set to double Israel's exports of processed food. And in December European ministers "upgraded" the EU-Israel association agreement, a reward long sought by Jerusalem.

It is in this context that Israeli leaders started their latest war: confident they would face no meaningful costs. It is remarkable that over seven days of wartime trading, the Tel Aviv Stock Exchange's flagship index actually went up 10.7%. When carrots don't work, sticks are needed.

Israel is not South Africa.

Of course it isn't. The relevance of the South African model is that it proves BDS tactics can be effective when weaker measures (protests, petitions, backroom lobbying) fail. And there are deeply distressing echoes of apartheid in the occupied territories: the colour-coded IDs and travel permits, the bulldozed homes and forced displacement, the settler-only roads. Ronnie Kasrils, a prominent South African politician, said the architecture of segregation he saw in the West Bank and Gaza was "infinitely worse than apartheid". That was in 2007, before Israel began its full-scale war against the open-air prison that is Gaza.

Why single out Israel when the US, Britain and other western countries do the same things in Iraq and Afghanistan?

Boycott is not a dogma; it is a tactic. The reason the strategy should be tried is practical: in a country so small and trade-dependent, it could actually work.

Boycotts sever communication; we need more dialogue, not less.

This one I'll answer with a personal story. For eight years, my books have been published in Israel by a commercial house called Babel. But when I published *The Shock Doctrine*, I wanted to respect the boycott. On the advice of BDS activists, including the wonderful writer John Berger, I contacted a small publisher called Andalus. Andalus is an activist press, deeply involved in the anti-occupation movement and the only Israeli publisher devoted exclusively to translating Arabic writing into Hebrew. We drafted a contract that guarantees that all proceeds go to Andalus's work, and none to me. I am boycotting the Israeli economy but not Israelis.

Our modest publishing plan required dozens of phone calls, emails and instant messages, stretching between Tel Aviv, Ramallah, Paris, Toronto and Gaza City. My point is this: as soon as you start a boycott strategy, dialogue grows dramatically. The argument that boycotts will cut us off from one another is particularly specious given the array of cheap information technologies at our fingertips. We are drowning in ways to rant at each other across national boundaries. No boycott can stop us.

Just about now, many a proud Zionist is gearing up for major point-scoring: don't I know that many of these very hi-tech toys come from Israeli research parks, world leaders in infotech? True enough, but not all of them. Several days into Israel's Gaza assault, Richard Ramsey, managing director of a British telecom specialising in voice-over-internet services, sent an email to the Israeli tech firm MobileMax: "As a result of the Israeli government action in the last few days we will no longer be in a position to consider doing business with yourself or any other Israeli company."

Ramsey says his decision wasn't political; he just didn't want to lose customers. "We can't afford to lose any of our clients," he explains, "so it was purely commercially defensive."



It was this kind of cold business calculation that led many companies to pull out of South Africa two decades ago. And it's precisely the kind of calculation that is our most realistic hope of bringing justice, so long denied, to Palestine.

A version of this column was published in the Nation (thenation.com)

naomiklein.org

Exhibit M

“US-based NGO pushes message: Obama ‘not pro-Israel’”
Jerusalem Post, Sept. 20, 2011

October 27, 2011 Thursday 29 Tishri 5772 19:51 IST  Print  Back to original article

THE JERUSALEM POST

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Photo by: REUTERS/Kevin Lamarque

US-based NGO pushes message: Obama 'not pro-Israel'

By JORDANA HORN AND BENJAMIN WEINTHAL
20/09/2011

Campaign culminates with a full-page advertisement in Monday's *New York Times* telling Obama, "It's Time To Stand With Israel."

NEW YORK/BERLIN – The pro-Israel group Emergency Committee for Israel has mounted over the last two weeks a broad and assertive media campaign to draw attention to US President Barack Obama's Israel policies, culminating with a full-page advertisement in Monday's *New York Times* telling Obama, "It's Time To Stand With Israel."

ECI's new round of advertisements coincides this week with a packed Israeli-Palestinian agenda at the United Nations, including visits from Prime Minister Binyamin Netanyahu, Obama and Palestinian Authority President Mahmoud Abbas.

RELATED:

No compromise on 'Jewish' state, say Israeli officials

Abbas to Ban: We'll submit application for UN membership

ECI appears to have timed its high-publicity advertisements in order to derail the Palestinian Authority's efforts to secure recognition as the 194th member state at the UN, and to ratchet up pressure on the Obama administration to demonstrate robust support for the Jewish state.

Monday's *New York Times* ad is accompanied by billboards at key transportation hub locations in midtown Manhattan stating "Telling Jews They Cannot Build in Jerusalem: Not Pro-Israel" and "Attacking Israel at the UN: Not Pro-Israel."

The billboards feature a photograph of a smiling Obama shaking hands with Abbas, with a Palestinian flag in the background.

In an e-mail interview with The Jerusalem Post on Monday, Noah Pollak, the executive director of ECI, wrote: "The aim of the campaign is to focus the public's attention on Obama's record, which is not pro-Israel, and to offer some pretty clear metrics for people to judge his record going forward."

He continued: "The White House still seems to think that people just don't understand their policies; people do understand – the policies are terrible. This isn't about messaging. Americans want the President to stop being 'evenhanded' in the Middle East and stand proudly with our democratic ally."

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FISHER INVESTMENTS*

The ECI's advertisement in the Times outlines a five-point plan for the Obama administration. ECI recommends that Obama not single out Israel for criticism during his UN speech; declare Jerusalem to be Israel's "undivided capital"; rebuke efforts to delegitimize Israel; and inform the PA that it will face a loss of US aid if Abbas moves forward with the statehood bid and efforts to unite with the terror group Hamas.



September: The road to Palestinian statehood?

ECI's plan also calls for Obama to visit Israel and implement the 2004 letter agreement between US President George W. Bush and former prime minister Ariel Sharon, rejecting the "right of return" of Palestinian refugees and a negating a withdrawal to the strict pre- 1967 lines.

Asked about the *Times* advertisement, Pollak said, "We want to encourage even more activism on this issue – we want the president to feel even more pressure to do the right thing, if that's possible. But instead of just criticizing him, we thought it would be helpful to suggest a few pro- Israel policies that would be easy [and popular] for him to adopt.

"Voters know the difference between messaging and substance; it's time for the White House to stop complaining that Obama's poor handling of Israel is all a big misunderstanding, and start implementing genuinely pro-Israel policies," Pollak added.

Pollak's organization played a key role in last year's congressional races by highlighting what ECI viewed as anti- Israel activity and voting records among Democratic candidates. ECI launched ads attacking Joe Sestak, a candidate for the Pennsylvania Senate in 2010, because he signed a letter to the president calling for the US government to pressure Israel to relax its restrictions on goods entering the Hamas-controlled Gaza Strip.

Sestak suffered a defeat in the November election.



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Exhibit N

“Pro-Israel, Anti-Obama Billboards Plastered Across NYC”
Commentary Magazine, Sept. 13, 2011






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Contentions

Pro-Israel, Anti-Obama Billboards Plastered Across NYC

[Alana Goodman](#) | [@alanagoodman](#) 09.13.2011 - 1:28 PM

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The Emergency Committee for Israel has been ramping up its criticism of the Obama administration, launching ad campaigns in the run-up to today's NY-9 election and the Palestinian unilateral statehood declaration at the UN.

The group's latest billboard ads, which went up today, feature a giant photo of President Obama and Palestinian Authority leader [Mahmoud Abbas](#) sharing a jovial handshake in front of a Palestinian flag. "Attacking Israel at the United Nations: Not Pro-Israel," blares one of the billboards.

"Calling for a divided Jerusalem: Not Pro-Israel," reads another.

The billboards have popped up at locations across the city, including 11th Avenue & 38th Street (Lincoln Tunnel entrance), Centre Street & Grand Street in SoHo, 11th Avenue & 38th Street at the Javits Center, the entrance to [Queensboro Bridge](#), and the Long Island Expressway entrance to the Midtown tunnel. They direct New Yorkers to ECI's new website, [www.NotProIsrael.com](#).

Obama's growing problem with Jewish voters has been in the forefront of the news with the NY-9 race. With the looming possibility of a unilateral Palestinian declaration at the UN, the Obama administration will likely be under even more scrutiny with Jewish and pro-Israel voters.

Check out the photos of the billboards below.



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Exhibit O

Committee for a Just Peace in Israel and Palestine
Public Transit Ads

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New Yorkers Bring Messages to NYC Subways Calling for Peace and Justice in Palestine/Israel

Many Americans have been told that the United States government sponsors a "peace process" between Israelis and Palestinians that treats both sides fairly and that peace has not yet been achieved because "both sides" continue to be intransigent, or the issues are just too thorny to solve. In fact, a principal obstacle to peace in the Middle East is the US government's uncritical support and funding of Israeli policies.

\$61.3 billion in American military aid to Israel since 1948 has not brought peace, ended violence or achieved justice. Instead, these unconditional funds and our uncritical diplomatic support have helped perpetuate an illegal occupation, violence, and collective punishment via the Gaza blockade and ongoing seizure and destruction of Palestinian land. As American Christians, Jews, Muslims and secular people, we know the occupation impacts most destructively upon the Palestinians and also negatively impacts Israelis and Americans. In addition to the illegality and unethical nature of the occupation, it also diverts our hard-earned tax dollars to a foreign government whose activities undermine our own international standing and security. Yet our government has pledged to give Israel \$30 billion more in the next ten years.



New Yorkers regularly encountered "Be on our side" campaign ads during their month-long run in New York's MTA system. 25 platform poster ads appeared in 18 subway stations in Manhattan, Brooklyn, Queens, and the Bronx.



They also engaged with Campaign outreach volunteers who distributed 20,000 flyers, here in discussion above the Columbus Circle subway, across from the Time-Warner Center and Central Park.

We believe it is time to advance a new U.S. policy towards the Israeli-Palestinian conflict based on genuine justice, security, dignity, and equality for Palestinians and Israelis. We should call for an end to US military aid to Israel until the Israeli government's policies comply with applicable US laws, UN resolutions and the Geneva Conventions. Furthermore, we would like to see those \$30 billion be redirected to Americans right here at home to help with job creation, education, affordable housing, our environment, and our national infrastructure.

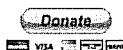
In this spirit, the "Be on Our Side-NYC" Campaign – supported and endorsed by a wide range of groups from social justice and interfaith communities – launched a month-long advertisement campaign on September 5, 2011 on the largest metro system in the United States [press release]. 25 platform poster ads in 18 subway stations in Manhattan, Brooklyn, Queens and Bronx feature Israelis and Palestinians who want to live together in peace with justice for themselves and their children. Outreach activities, including leafleting every day, are complementing the advertising campaign. All contributions received from the public will expand these efforts.

Our campaign comes on the heels of the Arab Spring, an inspiring uprising of citizens in the Arab world against governments that worked against their interests, dignity and security. Our actions here in the US support the efforts of numerous Palestinians and Israelis working to end the occupation through nonviolent means.

We hope this campaign will open a debate on the merits of our government's unconditional support and "no strings attached" funding of Israeli policies of settlement and occupation. Our aim is to provide the space for constructive debate to inform, engage, and promote a more fair and effective US policy towards the Israeli-Palestinian conflict.

Media Contact: Donna Nevel, denevel@gmail.com
Read and view: NY campaign in the media

Please donate to support this campaign!



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Jewish Voice for Peace Boston launches campaign in T stations

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Jewish Voice for Peace Boston joins national campaign: End unconditional U.S. military aid to Israel.

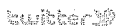
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May 2, 2011. To call attention to the role of the U.S. in supporting the illegal Israeli occupation, Jewish Voice for Peace Boston is proud to participate in Be On Our Side. We are the third chapter, after Chicago and the Bay Area, to sponsor this public-transportation campaign.

JVP Boston has placed twelve placards at selected T stations in Boston: Harvard (2); Alewife (1); Park St Red Line (1) (shown here); Park St Green (2); Downtown Crossing (2); Back Bay (1); Tufts New England Medical (1); and JFK UMA (2). Over the month-long duration of the ad campaign, JVP-Boston will undertake a leafleting effort.

You can support this campaign with your time and your money. We have already raised significant funds for the placement of placards in additional T stations later in the year. Help us make this a reality.

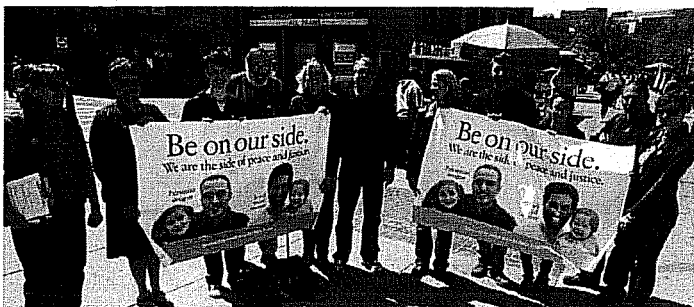
JVP believes U.S. military aid to Israel must be stopped until Israel ends the occupation and complies with international law and human rights in its treatment of Palestinians within and outside Israel. Be On Our Side is driven by the belief that people in the US need to understand the US's complicit role in the occupation.



Checks may be made payable to "Jewish Voice for Peace Boston" and mailed to Jewish Voice for Peace Boston, PO Box 380528, Cambridge, MA 02238.



For more information, please visit the Jewish Voice for Peace Boston website.



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We're rolling in Chicago —again and again!

We launched the inaugural phase of the "Be on our side" campaign on October 4, 2010 with dozens of posters on the Chicago Transit Authority (CTA) system. The advertisements, installed for a contracted period of four weeks, were posted inside trains on the **Blue and Red Line**, as well as in waiting platform areas on the Red Line at the **Monroe, Jackson, and Chicago** stations, and on the Blue Line at the **Jackson, Washington, and Monroe** stations. Four days after the signs were posted on the CTA system,

a press conference was held to bring media attention to the campaign.

In May 2011, phase two of the "Be on our side" campaign launched with posters on the backs of buses on the Chicago Transit Authority system. The signs were installed on numerous bus routes that depart from the Kedzie and North Park terminals and criss-cross the city. Thousands of viewers saw the message on the move—pedestrians and drivers alike—and had the opportunity to contemplate the call for an end to U.S. military aid to Israel and learn about the issue by visiting the website listed prominently on the ads. Simultaneously, hundreds of "Fast Facts" pocket cards were distributed around the city as part of a guerilla marketing campaign in support of the transit ads.

Phase three of the Chicago campaign hit the streets in late July, 2011 and ran through August. Travelers encountered our signs on board Red and Blue CTA trains and on underground platforms at Jackson/Blue, Washington/Blue, and Monroe/Red. We're delighted that the tens of thousands of Chicagoans and visitors that use the public transit system have been exposed to an important perspective that is sadly underrepresented in the mainstream media.

We networked with activists from across the U.S. by participating in a workshop at the "Move Over AIPAC" conference in Washington, DC, on May 22, 2011, on the topic *Buses, Billboards, and Digital Displays: Creative Tactics to Oppose U.S. Military Aid to Israel*.

Illinois Senator Mark Kirk's extreme positions on Israel/Palestine were highlighted in an action at Chicago's Daley Plaza organized by CJPIP on August 18, 2011. Campaign activists spoke with interested passersby, distributing hundreds of informative flyers about Kirk's appalling, egregious statements and policy positions. Learn more and see CJPIP's hot new YouTube video about Senator Kirk.



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Portland launches biggest-ever "Be on our side" transit ad.



Americans United for Palestinian Human Rights along with other organizations and individuals concerned about peace and justice for Palestinians have launched the "Be on Our Side" campaign on Portland TriMet Public Transportation, starting August 25, 2011. This campaign will run for 90 days on bus routes running in the Portland metro area reaching thousands of viewers daily. We anticipate more donations that will allow the campaign to continue. Each 90-day extension costs \$1,425.

DONATE NOW THROUGH Network for Good

We are optimistic that this powerful message will help citizens of Portland become informed and aware of the need for change in American policy with Israel. Oregon along with the rest of the United States is facing financial hardship that causes cutbacks in schools, decreases social services, increases joblessness and poverty, and decreases health care coverage. Not only is U.S. military aid to Israel unconscionable, it contributes to the cutbacks of programs greatly needed here at home.

It is time to stop this unconditional \$30 billion of U.S. tax dollars that Israel will receive by 2018. In Oregon alone, taxpayers will give over \$28 million per year in federal tax dollars for Israel's military. It is time to change our unjust policies to productive ones that support justice and equality for Palestinians and the chance of peace for both Israeli Jews and the Palestinian people.

Contact the Portland campaign at info@auphr.org.



Portland activists gather to celebrate the launch of the local "End U.S. Military Aid to Israel" campaign with a Kick-Off rally on Wednesday, August 31 at Pioneer Courthouse Square in downtown Portland.

Sponsoring organizations:

- Americans United for Palestinian Human Rights (AUPHR)
- Jewish Voice for Peace, Portland Chapter
- National Lawyers Guild, Portland Chapter
- Lutherans for Justice in the Holy Land — A Ministry of Central Lutheran Church, Portland, OR
- Friends of Sabeel-North America
- Students United for Palestinian Equal Rights

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Washington, DC welcomes end aid campaign

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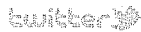
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Washington, DC welcomes the "Be on our side" campaign.



DC Riders for Peace is a coalition of organizations working to inform individuals and groups in the Washington, DC, area about the need for a just peace in Palestine/Israel and the multiple dimensions of that conflict. DC Riders promotes active steps that U.S. citizens can take to end the occupation and the violence in the region, including an end to U.S. military aid to Israel. As residents, citizens, and taxpayers, we believe it is vital to condition U.S. military aid to Israel on Israel's compliance with applicable U.S. laws and UN Security Council resolutions, the Geneva Conventions, and international human rights laws.

Stemming from our conviction that it is time to advance a new U.S. policy towards the Israeli Palestinian conflict

based on genuine justice and security for both Israelis and Palestinians, DC Riders for Peace launched a four-week advertisement campaign on May 16, 2011, urging an end to U.S. military aid to Israel [read the press release]. This campaign is sponsored by DC area human rights groups and supported by individual peace advocates. The ads are posted inside Washington Metro Area Transit Authority (WMATA) Metrorail trains.

Please donate to support the expansion of this project!



In addition to promoting an end to U.S. military aid to Israel, DC Riders seeks to engage companies that profit from the Israeli occupation of the West Bank, Gaza, and East Jerusalem, urging them to discontinue activities that result in such profits. Where corporate engagement fails to produce change, DC Riders endorses divesting from or boycotting those companies.

Our actions in the U.S. support the efforts of the numerous Palestinians and Israelis working to end the occupation through nonviolent means. As American Muslims, Jews, Christians, and secular people, our position emerges out of our concern for the well-being of Israelis and Palestinians, given that the occupation hurts both peoples and is detrimental to their need to live in peace and with justice. Our government's current policy has failed to protect and advance the interests of Israelis, Palestinians, and our own long-term national self-interest, including our international standing and security. Meanwhile our government continues to squander and divert our hard earned taxes, draining our precious resources and underfunding domestic programs such as health care, education, housing, and jobs at home.



Exhibit P

“About AATA”



- HOME
- HOW TO RIDE
- ROUTES & SCHEDULES
- PLAN YOUR TRIP
- FARES
- NEWS & ALERTS
- PROGRAMS & SERVICES
- PROJECTS & INITIATIVES
- CONTACT US
- FREQUENTLY ASKED QUESTIONS
- DOING BUSINESS WITH US
- ABOUT AATA
- CHECK BUS DETOURS
- LIVE TRACKING OF BUSES

ABOUT AATA

The AATA, a not-for-profit unit of government, operates the local public transit system for the greater Ann Arbor-Ypsilanti area. AATA enables the area's residents to reach their destinations at reasonable cost, and offers the region efficient, environmentally sound transportation alternatives. In this section you will find an overview of AATA policy information, ranging from our long-term goals and objectives to information on our board of directors.

MISSION

It is the mission of the Ann Arbor Transportation Authority to provide useful, reliable, safe, environmentally responsible and cost-effective public transportation options for the benefit of the Greater Ann Arbor Community.

VISION

The Ann Arbor Transportation Authority shall be the public transportation provider for Washtenaw County. Our customers shall see AATA's expanded services as the preferred option for traveling to destinations within the county, as well as to and from the county. AATA will offer appropriate modes of transportation with the most efficient use of resources. These services shall enhance the quality of life for Washtenaw County stakeholders while promoting the economy, safeguarding the environment, and strengthening communities.

VALUES

The core priorities guiding the Ann Arbor Transportation Authority's conduct toward its customers, stakeholders, employees and the entire Greater Ann Arbor Community are embodied in the following values:

- **SAFETY** from harm, injury, or loss.
- **RELIABILITY** based upon consistent performance over time.
- **CUSTOMER SERVICE & SATISFACTION** due to providing the highest level of service.
- **RESPECT** resulting from attentiveness, consideration, and courtesy.
- **INCLUSIVENESS** without discrimination.
- **COOPERATION** toward the common good.
- **RESPONSIBILITY** by being accountable for both actions and conduct.
- **INNOVATION** aimed at improving efficiency and effectiveness.
- **FLEXIBILITY** to adapt to new, different, or changing conditions.
- **INTEGRITY** from incorporating principles of right and wrong into principles of moral behavior.
- **ENVIRONMENTALISM** centered on a concern for the conservation and improvement of the environment.

AATA at a Glance:

AATA Overview

AATA Facts and Figures

- Performance Reports
- Percent Variance from Budget
- Operating Statistics
- Average Weekday Passengers
- Riders by Route
- Passengers per Service Hour

Audited Financial Statements as of 9/30/09



CALL AATA AT 734-996-0400 FOR
INFORMATION ON DETOURS OR
CHANGES IN THE BUS SCHEDULES
DUE TO SEVERE WEATHER
CONDITIONS.

Exhibit Q

Transit Advertising Group Overview



28423 ORCHARD LAKE RD. SUITE 210 • FARMINGTON HILLS, MI 48334
PHONE: 248.489.8989 • FAX: 248.489.8990

[AATA Information](#)
[Contact Us](#)
[International Outdoor](#)
[Home](#)

Overview	AATA Route Map	10 Reasons	AATA Demographics	Washtenaw by The Numbers	Traffic Counts	U of M Football Shuttles	Ann Arbor Art Fair		
Fast Facts	Partial 3 Sided Mural	Partial Murals	Super Ultra King	Ultra King	Tails	Ultra Queen	Interior Advertising	Clients	Testimonials

Everyday throughout Ann Arbor, there's a opportunity to connect with consumers in a powerful, direct and effective way. Transit Advertising Group AA (TAG) makes this connection possible as the exclusive advertising sales agent for the Ann Arbor Transit Authority (AATA), The Ride, bus system. AATA buses are moving billboards that drivers and pedestrians simply can't ignore, going where the people go. We reach the most desirable demographics throughout Washtenaw County, where many other out-of-home advertising can't reach or is not allowed. The Strength of advertising on AATA buses is its constant ability to find the crowds. From downtown Ann Arbor's streets and shopping plazas, to University of Michigan's campuses and sporting venues, TAG reaches people where they work, live, shop and play. They are everywhere and they're always on - delivering thousands of impressions, one at a time!

The Benefits are Many:

- **The right exposure at the right time:** Your ads are seen at the best possible time-when people are out of the house or office and ready to respond. We're the most effective out-of-home advertising in Ann Arbor.
- **Greater reach and value:** Reach more of the market, and with more frequency, for far less of your advertising budget. Transit advertising costs far less than television, radio or newspaper.
- **Captive audience:** Your bus ads are seen by motorists, pedestrians, and bus riders, who can't help reading your message. Your message is unavoidable!
- **Brand recognition:** Bus ads stimulate immediate recognition of who you are, what you have to offer and where to find you. The larger than life impact builds exceptional recall when people are seeking your product or service. Bus ads also complement and or reinforce your overall advertising/Branding program.

Make and impact with AATA bus advertisements! Call your TAG Team Partner today.



Exhibit R

“Top 10 Reasons to Advertise on AATA Buses!”



TOP 10

Reasons to Advertise on AATA Buses!

1. Mobility

Bus advertising covers more ground than other outdoor advertising. It offers higher penetration and mobility, not only attracts the consumer's eye, but also gives advertisers better distribution. Buses reach out and build new audiences everyday. People encounter bus ads anywhere, and everywhere buses travel.

2. Endless Creative Possibilities

The sheer size and unique environment of bus advertising allows for endless creative possibilities. An entire bus can be wrapped with an advertising message for a BIG impact. Great creative, produced and printed well, stands out like no other ad medium and adds miles to the communication power and real effectiveness to a campaign.

3. Media Planning

Advertising has shifted towards 'Media' planning. The idea that the consumer should have at least one ad message in the 'window of opportunity' preceding each purchase. Here again bus advertising fits the bill delivering your brand at the right time.

4. The Right Place

Buses deliver their brand message in the right context - on shopping streets, to people making purchases and ready to take action. Buses are ideal for brands purchased on impulse and all goods where brand decisions are made close to point of purchase.

5. A Modern Image

Media, fashion, music, entertainment, retail, telecommunications and travel make up much of the business base for today's bus advertising these days. Modern buses have created a marketplace of style, glamour and relevance to today's new consumers.

6. Size Matters

A full side is up to 40 feet long. A bus rear is over 8 feet high. On the majority of suburban streets, there's no bigger poster format than these buses. The scale of bus advertising provides a big, hard to miss branding opportunity. What's more, with three quarters of bus encounters occurring at a distance of less than 20 yards, it's up close and personal to consumers and retailers alike.

7. Gridlock Heaven

Average car speeds on Southeastern Michigan roads have decreased dramatically in recent years. So there's a lot of 'dead-time' available for use and bus advertising is always slap-bang in the middle of all this traffic.

8. An Excellent Support Medium for Television

Bus ads make a great combination with television. They carry the branded message through to point-of-sale and successfully reach lighter TV viewers, who also tend to spend more time out of home. The special strengths of buses as a mixed media partner for TV are their excellent dispersal, high coverage and frequency, low cost-per-thousand and high street message delivery.

9. Target Audience

Today's busy lifestyles mean that people spend less time at home. Traditional in-home media is therefore limited, with morning and evening slots increasingly cluttered. That puts bus advertising in prime position during the workday. Being urban and suburban focused, buses deliver housewife, shopper and youth audiences. They also deliver the heavy commuter population who sit in the increasing traffic jams of our cities.

10. Great Value

Bus advertising offers low entry costs and is one of the few media that an advertiser can dominate cost effectively and still achieve mass coverage.



Exhibit S

AATA Advertising Policy

AATA RFP #05-02
Bus Advertising Services

permission or remuneration to the Contractor for either reduction in the saleable space or the reduction in time of bus availability when the vehicles are removed from service for repairs.

- B. AATA may make changes in its routes which may affect the level or scope of advertising.

2.8 OPERATING REQUIRMENTS

- A. Installation and ongoing maintenance of advertisements and other necessary activities of the Contractor shall not interfere with the routine functioning of AATA operations. Access to AATA vehicles will be provided only at times consistent with vehicle operating needs.
- B. No vehicle will be removed from service for the purpose of installing, removing, or maintaining the advertisements.
- C. Contractor personnel shall observe all AATA safety requirements. Contractor shall provide all required insurances as outlined in this document. The Contractor must comply with all Federal, State and local laws, including the procurement of appropriate permits and licenses, as necessary.

2.9 ALLOCATION OF ADVERTISING SPACE

- A. The Contractor will reserve 10% of all interior advertising space for AATA's use. Proposer may include the cost of printing and installing AATA advertising in this space as an option. The 10% reservation will be measured by space, not time.
- B. Media trade advertising will be permitted.
- C. Full wraps are not permitted.
- D. The Contractor shall not install any advertising which covers vehicle windows or in any way interferes with the operation and general maintenance of the bus.

2.10 AATA ADVERTISING POLICY

- A. The AATA, by permitting commercial advertising in or on its vehicles, shelters, informational material, buildings, and benches, does not thereby intend to create a public forum. Further, AATA requires that such advertising comply with specified standards to further the purposes of providing revenue for AATA, increasing ridership, and assuring that AATA riders will be afforded a safe and pleasant environment. AATA reserves

the right to approve all advertising, exhibit material, announcements, or any other display and their manner of presentation. All advertising must be in considered in good taste and shall uphold the aesthetic standards as determined by AATA.

B. Advertising in or on AATA vehicles, in AATA shelters, building, benches or informational material which does any of the following shall be prohibited.

1. Contains false, misleading, or deceptive material.
2. Promotes an illegal activity.
3. Advocates violence or crime.
4. Infringes copyright, service mark, title or slogan.
5. Defames or is likely to hold up to scorn or ridicule a person or group of persons.
6. State or implies the endorsement of a product or service by AATA.
7. Supports or opposes the election of any person to office or supports or opposes any ballot proposition.
8. Contains material which is obscene, as defined by MCL 752.362, or sexually explicit, as defined by MCL 722.673, and as such statutes shall be amended or supplemented.
9. Promotes alcohol or tobacco products.

2.11 REVIEW OF ADVERTISING CONTENT

Before displaying any advertising, the Contractor shall first submit the material to AATA for review. AATA's review will be for content only, but shall reserve the right, in its sole discretion, to remove any advertisement it deems objectionable. Reasonable proof or clarification of statement contained in any advertisement may be required by AATA as a condition of use or continued use of advertising space.

2.12 ADVERTISING POSTING AND REMOVAL

The Contractor will be responsible for posting and removing all interior and exterior bus advertising in a timely fashion in accordance with the terms of each advertising sales contract. Any dated materials, internal and external, must be removed at the end of the contract period.

2.13 RATE REVIEW

Any proposed rate changes by the Contractor shall be submitted in writing to AATA sixty (60) days prior to implementation.

Exhibit T

AATA Rejected Ad

Michelle Sanders

From: Randy Oram [randy@iobillboard.com]
Sent: Thursday, February 03, 2011 10:20 PM
To: Dawn Gabay; Mary Stasiak; Amanda Elias (External)
Cc: Michael Ford; Michelle Sanders; Phil Webb; Terry Black; Randy Oram (External)
Subject: RE: proposed Interior ad status sexy.com

The client is trying to advertise the website thru sex. They are also not disclosing other advertising that they are going to do that will correlate with this advertising and the website. I understand the website has something to do with AIDS and AIDS prevention I believe. The website is not up and running yet and the agency is not clear on the tactics or marketing plans that they are going to use for the whole campaign. We are told they will have more information in the future. I am of the belief that if we allow this type of advertising with the man's shirt off, that we will not be able to regulate other advertisers with revealing copy. I would like to stick to the clear and obvious advertisements that are not in any way controversial and will not set a standard for future advertisements. Ultimately, it is your call but I feel that there is too much unknown about the campaign as a whole and the agency is not disclosing the rest of the campaign. I also feel that it violates the policy but wanted to bring it to your attention. Let me know your thoughts and any position other than denial of the advertisement which we have already done.

Thanks,

Randy Oram

Randy Oram
President
International Outdoor, Inc.
28423 Orchard Lake Rd. Suite 200
Farmington Hills, MI 48334
Satellite Office: 16140 James Couzens Fwy.,
Detroit, MI 48221 // Ph: (313) 739-0399
Ph: 248-489-8989
Fax: 248-489-8990
randy@iobillboard.com

From: Dawn Gabay [mailto:DGabay@theride.org]
Sent: 2011-02-03 5:52 PM
To: Mary Stasiak; Amanda Elias (External)
Cc: Michael Ford; Michelle Sanders; Phil Webb; Terry Black; Randy Oram (External)
Subject: RE: proposed Interior ad status sexy.com

I do not understand what this is about. I do not even see what they are advertising.

Dawn Gabay
Deputy CEO
Ann Arbor Transportation Authority
Telephone: 734 7941762
email: dgabay@theride.org

From: Mary Stasiak
Sent: Thursday, February 03, 2011 12:05 PM
To: amanda@iobillboard.com
Cc: Dawn Gabay; Michael Ford; Michelle Sanders; Phil Webb; Terry Black; randy@iobillboard.com
Subject: RE: proposed Interior ad status sexy.com

Please see the attached AATA advertising policy. The content of this advertisement appear to violate this policy.

Mary K. Stasiak

Manager of Community Relations | TheRide/Ann Arbor Transportation Authority
2700 S. Industrial · Ann Arbor · MI · 48104 | 734.794.1870 (O) · 734.846.5549 (C) · 734.973.6338 (F) | mstasiak@TheRide.org |
www.MovingYouForward.org | www.TheRide.org | facebook.com/catchtheride

From: Amanda Elias [<mailto:amanda@iobillboard.com>]

Sent: Thursday, February 03, 2011 12:00 PM

To: Mary Stasiak

Subject: RE: proposed Interior ad status sexy.com

Mary,

This is what the agency had to say about the ad.

The site is not live yet. It will not go live until tomorrow or Monday.

Would it help if I were to send you some screen shots? It is a site for HIV prevention.

Amanda Elias

Administrative Assistant
International Outdoor
28423 Orchard Lake Rd., Ste. 200
Farmington Hills, MI 48334
Ph: (248) 489-8989 // Fax: (248) 489-8990
Satellite Office: 16140 James Couzens Fwy., Detroit, MI 48221 // Ph: (313) 739-0399

From: Mary Stasiak [<mailto:MStasiak@theride.org>]

Sent: Thursday, February 03, 2011 11:39 AM

To: amanda@iobillboard.com

Cc: randy@iobillboard.com

Subject: RE: proposed Interior ad status sexy.com

I am still not comfortable with this ad and how it may violate our policy as well as the fact that the website is not operational as far as I can tell. I cannot approve something that I cannot tell what it is for. I understand the creative intention but am not sure that we can approve based on the content.

Mary K. Stasiak

Manager of Community Relations | TheRide/Ann Arbor Transportation Authority
2700 S. Industrial · Ann Arbor · MI · 48104 | 734.794.1870 (O) · 734.846.5549 (C) · 734.973.6338 (F) | mstasiak@TheRide.org |
www.MovingYouForward.org | www.TheRide.org | facebook.com/catchtheride

From: Amanda Elias [<mailto:amanda@iobillboard.com>]

Sent: Thursday, February 03, 2011 10:32 AM

To: Mary Stasiak

Subject: FW: proposed Interior ad status sexy.com

The attachment shows a close-up of the small type.

Amanda Elias

Administrative Assistant
International Outdoor
28423 Orchard Lake Rd., Ste. 200
Farmington Hills, MI 48334

Ph: (248) 489-8989 // Fax: (248) 489-8990

Satellite Office: 16140 James Couzens Fwy., Detroit, MI 48221 // Ph: (313) 739-0399

_____ Information from ESET NOD32 Antivirus, version of virus signature database 5844 (20110203)

_____ The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

_____ Information from ESET NOD32 Antivirus, version of virus signature database 5844 (20110203)

_____ The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Michelle Sanders

From: Phil Webb
Sent: Monday, February 14, 2011 11:11 AM
To: gSenStaff
Cc: Michelle Sanders
Subject: FW: Google Alert - ann arbor transit authority

FYI - The below link is to an article about our refusal to run this ad on our buses.
Phil

From: Google Alerts [<mailto:googlealerts-noreply@google.com>]
Sent: Monday, February 14, 2011 10:28 AM
To: Phil Webb
Subject: Google Alert - ann arbor transit authority

News

1 new result for **ann arbor transit authority**

Knowing Your HIV Status Has Never Been So Sexy Before - New ...

Business Wire

At least one prominent media outlet in Washtenaw County, **Ann Arbor Transit Authority**, has refused to run the statussexy.com ads.

...

Tip: Use a plus sign (+) to match a term in your query exactly as is. [Learn more.](#)

[Remove this alert.](#)
[Create another alert.](#)
[Manage your alerts.](#)

Exhibit U

Margaret Conners Political Ad

Contract #	Client	Advertisement	Weeks	Days	Posting Date	Removal Date
A-GRIF-040107	Griffin Pest Control	Griffin Pest Control	52	365	4/1/2007	3/31/2008
A-EAST-091507	Eastern Michigan University	Eastern Michigan University	32	224	9/15/2007	4/25/2008
A-EMUB-101907	Eastern Michigan University	Eastern Michigan University Athletics-Basketball	20	140	10/19/2007	3/6/2008
A-SLAV-110107	Slavik Management	Ann Arbor Woods, Green briar, & Pine Valley Apt.	12	84	11/1/2007	5/23/2008
A-Doug-111907	Orange Egg Advertising	Douglas J Salon and Spa	13	91	11/19/2007	2/19/2008
A-DELT-010108	DAVINCI-Selectwork LLC	Delta Dental	14	91	1/1/2008	6/1/2008
A-NAAP-011408	National African American Parent Involvement Day	National African American Parent Involvement Day	4	30	1/14/2008	2/12/2008
A-CRIS-012008	Bill Crispin Chevorlet	Bill Crispin Chevorlet	52	365	1/20/2008	1/19/2009
A-AHOM-020108	Ann Arbor Hands on Museum	Ann Arbor Hands on Museum	24	107	2/1/2008	8/30/2008
A-STJJ-020508	Space Time	Jimmy Johns Sandwiches	16	90	2/5/2008	5/15/2008
A-WOOD-030108	Woodbury Gardens Apartments & Town Homes	Woodbury Gardens Apartments & Town Homes	16	112	3/1/2008	7/1/2008
A-BLUE-030108	Blueprint For Aging	Art Exhibition	4	28	3/1/2008	3/28/2008
A-WFMK-030108	Whole Foods Market	Whole Foods Market	4	28	3/1/2008	3/28/2008
AA-JUMSTU-031708	University of Michigan	Multi Ethnic Student Affairs	3	21	3/17/2008	4/7/2008
AA-ONCAM-032408	OnCampus Advertising, LLC	The Institute for International Education	6	38	3/24/2008	4/30/2008
A-MCDO-040108	Moroch	McDonald's	26	182	4/1/2008	9/30/2008
A-STNI-041808	St. Nicholas Orthodox Church	Yasoo Greek Festival	7	50	4/18/2008	6/7/2008
A-FARM-101507	Orange Egg Advertising	State Farm-Agent Barb Young	24	168	4/28/2008	10/12/2008
AA-CAA-050208	City of Ann Arbor	Ann Arbor Golf & Day Kampers	8	55	5/28/2008	7/28/2008
A-LAND-040107	Arbor Landings Apartments	Arbor Landings Apartments	52	364	6/1/2008	5/31/2009
AA-SLL-042908	Structured Living LLC	Structured Living LLC	12	84	6/2/2008	9/1/2008
AA-JLC-060208	Joan Lowenstein	Joan Lowenstein	8	55	6/12/2008	8/6/2008
AA-ESS-062508	Emerson Schools	Emerson Schools	52	365	6/25/2008	6/25/2009
AA-AASO-070108	Ann Arbor Symphony Orchestra	Ann Arbor Symphony Orchestra	22	153	7/1/2008	12/1/2008
A-MARCO-072108	Committee to Elect Margaret Connors	Margaret Connors	4	32	7/21/2008	8/21/2008
AA-USGA-073008	Orange Egg Advertising	United States Golf Association	6	37	7/30/2008	9/4/2008
AA-OCBA-082608	OnCampus Advertising, LLC	Bank of America	4	30	8/26/2008	9/24/2008
AA-USMCL-082708	Armed Forces Communications	US Marines	4	28	8/26/2008	9/24/2008
AA-TCY-060208	The Courtyards	The Courtyards	12	84	9/1/2008	12/1/2008
AA-STJJ-090108	Space Time	Jimmy Johns Sandwiches	12	90	9/1/2008	11/30/2008
AA-GROW-081208	Growing Hope	Ypsilanti Farmers Market	8	57	9/17/2008	10/30/2008
AA-WFMK-092408	Whole Foods Market	Whole Foods Market	4	28	9/24/2008	10/22/2008
AA-MJAW-102008	Moosejaw	Moosejaw	6	42	10/1/2008	11/12/2008
AA-STJJ-100108	Space Time	Jimmy Johns Sandwiches	8	60	10/1/2008	11/30/2008
AA-APS-030109	Ann Arbor Public Schools	Ann Arbor Public Schools	8	32	3/1/2009	4/26/2009
AA-APS-100108	Ann Arbor Public Schools	Ann Arbor Public Schools	12	48	10/1/2008	12/24/2008
AA-WUV-100108	Washtenaw United Way	Washtenaw United Way	52	365	10/11/2008	10/11/2009
AA-FARM-102008	State Farm Agent Barb Young	State Farm Agent Barb Young	24	170	10/20/2008	4/6/2009
AA-MEGA-112408	Mega Bus	Mega Bus	4	27	11/24/2008	12/21/2008
AA-IBIR-122908	Intl. Bio Resources	Intl. Bio Resources	24	168	12/29/2008	6/14/2009

Exhibit V

Joan Lowenstein Political Ad

Joan Lowenstein

AA-JLC-060208

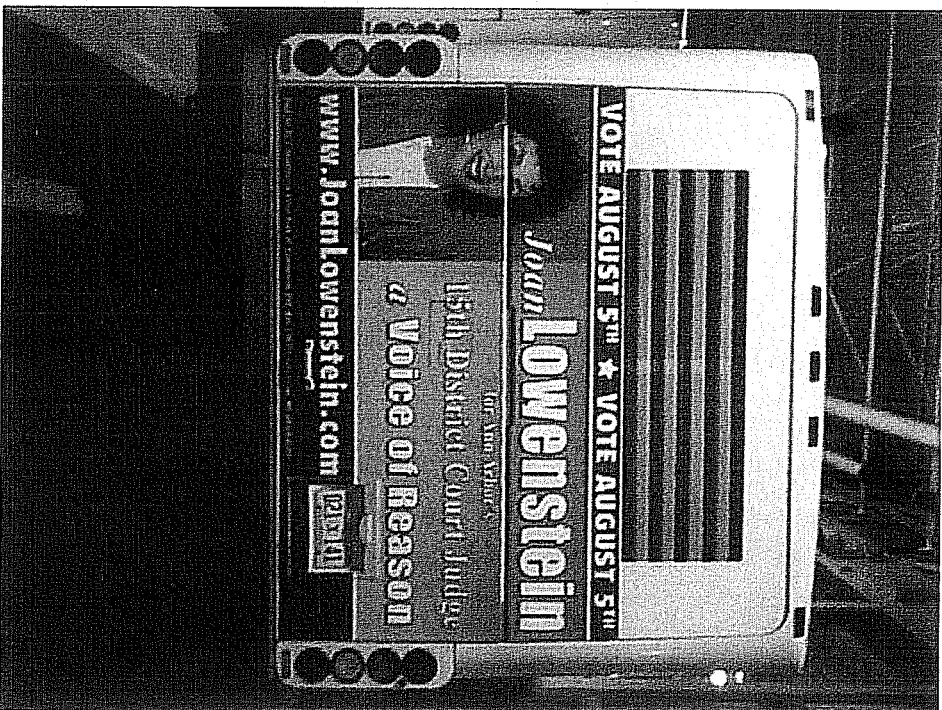
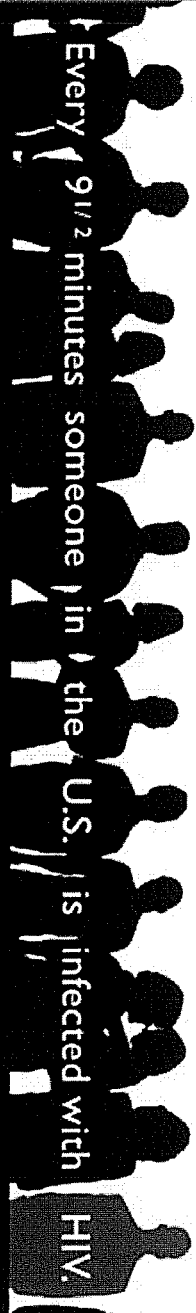


Exhibit W


“Every 9 ½ minutes someone in the U.S. is infected with HIV.”

WASHTENAW COUNTY PUBLIC HEALTH

AA-WCPH-120709



Every 9 1/2 minutes someone in the U.S. is infected with HIV



WASHTENAW COUNTY PUBLIC HEALTH
...focused on prevention

Get Tested!
PublicHealth.ewashTENAW.org
734-544-6840
NineandaHalfMinutes.org

Exhibit X

“Two-Faced Landlords Can Be Stopped. Housing Discrimination Is Against the Law.”

The Fair Housing Center

AA-FAIR-040510

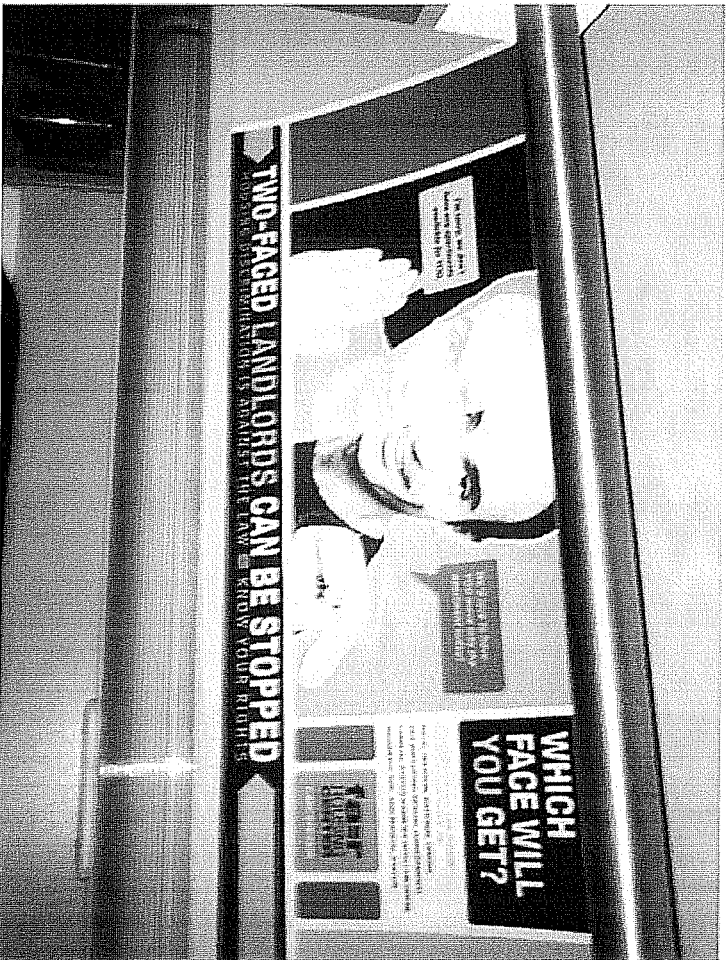


Exhibit Y

“Domestic Violence. It happens here.”

Safehouse Center

AA-SAFE-100410

Super Tail

In 2009, **25% of all murders**
in Washtenaw were caused by
domestic violence.

It happens here.

Help us change the numbers: safehousecenter.org

Domestic Violence.
It happens here.

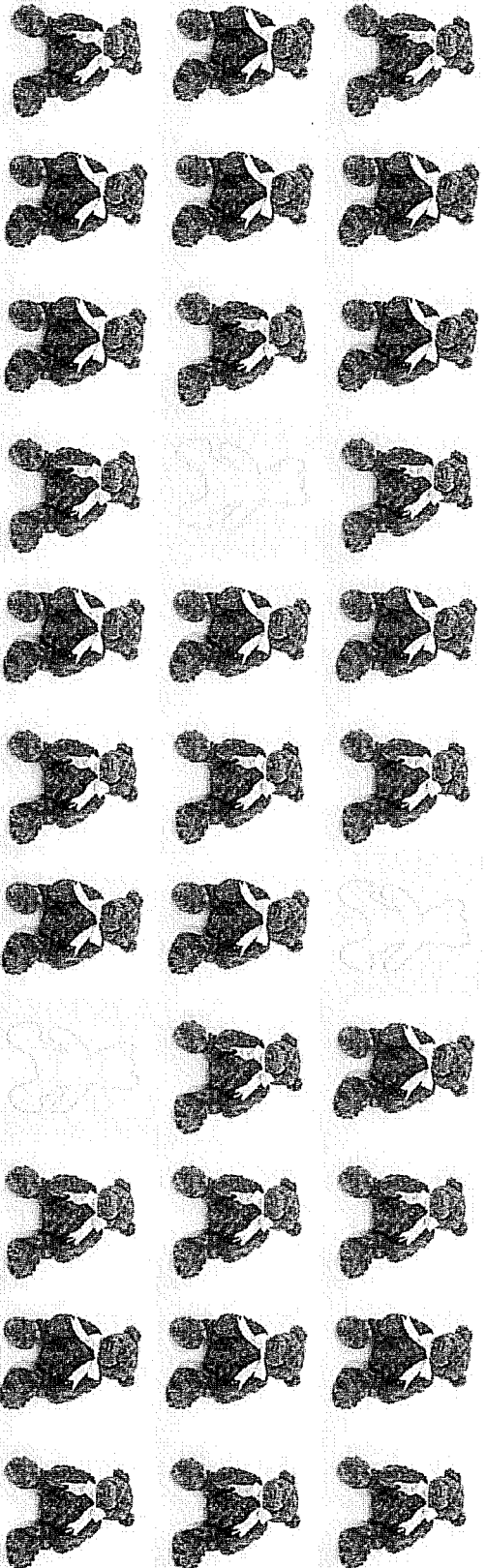
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48108, 48109, 48113, 48115, 48118,
48130, 48158, 48175, 48176, 48185,
48190, 48191, 48197, 48198, 48105
Help us change the numbers: safehousecenter.org

Exhibit Z

“In Washtenaw County black babies are 3x more likely to die than white babies.”

Washtenaw Area Council for Children

AA-WACC-100410



In Washtenaw County black babies are 3x more likely to die than white babies. You can change that.

Exhibit AA

“Breastfeeding makes babies smarter.”

Michigan WIC

AA-MWIC-081610

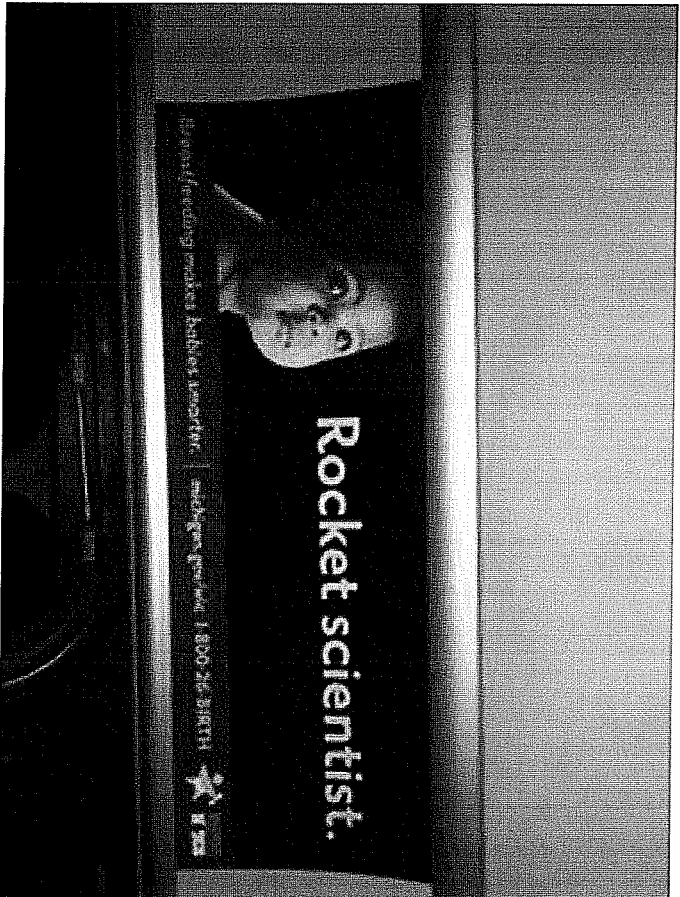



Exhibit BB

“NorthRidge Church is For Hypocrites. NorthRidge Church is For Fakes.
NorthRidge Church is For Liars. NorthRidge Church is For Losers.”


Northridge Church

AA-NORT-092710


**NorthRidge Church
is for HYPOCRITES.**

 BELIEF
BEYOND
.com

**NorthRidge Church
is for FAKES.**

 BELIEF
BEYOND
.com

**NorthRidge Church
is for LIARS.**

 BELIEF
BEYOND
.com

**NorthRidge Church
is for LOSERS.**


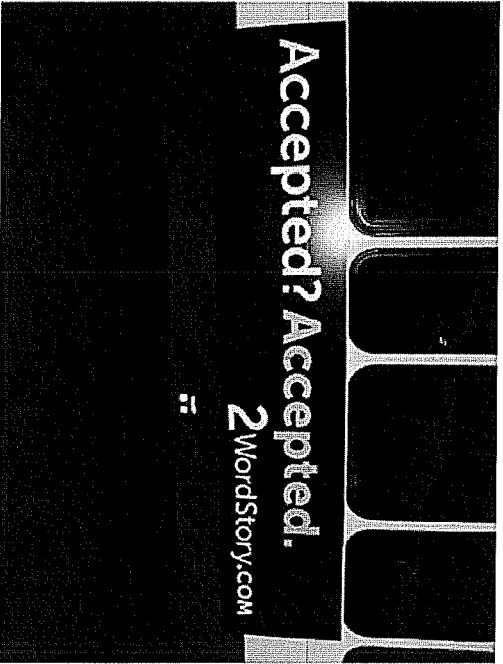
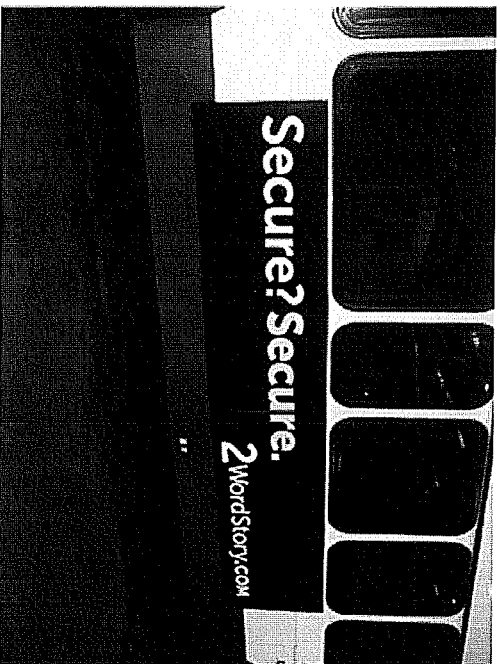
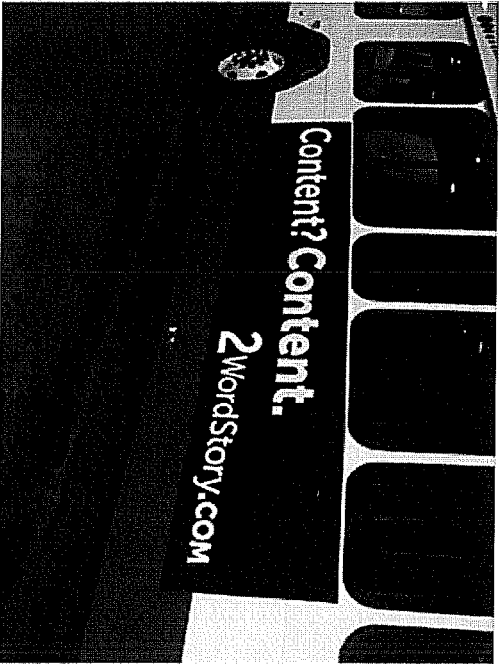
 BELIEF
BEYOND
.com

Exhibit CC

2WordStory.com

E.A.C.H. Headquarters

AA-EACH-042511



E.A.C.H. Headquarters

AA-EACH-042511

(continued)

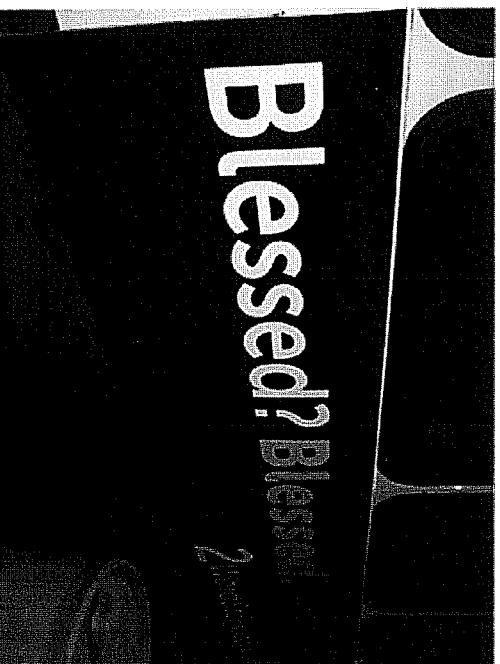
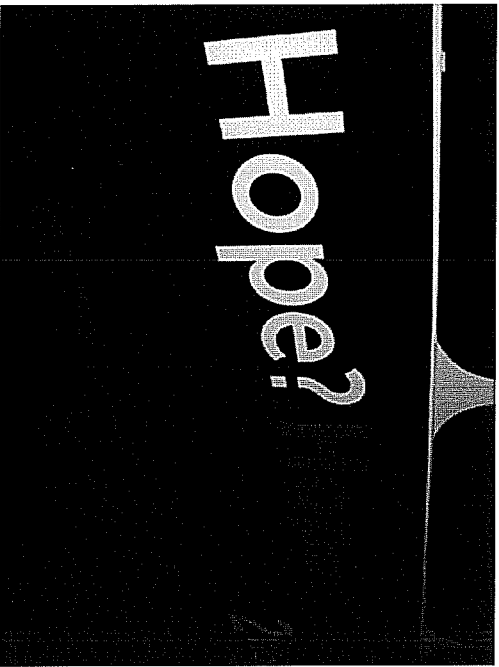


Exhibit DD

2 Word Story: About Us

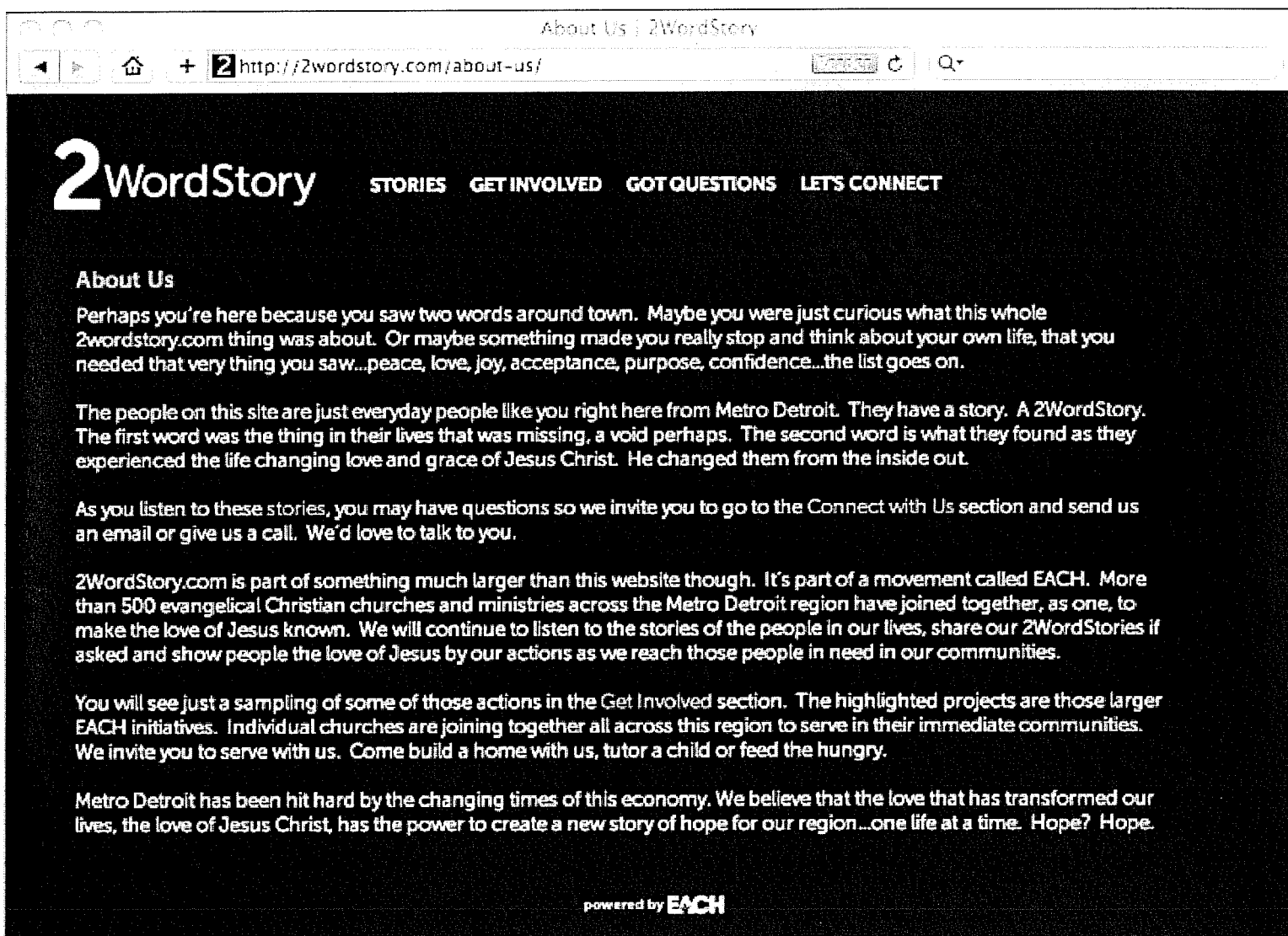
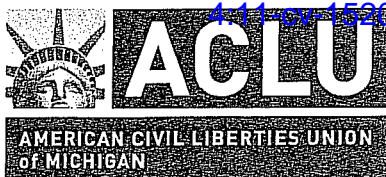


Exhibit EE

Letter from Korobkin to AATA
Aug. 12, 2011



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August 12, 2011

Michael Ford, Chief Executive Officer
Jesse Bernstein, Chair of the Board of Directors
Ann Arbor Transportation Authority
2700 S. Industrial Hwy.
Ann Arbor, MI 48104

Re: AATA Advertising Policy

Dear Messrs. Ford and Bernstein:

We are writing because AATA's advertising policy is unconstitutional. As outlined below, it violates the First Amendment and is void for vagueness in violation of the Fourteenth Amendment. We write on behalf of Blaine Coleman, an Ann Arborite whose proposed ad was rejected by AATA. In the hope that this issue can be resolved amicably and without the need for litigation, we ask that you promptly reconsider your decision with regard to Mr. Coleman's ad and reform your advertising policy in accordance with constitutional standards.

Background

Mr. Coleman is an Ann Arbor resident and activist. He wishes to run an advertisement on the side of a bus that reads "Boycott Israel, Boycott Apartheid." Earlier this year, the official in charge of AATA advertising informed Mr. Coleman that AATA would not run his ad because it is in violation of AATA's advertising policy. A copy of that policy is attached to this letter. Among other things, the policy states that all ads "must be considered in good taste and shall uphold the aesthetic standards as determined by AATA." It prohibits ads that are "likely to hold up to scorn or ridicule a person or group of persons."

The First Amendment Prohibits Censorship on Public Transportation.

AATA did not say which provision of the policy Mr. Coleman's ad violated, but rejecting the ad was likely unconstitutional regardless of AATA's precise justification for doing so. The constitutionality of your advertising policies and practices is largely governed by United Food & Commercial Workers Union, Local 1099 v. Southwest Ohio Regional Transit Authority, 163 F.3d 341 (6th Cir. 1998). In that case, the U.S. Court of Appeals for the Sixth Circuit held that the Southwest Ohio Regional Transit Authority ("SORTA") violated the First Amendment by rejecting a pro-union advertisement for being controversial and not aesthetically pleasing. The court determined that SORTA's advertising space was a public forum; SORTA therefore could not censor ads on the basis of their content. It further held that SORTA's advertising policy was facially unconstitutional because it was not viewpoint-neutral and was unconstitutionally vague.

AATA's advertising policy suffers from the same deficiencies that doomed SORTA in United Food.

AATA Is a Public Forum Where Content-Based Censorship Is Unconstitutional.

First, it is likely that AATA's advertising space is a public forum. Rejecting any ad from a public forum based on its content automatically triggers strict scrutiny, the most rigorous test known to constitutional law. See United Food, 163 F.3d at 355. Although AATA's written policy says that it does not intend to create a public forum, whether a public forum exists is determined by AATA's actual practice, not its written policy statements. Id. at 352-53. In United Food, the Sixth Circuit held that SORTA's advertising space was a public forum even though SORTA's written policy, like AATA's, claimed that it was not. The court determined that SORTA created a public forum by accepting nearly every advertisement that was submitted. Id. at 354.

According to your office's response to our request for public records, in the past few years AATA has rejected only one advertisement other than Mr. Coleman's. Meanwhile AATA has accepted a wide array of advertisements, including:

- "Every 9 ½ minutes someone in the U.S. is infected with HIV."
- "Two-Faced Landlords Can Be Stopped. Housing Discrimination Is Against the Law."
- "Domestic Violence. It happens here."
- "In Washtenaw County black babies are 3x more likely to die than white babies."
- "Breastfeeding makes babies smarter."
- "NorthRidge Church is For Hypocrites. NorthRidge Church is For Fakes. NorthRidge Church is For Liars. NorthRidge Church is For Losers."
- 2WordStory.com, a website featuring the stories of people who "experienced the life changing love and grace of Jesus Christ."
- Campaign ads supporting Joan Lowenstein and Margaret Connors for district judge.

Thus, it appears that AATA is willing to carry ads about virtually any subject matter—regardless of whether the ad is selling a commercial product, conveying information about important social issues, advocating the election of a candidate for public office, or spreading religious gospel. "Acceptance of a wide array of advertisements, including political and public-issue advertisements, is indicative of the government's intent to create an open forum." Id. at 355. And "[o]nce [AATA] permits messages of all sorts to grace its buses, it may not then select among the submitted messages based on their content." Id. Like SORTA, AATA has created a public forum and cannot now exclude Mr. Coleman's ad.

AATA's Policy Is Facially Invalid Because It Allows for Viewpoint Discrimination.

Even if a court were to find that AATA's advertising space is not a public forum, AATA's advertising policy is nevertheless facially unconstitutional because it is not

viewpoint neutral. Even in nonpublic fora, where reasonable exclusions are permissible based on the subject matter of the speech or the identity of the speaker, discrimination based on the viewpoint expressed is absolutely forbidden. See Kincaid v. Gibson, 236 F.3d 342, 355-56 (6th Cir. 2001) (en banc). In United Food, the Sixth Circuit struck down SORTA's advertising policy because its "prohibition against 'controversial' advertisements unquestionably allow[ed] for viewpoint discrimination." United Food, 163 F.3d at 361. SORTA's policy excluded ads that expressed a controversial view about a subject while accepting ads that expressed a non-controversial view about the same subject. Impermissible viewpoint discrimination occurs where it is "the treatment of a subject, not the subject itself, that is disfavored." Id. at 362.

AATA's policy suffers from the same constitutional infirmity. It prohibits ads that are "likely to hold up to scorn or ridicule a person or group of persons," thereby favoring speech that expresses positive sentiments about a person or group over speech that expresses negative views. Mr. Coleman's ad, "Boycott Israel, Boycott Apartheid," arguably subjects Israel to scorn or ridicule. But an ad paid for by Israel's tourist bureau encouraging people to visit the country or purchase its products expresses the opposite view and would be accepted under AATA's policy. A distinction of this kind, based on the message expressed by the speaker, violates the First Amendment.

AATA's Policy Is Unconstitutionally Vague.

AATA's policy is also void for vagueness. Restrictions on speech are impermissibly vague when they give public officials unbridled discretion to limit speech based on ambiguous and subjective reasons rather than clear and objective criteria. United Food, 163 F.3d at 359. The Sixth Circuit held that SORTA's policy, by requiring that ads be "aesthetically pleasing," was unconstitutionally vague on its face. Id. at 360.

AATA's similar policy, which requires that ads "be considered in good taste" and "uphold the aesthetic standards as determined by AATA," is also unconstitutionally vague. As the Sixth Circuit noted in United Food, "aesthetics is a vague term that invites subjective judgments." Id. Needless to say, "good taste" is also completely subjective. In Aubrey v. City of Cincinnati, 815 F. Supp. 2d 1100 (S.D. Ohio 1993), the court had "no hesitancy" in concluding that the Cincinnati Reds' ban on baseball park banners that are not in "good taste" was facially unconstitutional because it "leaves too much discretion in the decision maker without any standards for that decision maker to base his or her determination." Id. at 1104. By giving officials virtually unfettered discretion to reject ads based on poor taste and undefined aesthetic standards, AATA creates a "danger of arbitrary and discriminatory application that violates the basic principles of due process." United Food, 163 F.3d at 360.

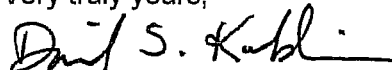
Relief Requested

Because AATA's advertising policy and practice is unconstitutional, we ask that you take the following steps:

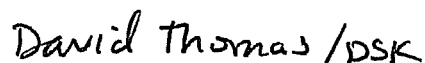
1. Accept Mr. Coleman's proposed advertisement on the same terms and conditions that you accept all other advertisements.
2. Reform AATA's advertising policy and practice to meet constitutional standards.

We are eager to discuss both these issues with you, as we sincerely hope that they can be resolved without the need for litigation. To that end, we ask that you respond to this letter by September 2, 2011.

Very truly yours,



Daniel S. Korobkin, Staff Attorney
Michael J. Steinberg, Legal Director
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David Thomas, President
Washtenaw Branch, American Civil
Liberties Union of Michigan

Cc: Blaine Coleman
AATA Board of Directors via email at board@theride.org

AATA RFP #05-02
Bus Advertising Services

permission or remuneration to the Contractor for either reduction in the saleable space or the reduction in time of bus availability when the vehicles are removed from service for repairs.

- B. AATA may make changes in its routes which may affect the level or scope of advertising.

2.8 OPERATING REQUIRMENTS

- A. Installation and ongoing maintenance of advertisements and other necessary activities of the Contractor shall not interfere with the routine functioning of AATA operations. Access to AATA vehicles will be provided only at times consistent with vehicle operating needs.
- B. No vehicle will be removed from service for the purpose of installing, removing, or maintaining the advertisements.
- C. Contractor personnel shall observe all AATA safety requirements. Contractor shall provide all required insurances as outlined in this document. The Contractor must comply with all Federal, State and local laws, including the procurement of appropriate permits and licenses, as necessary.

2.9 ALLOCATION OF ADVERTISING SPACE

- A. The Contractor will reserve 10% of all interior advertising space for AATA's use. Proposer may include the cost of printing and installing AATA advertising in this space as an option. The 10% reservation will be measured by space, not time.
- B. Media trade advertising will be permitted.
- C. Full wraps are not permitted.
- D. The Contractor shall not install any advertising which covers vehicle windows or in any way interferes with the operation and general maintenance of the bus.

2.10 AATA ADVERTISING POLICY

- A. The AATA, by permitting commercial advertising in or on its vehicles, shelters, informational material, buildings, and benches, does not thereby intend to create a public forum. Further, AATA requires that such advertising comply with specified standards to further the purposes of providing revenue for AATA, increasing ridership, and assuring that AATA riders will be afforded a safe and pleasant environment. AATA reserves

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Bus Advertising Services

the right to approve all advertising, exhibit material, announcements, or any other display and their manner of presentation. All advertising must be in considered in good taste and shall uphold the aesthetic standards as determined by AATA.

B. Advertising in or on AATA vehicles, in AATA shelters, building, benches or informational material which does any of the following shall be prohibited.

1. Contains false, misleading, or deceptive material.
2. Promotes an illegal activity.
3. Advocates violence or crime.
4. Infringes copyright, service mark, title or slogan.
5. Defames or is likely to hold up to scorn or ridicule a person or group of persons.
6. State or implies the endorsement of a product or service by AATA.
7. Supports or opposes the election of any person to office or supports or opposes any ballot proposition.
8. Contains material which is obscene, as defined by MCL 752.362, or sexually explicit, as defined by MCL 722.673, and as such statutes shall be amended or supplemented.
9. Promotes alcohol or tobacco products.

2.11 REVIEW OF ADVERTISING CONTENT

Before displaying any advertising, the Contractor shall first submit the material to AATA for review. AATA's review will be for content only, but shall reserve the right, in its sole discretion, to remove any advertisement it deems objectionable. Reasonable proof or clarification of statement contained in any advertisement may be required by AATA as a condition of use or continued use of advertising space.

2.12 ADVERTISING POSTING AND REMOVAL

The Contractor will be responsible for posting and removing all interior and exterior bus advertising in a timely fashion in accordance with the terms of each advertising sales contract. Any dated materials, internal and external, must be removed at the end of the contract period.

2.13 RATE REVIEW

Any proposed rate changes by the Contractor shall be submitted in writing to AATA sixty (60) days prior to implementation.

Exhibit FF

AATA Resolution
Nov. 17, 2011

RESPONSE TO AMERICAN CIVIL LIBERTIES UNION REQUEST

WHEREAS, the Ann Arbor Transportation Authority (AATA) received correspondence (copy attached) from the American Civil Liberties Union (ACLU) objecting to the rejection of a proposed advertisement; and

WHEREAS, AATA has an Advertising Policy to govern the placement of advertisements on its buses and is under contract for Bus Advertising Services with the Transit Advertising Group to administer the placement of ads in accordance with the Advertising Policy; and

WHEREAS, the advisory AATA Performance Monitoring External Relations Committee (PMER) has reviewed the ACLU complaint with legal counsel, has found that at least the following stipulations from the Advertising Policy support the rejection of the advertisement in its proposed form, and has recommended that the ad continue to be rejected:

2.10 AATA ADVERTISING POLICY

- A. The AATA, by permitting commercial advertising in or on its vehicles, shelters, informational material, buildings, and benches, does not thereby intend to create a public forum. Further, AATA requires that such advertising comply with specified standards to further the purposes of providing revenue for AATA, increasing ridership, and assuring that AATA riders will be afforded a safe and pleasant environment. AATA reserves the right to approve all advertising, exhibit material, announcements, or any other display and their manner of presentation. All advertising must be in considered good taste and shall uphold the aesthetic standards as determined by AATA.
- B. Advertising in or on AATA vehicles, in AATA shelters, building[s], benches or informational material which does any of the following shall be prohibited.
 - 5. Defames or is likely to hold up to scorn or ridicule a person or group of persons.

NOW THEREFORE, BE IT RESOLVED that the AATA Board of Directors concurs with the recommendation of the Performance Monitoring and External Relations Committee, affirms the vendor's decision to reject the advertisement in its current form, invites the ACLU and its client to discuss the advertising policy with AATA, and requests AATA counsel to communicate the decision to the ACLU by appropriate letter.

Jesse Bernstein, Chair

November 17, 2011

Charles Griffith, Secretary

November 17, 2011