

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

SIMON BRONNER, [REDACTED]
[REDACTED]

MICHAEL ROCKLAND, I [REDACTED]
[REDACTED]

CHARLES KUPFER, [REDACTED]
[REDACTED]

and MICHAEL BARTON, [REDACTED]
[REDACTED]

Plaintiffs,

v.

LISA DUGGAN, [REDACTED]
[REDACTED]

CURTIS MAREZ, [REDACTED]
[REDACTED]

NEFERTI TADIAR, [REDACTED]
[REDACTED]

SUNAINA MAIRA, [REDACTED]
[REDACTED]

CHANDAN REDDY, [REDACTED]
[REDACTED]

J. KEHAULANI KAUANUI, [REDACTED]
[REDACTED]

JASBIR PUAR, [REDACTED]
[REDACTED]

JOHN F. STEPHENS, [REDACTED]
[REDACTED]

Civil Action No. 2019 CA 001712 B

JURY TRIAL DEMANDED

COMPLAINT

STEVEN SALAITA, [REDACTED]
[REDACTED]

and THE AMERICAN STUDIES
ASSOCIATION, 1120 19th Street NW,
Suite 301, Washington, DC 20036,

Defendants.

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Plaintiffs Simon Bronner, Michael Rockland, Michael L. Barton, and Charles D. Kupfer (collectively, “Plaintiffs”), hereby bring claims for breach of fiduciary duty against Defendants Lisa Duggan, Curtis Marez, Neferti Tadiar, Sunaina Maira, Chandan Reddy, J. Kehaulani Kauanui, Jasbir Puar, Steven Salaita, and John Stephens (“the Individual Defendants”). Plaintiffs also bring claims for breach of contract and breach of the District of Columbia Nonprofit Corporation Act against the American Studies Association, and claims for *ultra vires* acts and waste against all Defendants.

RELATED CASE

A related case involving all of the same parties was filed in the United States District Court for the District of Columbia, Civil Action Number 1:16-cv-00740-RC, on April 20, 2016. On February 4, 2019, the Court decided that (1) Plaintiffs were unable to pursue damages for injury incurred by the American Studies Association, rather than by Plaintiffs personally, and (2) although “Plaintiffs may have meritorious claims arising from their individual injuries as ASA members,” those “claims do not raise an amount-in-controversy exceeding \$75,000” as required for subject matter jurisdiction over a diversity case in Federal Court. *Bronner v. Duggan*, 2019 U.S. Dist. LEXIS 17365, *2, 2019 WL 451347. Thus, the Court concluded, “Plaintiffs have raised allegations and presented evidence indicating that they may have meritorious claims, but they must assert those claims before the proper tribunal.” 2019 U.S. Dist. LEXIS 17365, *25.

Plaintiffs intend to appeal the District Court’s decision to the Court of Appeal for the District of Columbia Circuit and are willing to stipulate to a stay of this case in the District of Columbia Superior Court until that appeal is resolved.

Redactions. In November 2017, Plaintiffs sought leave to file the Second Amended Complaint (“SAC”). After the Motion for Leave to File the SAC was filed, Defendants retroactively

designated as confidential 95% of the documents they had produced, and they continued to designate as confidential nearly every document they produced since. Many quotations and references to documents that were quoted or referenced in the SAC, or another public filing, are not redacted from this complaint, as they have been in the public record for 16 months, and Defendants have never sought to have those filings withdrawn and refiled under seal.

This Complaint includes new allegations and claims in Section IV that were not included in the SAC. To the extent that these allegations and claims are partially sourced from Defendants' documents that are not yet in the public record, that information is redacted from this document.

Plaintiffs do not believe that the documents referenced in Section IV satisfy the standard for confidentiality set forth in the controlling Confidentiality Order, and intend to file a motion with the Federal Court challenging the designation of these documents, so that an unredacted version of this Complaint can be filed in the public docket.¹

New Claims. This Complaint brings all of the claims that were pending in the Federal Court immediately prior to the court's decision, and also brings new claims specific to Plaintiff Simon Bronner, who Defendants wrongfully removed as Editor of the Encyclopedia of American Studies, *ex officio* officer of the ASA, and member of the ASA National Council. The complaint further alleges that Defendants breached their fiduciary duties to Plaintiff Bronner, the ASA, and its members, by removing Plaintiff Bronner as editor when they had no editor to replace him, and essentially shutting down the Encyclopedia while misleading the members and the public to believe that a member of the National Council would replace Plaintiff Bronner as editor. Plaintiffs recently discovered that no additions or updates to the Encyclopedia have been made in over two years, all activity related to the

¹ Plaintiffs contacted Defendants to meet and confer over the classification of these documents. If the parties are unable to reach agreement, Plaintiffs intend to file a motion in the Federal Court seeking declassification of the documents referenced in Section IV.

Encyclopedia has stopped, and Defendants knew two years ago that they would not pay the editor's stipend to anyone for at least two years.

This complaint also includes new claims for aiding and abetting breach of fiduciary duty that were not brought in the prior complaint.

Punitive Damages. Plaintiffs allege that Defendants acted with malicious intent, including recklessness, wantonness, oppressiveness, and willful disregard for Plaintiffs, the American Studies Association, and its members. Indeed, the Federal Court has ruled that Defendants are not covered by § 29-406.31(d), which exculpates directors of nonprofit entities from liability for monetary damages, because the conduct alleged constitutes “intentional infliction of harm,” an exception to the exculpation provision. *Bronner v. Duggan*, 317 F. Supp. 3d 284, 291 (D.D.C. 2018) (“the Court concludes that Plaintiffs have sufficiently pleaded that the Individual Defendants' conduct rises to the level of intentional infliction of harm, and therefore that it is exempt from § 29-406.31(d)”). “Plaintiffs have plausibly alleged that the Individual Defendants acted with an intent to harm the ASA.” *Id.* at 293-94.

INTRODUCTION

1. This case, at its core, seeks redress for breaches of contractual and fiduciary duties by individuals who gained and abused positions of trust within the American Studies Association through deception and misrepresentation, purposefully aided and assisted by their fellow collaborators within the USACBI, a pro-Palestinian political activist group that seeks to delegitimize the State of Israel in the world community.² In furtherance of their scheme, the defendants

² USACBI is an acronym for the United States Association for the Academic and Cultural Boycott of Israel. USACBI is the United States arm of PACBI (the Palestinian Campaign for the Academic and Cultural Boycott of Israel).

orchestrated the misappropriation of the assets, both monetary and reputational, of the American Studies Association to further their agenda to promote an academic boycott of Israel – a political agenda that subverts the apolitical mission and scholarly purpose of the American Studies Association.

2. The Defendants acted intentionally, with full knowledge that their acts would damage the American Studies Association and its members. They simply did not care – and stated so in their correspondence. The Federal Court explained in its decision finding that the Defendants were not exculpated under D.C. Code § 29-406.31(d)

Plaintiffs have plausibly alleged that the Individual Defendants acted with an intent to harm the ASA.

Plaintiffs allege that the Individual Defendants “purposefully and intentionally withheld material information from [ASA] members, including the fact that the Individual Defendants expected that if the [Resolution] was adopted, [the ASA] would be widely attacked throughout the academic world and the press, and that this would harm [the ASA's] reputation, its members' relationships with their universities, and [the ASA's] size, strength, and finances.” SAC ¶ 113; *see also* Pls.' Br. at 2 (quoting an email in which an Individual Defendant stated, “I don't care if [the Resolution] ‘splits’ the organization”). More specifically, for instance, Plaintiffs allege that the Individual Defendants conspired to “pack” key ASA positions and the ASA's National Council with supporters of the Resolution, without disclosing that plan to the ASA's membership. *See* SAC ¶ 54-55, 60, 69. The Individual Defendants also allegedly used ASA resources to attract speakers supporting the Resolution, while consciously declining to provide opposing viewpoints and recognizing the appearance of a conflict of interest that could undermine the ASA's legitimacy with its members. *See* SAC ¶ 91-94. According to Plaintiffs, the Individual Defendants similarly refused to publicize letters and other correspondence opposing the Resolution, including correspondence warning that “the passage of the Resolution would be destructive to the [ASA].” *See* SAC ¶ 104, 109, 114-16. The Individual Defendants then allegedly subverted the ASA's voting procedures to push the Resolution through the ASA's membership approval process with far fewer votes than required by the ASA's bylaws. *See* SAC ¶ 123, 134-37. Finally, knowing that the Resolution would cause significant backlash against the ASA, Defendants allegedly misappropriated ASA

funds to hire attorneys and retain a “rapid response” media team to defend against that backlash. *See* SAC ¶¶ 170-71, 185-89.

Based on these allegations, Plaintiffs claim that Defendants violated their duties to the ASA and its members, violated the ASA's bylaws, and violated D.C. law in furtherance of a Resolution that they knew was likely to harm the organization. Defendants contend that the Complaint shows “that the Defendants acted in conformance with their overall philosophy, and thus believed that their actions were right and proper,” Defs.' Opp'n at 10, but that contention does not help if, as alleged, Defendants' “philosophy” was at odds with the ASA's organizational health. Plaintiffs' allegations align with the Model Act's Official Comment that intentional harm occurs when a director intentionally takes action, knowing that the action will harm the organization. Model Act § 2.02(c) cmt. at 2-12-13. . . . Defendants here not only allegedly subverted the ASA's voting procedures, but also allegedly improperly diverted its resources and misled its members in service of a harmful purpose. Accordingly, Plaintiffs have alleged that Defendants' conduct rises to the level of intent to harm the ASA, and therefore that Defendants are not shielded from damages by D.C. Code § 29-406.31(d).

317 F. Supp. 3d at 293-94. For all of these reasons, and also because of the newly revealed information relating to the removal of Plaintiff Bronner as editor of the Encyclopedia and as an officer and member of the National Council, and the circumstances of that removal, Plaintiffs seek punitive damages from the individual defendants.

3. For over 65 years, the American Studies Association has had a single, express, legal purpose – the promotion of the academic study of American culture. That purpose is enshrined in association's Constitution and Bylaws and mandated by its status under the D.C. Nonprofit Corporation Act of 2010, and required as a condition for income tax exemption under the Internal Revenue Code.

4. Despite this, USACBI leaders targeted the American Studies Association as a vehicle to advance an academic boycott of Israel (the “USACBI Boycott”). They did this by taking the steps described in greater detail below to induce the American Studies Association to adopt a resolution boycotting Israel, Israeli institutions and Israeli academics (“the Boycott” or “Academic Boycott”).

Recognizing that (1) previous attempts to convince the American Studies Association to adopt the USACBI Boycott had failed, (2) the overwhelming majority of academics opposed any form of academic boycott as a restriction on academic freedom and the free exchange of ideas, and (3) many considered the USACBI Boycott to be anti-Semitic, in part because it focused solely on Israel, the USACBI leaders schemed to secretly infiltrate and pack the American Studies Association National Council with USACBI leaders and supporters, ensuring that the American Studies Association would adopt the USACBI Boycott in disregard of the mission of the American Studies Association and the views of the majority of its members.

5. Acting in violation of the American Studies Association's governing documents and their own fiduciary duties, the Individual Defendants, acting on behalf of the USACBI, misappropriated the American Studies Association's funding, name, prestige, membership lists, and respected institutional voice to suborn the American Studies Association to advance USACBI's political interests. But while they promoted the American Studies Association's adoption of the boycott as the culmination of a grassroots movement of American Studies scholars, and celebrated the "normalization" of the pro-Palestinian movement by a large, respected academic association, the reality was quite different. The Boycott was the work of a handful of members of the USACBI Organizing Collective and Advisory Committee ("USACBI Leadership"), who were only able to achieve their goal by violating the American Studies Association's Constitution and Bylaws and the fiduciary duties they assumed when they succeeded in obtaining positions as officers of the American Studies Association, and so owed to members of the corporation they exploited.

6. First, defendants obtained control of the nominations process by which the American Studies Association chose its leaders. With that power in hand, defendants schemed to subvert the American Studies Association's National Council by limiting nominations to individuals affiliated

with USACBI and who would promote and support the American Studies Association's adoption of the Academic Boycott. This constituted a violation of the American Studies Association bylaws, which require that nominations for the American Studies Association National Council and President reflect the diversity of the membership. The scheme was advanced by Defendant Jasbir Puar, a USACBI Leader who sat on the American Studies Association's Nominating Committee. Puar also acted, ultimately successfully, to ensure that only signed supporters of USACBI were nominated for American Studies Association President. She imposed this restriction, however, only after concluding that, while a pledge of allegiance to the goals of USACBI was a prerequisite for her nomination to positions of American Studies Association leadership, this requirement should not be disclosed to the general American Studies Association membership who would be asked to vote on Puar's chosen candidates. By her actions, Puar violated her fiduciary duties of loyalty and candor to the American Studies Association and its members. Those USACBI leaders whose nominations were secured by Puar as part of this scheme also violated their duties of loyalty and candor to the American Studies Association membership by failing to disclose their illicit political intentions to the voting members of the association.

7. Second, beyond their conscious decision to conceal their boycott plot from the general membership, the Individual Defendants withheld additional material information from the American Studies Association membership prior to the association's vote on whether to adopt a resolution imposing the Boycott. This too violated the Individual Defendants' fiduciary duty of candor. Among other things, the Individual Defendants refused to post or circulate letters and other information opposing the boycott. They also withheld material information about the USACBI boycott itself, including critical aspects of the USACBI platform that the Academic Boycott was modeled upon – and which the Boycott would help advance once the American Studies Association membership

adopted it. For example, USACBI and PACBI both reject any two-state solution to the conflict, and demand the full “right of return” for people who claim to be the descendants of Arabs who left Israel during and prior to the onset of the Arab-Israeli War in 1947. This is a critical fact, as all sides generally agree that such a “right of return” would mean the end of Israel as a Jewish state – a position that many who might otherwise support an academic boycott of Israel would be unwilling to accept – including many members of the American Studies Association. The Individual Defendants consciously chose to avoid explaining that the USACBI Boycott that the American Studies Association members were voting on essentially called for more than the end of the occupation of the Palestinian territories, but the end of Israel itself as that country is currently constituted.

8. Third, as the date approached upon which the American Studies Association’s general membership would vote on whether to adopt the Academic Boycott, Defendants picked a specific day upon which to freeze the membership rolls on the basis of their explicit assessment that freezing the rolls on that day would maximize the likelihood that the Academic Boycott would be adopted. Defendants chose the day before the announcement that the membership would vote on whether to endorse the Boycott. A freeze of the membership rolls on any date was unprecedented at the American Studies Association, and in clear violation of the American Studies Association bylaws, which provide that a lapsed member is reinstated with all the benefits of membership immediately upon paying dues. It was also contrary to all prior practice, under which members were able to pay their dues as late as the day of an election and still vote in that election. Defendants’ emails amongst themselves explicitly state the reason for the freeze on membership: to maximize the number of votes in favor of the Boycott and minimize the number of votes against it.

9. Fourth, the determination of the vote itself also violated the American Studies Association bylaws or, alternatively, the D.C. Nonprofit Corporation Act. The former requires a two-

thirds vote, in person, at the Annual Meeting; the latter requires a quorum. The vote on the Boycott satisfied neither.

10. Fifth, the Individual Defendants breached their fiduciary duty of loyalty by manipulating the American Studies Association's corporate machinery to deprive the members of the American Studies Association of a full and fair vote. The Individual Defendants did so for exactly one, improper, personal purpose that is contrary to the American Studies Association's ordained purpose and mission. By so acting, the Individual Defendants caused irreparable damage to the American Studies Association, causing it to lose its good reputation and the good will that it had earned over more than six decades. As a direct result of these actions by the Individual Defendants, well-respected leaders in the field of American Studies resigned from the American Studies Association in protest. Also as a direct result of these actions, the American Studies Association's reputation suffered as university presidents, the American Association of University Professors, government officials, legislatures, previous American Studies Association Presidents and award-winners, and numerous others publicly condemned the boycott. Along with the decline in reputation came an increase in expenses incurred and a decrease in the general fund of the American Studies Association.

11. Sixth, the Individual Defendants, by foisting an anti-Israel boycott on the American Studies Association and its members, caused the American Studies Association to divert a substantial portion of its resources and activities to promote legislative change, contrary to the American Studies Association's own foundational documents. The purpose of the USACBI Boycott is to force Israel to adopt changes that can only be made through legislation; moreover, as a result of its adoption of the Academic Boycott and its commitment to the boycott of Israel, the American Studies Association has challenged numerous legislative acts that were proposed in United States state legislatures and the

U.S. Congress in response to the American Studies Association boycott. These actions by the American Studies Association are clear and specific violations of a prohibition on the promotion of legislation – a prohibition which is stated explicitly in the American Studies Association’s Statement of Election. These actions therefore constitute ultra vires actions. Moreover, spending a substantial portion of activities to promote legislative change also places the American Studies Association’s tax-exempt status in jeopardy. The Individual Defendants’ actions in favor of USACBI and its boycott of Israel, despite the risk to the American Studies Association’s tax-exempt status, constitutes an additional breach of fiduciary duty.

JURISDICTION AND VENUE

12. Jurisdiction of this Court exists in this lawsuit against Defendant American Studies Association, as the amount in controversy exceeds \$10,000.

13. Venue is properly in the District of Columbia, as Defendant American Studies Association is a non-profit organization incorporated under the laws of the District of Columbia and domiciled in the District of Columbia, and the Individual Defendants were acting as officers and directors of the American Studies Association. Moreover, the 2013 American Studies Association meeting was held in the District of Columbia, including the “Round Table” and the “Open Meeting” discussed below.

THE PARTIES

14. Plaintiff Simon Bronner was employed as Distinguished Professor of American Studies and Folklore at Pennsylvania State University until his retirement in 2017. Plaintiff Bronner is an honorary lifetime member of American Studies Association, and has full rights and privileges of American Studies Association membership. (American Studies Association Constitution (ASA

Const.) art. II, §1.) Until recently, he served as the editor of the association's *Encyclopedia of American Studies*, and as such, he was an *ex officio* member of the National Council. He is a citizen of the Commonwealth of Pennsylvania.

15. Plaintiff Michael Rockland is Professor of American Studies at Rutgers University, where he founded the Department of American Studies. Plaintiff Rockland is an honorary lifetime member of American Studies Association, and has full rights and privileges of American Studies Association membership. (ASA Const. art. II, § 1.) He is a citizen of the State of New Jersey.

16. Plaintiff Michael L. Barton is Professor Emeritus of American Studies at Pennsylvania State University. He first joined the American Studies Association as a graduate student in 1968, and was a member for approximately 44 years. Plaintiff Barton's membership to the American Studies Association lapsed for approximately one year beginning in 2012. When he attempted to pay his dues to reactivate his membership to vote on the boycott, the American Studies Association was willing to accept him again as a member, but refused to let him vote. He is a citizen of the Commonwealth of Pennsylvania.

17. Plaintiff Charles D. Kupfer is Associate Professor of American Studies at Pennsylvania State University. He first joined the American Studies Association as a graduate student. Plaintiff Kupfer allowed his American Studies Association membership to lapse in 2014, after the adoption of the Academic Boycott. He is a citizen of the Commonwealth of Pennsylvania.

18. Defendant American Studies Association is the nation's largest and oldest organization dedicated to the promotion of the study of American culture. Until recently, it was the central convening point for academics who study and teach about American culture. The American Studies Association was incorporated on May 4, 1951 as a private, nonprofit corporation organized under the laws of the District of Columbia, and chartered at the Library of Congress in 1951. (*See*

<https://www.theasa.net/about/history>.) It has been designated by the Internal Revenue Service (“IRS”) as a tax-exempt organization under §501(c)(3) of the Internal Revenue Code. The American Studies Association maintains its corporate office at 1120 19th Street, N.W., Suite 301, Washington, D.C. 20036. Defendant American Studies Association adopted a Constitution and Bylaws in effect as of December 2013, pertinent parts of which are attached as Exhibit A.

19. Defendant Curtis Marez is Professor at the University of California, San Diego, and served as American Studies Association President from July of 2013 through June of 2014 and the Executive Committee and National Council from July of 2012 through June of 2015. Defendant Marez is a citizen of the State of California.

20. Defendant Neferti Tadiar is a member of both the Organizing Collective and the Advisory Committee of USACBI. Using her roles on the programming committee for the American Studies Association 2013 Annual Meeting, and the American Studies Association Activism and Community Caucus (“Activism Caucus”), Defendant Tadiar was a leader of the movement for American Studies Association to adopt the USACBI Platform through the Academic Boycott. Defendant Tadiar is a citizen of the State of New York.

21. Defendant Sunaina Maira is a member of the Organizing Collective of USACBI, was a member of the American Studies Association’s National Council from July of 2013 through June of 2016, and co-chairman of the Activism Caucus, where she led the movement for the American Studies Association to adopt the USACBI Platform and Boycott. Defendant Maira is a citizen of the State of California.

22. Defendant Lisa Duggan served on the Executive Committee and National Council of the American Studies Association from July of 2013 through June of 2016, and served as American

Studies Association President in from July of 2014 through June of 2015. Defendant Duggan is a citizen of the State of New York.

23. Defendant Chandan Reddy served on the National Council of the American Studies Association from July of 2012 through June of 2015, and the Executive Committee from July 2013 through June of 2015. Defendant Reddy is a citizen of the State of Washington.

24. Defendant J. Kehaulani Kauanui is a member of the USACBI Advisory Committee, and was a member of the National Council from July of 2013 through June of 2016. Defendant Kauanui is a citizen of the state of Connecticut.

25. Defendant Jasbir Puar is a member of the USACBI Advisory Committee, and was a member of the American Studies Association Nominating Committee from July of 2010 through June of 2013. Defendant Puar is a citizen of the state of New York.

26. Defendant Steven Salaita is a member of the USACBI Organizing Collective and a current member of the American Studies Association National Council. His term began on July 1, 2015, and will end on June 30, 2018. He was a member of the National Council when the American Studies Association's bylaws were changed to allow large withdrawals from the American Studies Association's Trust and Development Fund, and when large withdrawals were taken to cover expenses related to the Academic Boycott. Defendant Salaita's residency has changed more than once in recent years. On information and belief, he is currently a resident of the District of Columbia.

27. Defendant John Stephens is the Executive Director of the American Studies Association. He has held this position since 1983. Defendant John Stephens is a resident of the state of North Carolina.

STATEMENT OF FACTS

I. BACKGROUND

A. The American Studies Association

28. The American Studies Association was founded in 1951 for the sole purpose of advancing the academic field of American Studies. This singular objective is set forth in the American Studies Association Constitution, as follows:

The object of the association shall be the promotion of the study of American culture through the encouragement of research, teaching, publication, the strengthening of relations among persons and institutions in this country and abroad devoted to such studies, and the broadening of knowledge among the general public about American culture in all its diversity and complexity.

American Studies Association Const. art. I, § 2 (as it read at the time of the events described herein, and at least until January 5, 2016). The American Studies Association served this mission for over sixty years, without straying from its sole purpose. Over that sixty-year period, and owing to the commitment and dedication of its members to their chosen field, the American Studies Association became the foremost academic organization for the study of American culture.

29. From the date of its creation until the events at issue in this case, the American Studies Association served as a hub for the exchange of ideas in the academic field of American Studies. Past Presidents of the American Studies Association have included preeminent scholars in American culture, including Carl Bode, author of over 30 books on American literature and poetry; Daniel J. Boorstin, a Librarian of the United States Congress; Daniel Aaron, a founder of the Library of America; and William H. Goetzmann, an historian of the American West and winner of the Pulitzer Prize.

30. In October of 1971, twenty years after its founding, the American Studies Association reaffirmed its commitment to this singular objective when it elected to be bound by the District of Columbia Nonprofit Corporation Act. The Statement of Election to Accept of the American Studies Association (“Statement of Election”) provides, “[t]he corporation is organized *exclusively for education and academic purposes*.” Statement of Election ¶ 3, § 4, emphasis added. The Statement of Election further prescribes that the “property, assets, profits and net income of this corporation are irrevocably dedicated to education purposes and no part of the net earnings of the corporation shall inure to the benefit of . . . its directors, officers, or other private persons, except . . . to pay reasonable compensation for services rendered . . . in furtherance of the purposes set forth in this paragraph THIRD.” Statement of Election ¶ 3, § 3.

31. Further, the Statement of Election specifically mandates that “No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.” Statement of Election, ¶ 3, § 4.

32. Statement of Election, ¶ 3, § 4, mirrors § 501(c)(3) of the Internal Revenue Code. The Internal Revenue Code limits tax-free status under § 501(c)(3) to entities “organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes . . . no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.” Failure to abide by this requirement places a non-profit’s tax-free status at great risk.

33. Decades of American Studies Association's unbroken practice complied with this mandate, and both the restrictions themselves and the Association's practice pursuant to those restrictions prevent the American Studies Association from dedicating its resources to other goals.

34. Many members of the American Studies Association, including but not limited to Plaintiffs, contributed funds – including annual dues, paid for decades by long-standing members – and effort to the American Studies Association solely on the condition and understanding that the American Studies Association would continue to abide by this mandate. These members were invested not only in the ongoing existence of their association, but also in the maintenance of the American Studies Association's reputation as an academic organization. As discussed in detail below, when the American Studies Association's reputation collapsed following the adoption of the Resolution, the individual members also bore the brunt of the backlash. The reputation of the primary academic organization in a field of study reflects on all of its members, and the even the field itself.

B. USACBI and PACBI's Academic Boycott of Israel

35. The US Campaign for the Academic and Cultural Boycott of Israel, or USACBI, is a United States-based campaign focused on a boycott of Israeli academic and cultural institutions. USACBI was formed in 2009 by pro-Palestinian activists in the boycott, divestment and sanctions movement (BDS), including Individual Defendants J. Kehaulani Kauanui and Sunaina Maira, and Defendant Maira's husband, Magid Shihade, a Palestinian and at the time, a professor at Birzeit University, to facilitate in the United States a widespread boycott of Israeli academic institutions.³ The academic boycott proscribes any academic engagement with Israeli universities, including intellectual discourse, collaboration on research, and even study abroad programs. USACBI also

³ Birzeit University is located near Ramallah in the West Bank. It was established in the 1970s, years after Israel took control of the territory where the University operates. *See* <http://www.birzeit.edu/en/about/history>.

promotes a cultural boycott, including an aggressive public campaign to drive American musicians and artists to cancel concerts and other performances in Israel.

36. USACBI describes its mission as follows:

Responding to the call of Palestinian civil society to join the Boycott, Divestment and Sanction movement against Israel, we are a U.S. campaign focused specifically on a boycott of Israeli academic and cultural institutions, as delineated by PACBI (Palestinian Campaign for the Academic and Cultural Boycott of Israel).

<http://www.usacbi.org/mission-statement/>.

37. PACBI was founded by Omar Barghouti, a founder of the BDS movement against Israel. Barghouti was born in Qatar, raised in Egypt, and has lived in Israel since 1993. He was working and studying at Tel Aviv University in 2009, while at the same advocating for a boycott of Israeli universities.

38. Barghouti does not believe in a two-state solution for the Middle East. Instead, he and the BDS movement call for a complete “right of return” to the land we now know as Israel for people who claim to be descendants of Arabs who left Israel at the beginning of the 1948 war. He believes that the end of the state of Israel as a Jewish state is the proper outcome.

In his book on BDS, the movement’s leader Omar Barghouti slams left-wing Israelis for rejecting only the occupation, rather than Israel’s very existence. He accuses prominent peace activists, such as Amos Oz,

A.B. Yehoshua and Uri Avnery, of being ‘racists’ because they refused to support an unlimited Palestinian Right of Return, and derides Avnery for wanting to preserve Israel’s ‘Jewish character.’

Philip Mendes and Nick Dyrenfurth, “What BDS Really Wants: A One-state Solution, Minus the Jewish State,” *Haaretz*, Apr 30, 2015 (<https://www.haaretz.com/opinion/.premium-1.654282>). In his own words, Barghouti argues that:

you cannot reconcile the right of return for refugees with a two-state solution. That is the big white elephant in the room and people are ignoring

it — a return for refugees would end Israel’s existence as a Jewish state. The right of return is a basic right that cannot be given away; it’s inalienable.

Ali Mustafa, “Boycotts Work: An Interview with Omar Barghouti,” *The Electronic Intifada*, May 31, 2009 (<https://electronicintifada.net/content/boycotts-work-interview-omar-barghouti/8263>).

39. PACBI and USACBI adopted their founder’s position on the right of return, calling for a boycott of Israeli academic institutions until the demand is satisfied. Thus, the USACBI platform states that the academic boycott it promotes should be continued until Israel complies with their demands by, *inter alia*, “[r]especting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties . . .” (<http://www.usacbi.org/about/>, restating the PACBI platform and declaring that the “principles guiding the PACBI campaign and the three goals outlined above are also points of unity for the US Campaign for the Academic and Cultural Boycott of Israel.”)

40. Of the many different views on the conflict in the Middle East, the view of Omar Barghouti, which rejects any two-state solution, and calls for the end of the State of Israel as a Jewish state, is perhaps the most extreme view, and is extremely controversial, even among Palestinian activists, and certainly within the United States. Thus, in seeking support for their boycott campaigns, USACBI does not emphasize that its platform demands boycott of Israeli universities and other institutions until Israel “promote[s] the rights of Palestinian refugees to return to their homes and properties.” As discussed in detail below, those named here as Individual Defendants carefully avoided explaining USACBI’s demand for the “right of return” in their campaign for the American Studies Association to adopt the USACBI Boycott, and have therefore failed to disclose the actual meaning and effect of the Academic Boycott which the American Studies Association’s membership voted on.

41. The very concept of an academic boycott, for any purpose, is also extremely controversial, and widely rejected by U.S. academics, including the American Association of University Professors, as explained by *Inside Higher Education*:

In the United States, opposition to academic boycotts is strong. A 2007 statement signed by nearly 300 university presidents sums up why: “In seeking to quarantine Israeli universities and scholars, this vote threatens every university committed to fostering scholarly and cultural exchanges that lead to enlightenment, empathy, and a much-needed international marketplace of ideas.”

The American Association of University Professors in 2006 issued a statement opposing academic boycotts, “in view of the Association’s long-standing commitment to the free exchange of ideas.” The AAUP particularly opposes boycotts such as the one being proposed here, in which institutions would be boycotted unless they “vocally oppose” Israeli policies. “We especially oppose selective academic boycotts that entail an ideological litmus test,” the AAUP statement says. “We understand that such selective boycotts may be intended to preserve academic exchange with those more open to the views of boycott proponents, but we cannot endorse the use of political or religious views as a test of eligibility for participation in the academic community.”

Cary Nelson, president of the AAUP and a professor of English at the University of Illinois at Urbana-Champaign, added that, practically speaking, “I think it’s inappropriate to expect institutions to take positions on a nation state’s policy. . . . How would an institution in the United States take a stand on national policy? Would the Faculty Senate vote, would the administration impose a policy, would the entire campus vote, would the students have an equal vote?”

Elizabeth Redden, “Israel Boycott Movement Comes to U.S.,” *Inside Higher Ed*, Jan. 26, 2009, <https://www.insidehighered.com/news/2009/01/26/boycott>.

C. USACBI Targets the American Studies Association

42. Individual defendants Sunaina Maira, Neferti Tadiar, J. Kehaulani Kauanui, and Jasbir Puar are all members of USACBI and serve on either the USACBI Advisory Board (Kauanui, Puar) or the Organizing Collective (Maira), or both (Tadiar).

43. USACBI planning and decision-making is directed by the Organizing Committee and the Advisory Board (collectively, “USACBI Leadership”). The USACBI Leadership primarily strategizes for the adoption of the academic boycotts of Israel by academic associations and institutions that have the resources and the name recognition to bring publicity and respect to USACBI’s sole cause – widespread boycotts of Israel and its institutions. In this way, USACBI seeks to advance its cause by exploiting the goodwill and other resources of other institutions – such as publicity, name-recognition, and respect that USACBI itself lacks, as well as the fiscal resources of such institutions.

44. USACBI does not fund its activities out of its own budget. Instead, USACBI seeks to capture other, ostensibly neutral organizations such as American Studies Association and to use their budgets, reputations and resources to advance the goals of USACBI. USACBI is not incorporated, and does not have § 501(c)(3) status with the IRS. A click on the “donate” button on USACBI’s webpage redirects to a page on the PayPal website with the heading, “Palestine Right to Return Coalition” and the error message, “This recipient is currently unable to receive any money.”⁴

45. In 2012, USACBI Leadership – including many of the defendants in this case – decided to focus on the adoption of the USACBI Boycott by the American Studies Association. Among other things, it was agreed that the group should pack the American Studies Association National Council with as many USACBI Leaders and Endorsers as possible. Defendant Puar, who was on the American Studies Association’s Nominating Committee, would nominate them, solely for the purpose of assuring that the American Studies Association would adopt the USACBI Resolution.

⁴ https://www.paypal.com/cgi-bin/webscr?cmd=_flow&SESSION=6nzLVWQqXNqfVtrm97_yea95_oaU-uhpedCKonzyeFPV5ye50BzylEBcaFO&dispatch=5885d80a13c0db1f8e263663d3face8d795bb2096d7a7643a72ab88842aa1f54&rapidsState=Donation___DonationFlow_StateDonationFatalError&rapidsStateSignature=c4fc0e2160d309fbaecac3de1b7d3136e36891f (last accessed August 20, 2017.)

(SM3736 at 2, email from Maira, “Jasbir is nominating me and Alex Lubin for the Council and she suggests populating it with as many supporters as possible”); (SM3730, email from Puar, “I think we should prepare for the longer-term struggle by populating elected positions with as [many] supporters as possible.”) Once on the National Council, the people so chosen would exploit the entities’ resources for the ultimate purpose of causing the American Studies Association to adopt a boycott of Israel in conformity with the USACBI guidelines (“a USACBI Boycott”).

46. An opinion piece written by Stephen Salaita – a current member of both the American Studies Association National Council and USACBI Leadership – confirms that USACBI was behind the American Studies Association Resolution (and that USACBI lacks its own resources):

I’ve worked with USACBI for around five years—closely during the process to pass the American Studies Association resolution . . .

USACBI doesn’t accept funding from governments, corporations, or political parties. When we need money, we get it the old-fashioned way: everybody chips. What we lack in material resources is exceeded by the efficiency of unfettered praxis.

. . . USACBI does not need the endorsement of university presidents or lawmaking bodies. Nor does it want their endorsement, which would constitute an abdication of what BDS works to accomplish, decolonization of the institutions those bodies exist to enrich and represent.⁵

⁵ Salaita, S., Anti-BDS activism and the appeal to authority, published March 1, 2014 (three months after the adoption of the American Studies Association Resolution), available at <http://auphr.org/>. The next year, the University of Illinois withdrew a job offer to Salaita, after Salaita tweeted a large number of comments that many considered anti-Semitic, including, “if Netanyahu appeared on TV with a necklace made from the teeth of Palestinian children, would anybody be surprised?” and “Zionists: transforming "antisemitism" from something horrible into something honorable since 1948.” Robert Mackey, “Professor’s Angry Tweets Lose Him a Job,” *The New York Times* (Sept. 12, 2014), <https://www.nytimes.com/2014/09/13/world/middleeast/professors-angry-tweets-on-gaza-cost-him-a-job.html>.

II. DEFENDANTS INFILTRATE AND EXPLOIT THE AMERICAN STUDIES ASSOCIATION.

A. Defendants Covertly Pack the American Studies Association National Council with USACBI Leaders and Supporters.

47. The American Studies Association Leadership is elected by American Studies Association members, who are afforded the opportunity to vote for one of two candidates for each position. All of the candidates put before the members as possible choices are selected by the American Studies Association Nominating Committee. Each year, the Nominating Committee selects two persons to run for President of the American Studies Association and two persons to run for each open seat on the National Council.⁶ The Nominating Committee also selects two persons for each of two open seats on Nominating Committee.

48. Pursuant to the American Studies Association Constitution, “Nominees shall be *representative of the diversity of the association’s membership.*” (American Studies Association Const., Article VI, sec. 2, *emphasis added.*)

49. Each seat on the American Studies Association National Council and Nominating Committee is allocated for a three-year term. The American Studies Association President also serves a three-year term on the National Council – one year as President-Elect, one year as President, and then one additional year.

50. The American Studies Association Executive Committee is composed of the President, the President-Elect, and the most recent former president. Three members of the National Council are

⁶ There is a provision for American Studies Association members to nominate a candidate who was not nominated by the Nominating Committee. However, this path requires a petition with 25 signatures, advanced at least four weeks before the nominating committee makes its own nominations. There is no option to nominate alternative candidates after learning who the two nominees selected by the Nominating Committee are. (American Studies Association Const., art. VI, § 4.)

also selected to serve on the Executive Committee each year, such that the Executive Committee has six members.

51. The President is responsible for ensuring that the “chartered obligations and purposes of the Association” are fulfilled. (Article IV, sec. 2.) The National Council is responsible for “conduct[ing] the business, set[ting] fiscal policy, and oversee[ing] the general interests of the association.” (Article V, sec. 2.)

52. Before June 2012, no members of USACBI Leadership were on the American Studies Association Executive Committee or National Council (collectively, “American Studies Association Leadership”), and no members of USACBI Leadership had ever been nominated for American Studies Association President. In fact, none of the 800 USACBI Endorsers had been nominated for American Studies Association President, and only a small handful had ever served on the National Council.⁷

53. Starting with the 2012 election, and continuing for four consecutive years, every candidate the Nominating Committee selected to run for American Studies Association President was a USACBI Endorser and a vocal and active member of the boycott movement. This was in sharp contrast to prior years, because not a single USACBI Endorser had been nominated for American Studies Association President before 2012, at least going back to June 2007.

54. Beginning in 2012, voting members of the American Studies Association had no option but to vote for a USACBI Endorser for American Studies Association President, although the voting members could not know that their votes were facilitating a USACBI Boycott, because the candidates consciously chose not to reveal their intentions to promote the boycott. For example, when he was nominated and ran for American Studies Association President in 2012, Defendant Marez, the

⁷ These allegations are based on data beginning with the 2007-08 fiscal year.

American Studies Association President who ushered in the Academic Boycott in 2013, failed to disclose his intention to sponsor the proposed boycott and to collaborate with USACBI. His candidate statement did not mention Israel, or any academic boycotts; instead, he premised his candidacy on addressing issues related to the cost of education, student debt, and a “crisis” in academic publishing, proposing that under his leadership, American Studies Association would focus on “making knowledge less privatized and more equally distributed.”

55. Similarly, Defendant Duggan, who ran for President in the spring of 2013, and as President-Elect ushered in the Academic Boycott with Defendant Marez, also did not mention Israel or any academic boycott in her candidate statement. Instead, her statement focused (ironically) on *increasing* collaboration among scholars, promoting new forms of “knowledge production and circulation,” the increasing cost of higher education, and changes in higher education employment, such as the replacement of tenure-track positions with contract teaching positions.

56. Notwithstanding the failure of both Marez and Duggan to even mention Israel or a boycott (and despite the fact that the American Studies Association is an organization whose purpose is to study American culture), both dedicated the great majority of their efforts as American Studies Association President (and President-Elect) to the adoption of the USACBI Boycott, and to responding to the backlash against the American Studies Association. In their work as ASA Presidents, they would never emphasize the issues of “privatization of knowledge,” the cost of higher education, student debt, or changes in academic employment.

57. In addition to nominating only BDS activists for American Studies Association President, the Nominating Committee packed the Executive Committee and National Council with candidates who were “a sure thing” with respect to adopting a USACBI Boycott.

58. The takeover of American Studies Association Leadership by USACBI activists was manipulated by Defendant Jasbir Puar, a member of the USACBI Advisory Board who also served on the American Studies Association Nominating Committee from June of 2010 through June of 2013. Puar is an assistant professor of Women's Studies at Rutgers University, where she specializes in queer theory. She has no background in Middle Eastern studies, has conducted no original research in international relations or the Middle East conflict, and does not speak Arabic or Hebrew. She is nevertheless infamous for anti-Semitic lectures condemning Israel, which she charges with maiming Palestinians, "pinkwashing," murdering innocent Palestinian children, and using the bodies of the dead and maimed Palestinians for scientific research, in the vein of Dr. Mengele and blood libels directed against Jews since at least the Middle Ages.

59. Mark Yudof, the former President of the University of California, wrote about one of Puar's talks at Vassar College in the Wall Street Journal:

Ms. Puar began by exhorting the students to support a boycott of Israel as part of "armed" resistance. As reported by several in attendance at the speech—the professor introducing her requested that it not be recorded—Ms. Puar passed on vicious lies that Israel had "mined for organs for scientific research" from dead Palestinians—updating the medieval blood libel against Jews—and accused Israelis of attempting to give Palestinians the "bare minimum for survival" as part of a medical "experiment."

When asked, she agreed with a questioner that Israeli treatment of Palestinians amounted to genocide but objected to the term itself, which she said was too "tethered to the Holocaust." . . .

Wild charges against Israel have often been aired on U.S. campuses over the past several years, and their moral perversity pointed out. But Ms. Puar's calumnies reached a new low. She spoke of Jews deliberately starving Palestinians, "stunting" and "maiming" a population. The false accusation that a people, some of whose members were experimented on at Auschwitz, are today experimenting on others is a disgrace.

Yudof, G. & Waltzer, K. "Majoring in Anti-Semitism at Vassar." *The Wall Street Journal* 17 Feb. 2016 (<https://www.wsj.com/articles/majoring-in-anti-semitism-at-vassar-1455751940>).

60. During her term on the American Studies Association Nominating Committee, Puar was dedicated to promoting the USACBI agenda by packing the American Studies Association Leadership with USACBI Leadership, endorsers, and other BDS advocates. Her plan to pack the American Studies Association National Council with USACBI Leadership is explicit in emails between her and other USACBI Leaders. (*See, e.g.*, mail from Maira, “Jasbir is nominating me and Alex Lubin for the Council and she suggests populating it with as many supporters as possible” (SM3736 at 2); email from Puar, “I think we should prepare for the longer term struggle by populating elected positions with as [many] supporters as possible” (SM3730); email from Alex Lubin, “In my conversations with Jasbir it’s clear that the intent of her nominations was to bring more people who do work in, and are politically committed to . . . the question of Palestine . . . we were nominated in order to build momentum for BDS even though the question of BDS in American Studies Association may or may not emerge while we’re on the council.” (SM4308.)

61. When Puar ran for her position on the Nominating Committee in 2010, she chose not to disclose her true agenda: to place as many members of the USACBI Leadership in the American Studies Association National Council as possible. Nor did Puar disclose that she would only nominate USACBI Endorsers for American Studies Association President. Like Marez and Duggan, Puar’s candidate statement did not mention Israel or any academic boycott. It did not mention that her primary consideration in nominating candidates would be their position on the USACBI Boycott, rather than their qualifications to lead the American Studies Association. Members of the American Studies Association who voted for her could not have known that the outcome of that election would be to stack the American Studies Association Leadership with USACBI Leaders and Endorsers, and ultimately, the American Studies Association’s adoption of the USACBI Boycott.

62. Prior to the election in March of 2013, and after Puar had completed two years of her three-year term on the Nominating Committee, six of the ten continuing voting members of the National Council were USACBI Endorsers. In her last year on the Nominating Committee, Puar plans to nominate as many USACBI Leaders as possible.

63. When the slate of candidates for the five open positions on the 2013 National Council is released by the Nominating Committee, it includes two members of USACBI Leadership, Defendants Kauanui and Maira, along with Alex Lubin, of the American University in Beirut, a very active participant of USACBI, and two other USACBI Endorsers. Both candidates for American Studies Association President were also USACBI Endorsers, such that seven of the twelve nominees (58%) were USACBI Leaders or Endorsers.

64. The candidates nominated for the 2013 election clearly did not reflect the diversity of the American Studies Association membership, which was not majority USACBI Endorsers. (Indeed, there were only approximately 800 USACBI Endorsers at the time, and approximately 4,000 American Studies Association members, and the great majority of USACBI Endorsers are not American Studies Association members.)

65. The selection of the 2013 candidates violated the American Studies Association Constitution, which mandates that “Nominees shall be *representative of the diversity of the association’s membership*.” (American Studies Association Const., Article VI, sec. 2, *emphasis added*.) The failure to nominate candidates that reflect the diversity of the association’s membership was thus an *ultra vires* act, in direct violation of the American Studies Association bylaws.

66. Defendants Maira and Kauanui failed to disclose their true reasons for running for the National Council in their candidate statements. Maira’s statement does not mention USACBI at all,

nor does it mention an Israel or any academic boycott.⁸ In the section describing her plans if she is elected, Maira states, “I would like to participate in national conversations about how to actively support the mission of the public university and the work of student and faculty activists challenging privatization and debt, as well as about the role and responsibilities of the U.S. university in relation to questions of incarceration, surveillance, war, occupation, and neoliberalism. I am also interested in mentorship of graduate students and junior faculty[.]”

67. Similarly, Defendant Kauanui’s campaign statement also does not mention Israel or any academic boycott, except to acknowledge that she is on the Advisory Committee of USACBI. She states that if elected, she would “work to build connections between the American Studies Association and NAISA [the Native American and Indigenous Studies Association]” and “would also place a high priority on being responsive to new intellectual currents and emerging fields of social and cultural inquiry, all while being attuned to the present contradictory moment of intellectual vitality and institutional crisis.”

68. No voting member of the American Studies Association could know, from reading their candidate statements, that the Maira and Kauanui only decided to run for National Council after the communication from Puar recommending that they pack the National Council with USACBI Leaders. Nor could they have known that Maira and Kauanui were part of a small group of USACBI Leaders who had already identified American Studies Association as a target for USACBI.

69. The vague references in Maira and Kauanui’s candidate statements were not only intentional, but carefully planned by the cabal of USACBI Leaders, who discussed, over email,

⁸ Maira’s statement does note, briefly, that she is the co-chair of the Academic and Community Activism Caucus, which “*organized* a resolution on the war in Iraq and *discussions of boycott and divestment* opposing the U.S.-backed occupation and violations of human rights and academic freedom in Palestine.” Emphasis added. On information and belief, Maira was not involved in the resolution on the war in Iraq, which was adopted before she became involved with the Caucus in late 2012.

exactly what they should and should not mention about their plans to adopt the USACBI Boycott if elected to the National Council. In one email exchange between Alex Lubin, Defendants Maira and Kauanui, and other USACBI Organizing Committee members, Lubin wrote:

I would welcome an expanded discussion of whether those of us nominated for the council should mention in our nomination statement our support for BDS I wonder if it is strategic to be self-identified

as a BDS candidate, or whether we should merely mention our support for human rights, academic freedom for everyone, and international law.

Defendant Maira responded:

I've been thinking this over and like Alex, I'm a bit unsure – personally, I feel it might be more strategic not to present ourselves as a pro-boycott slate. We need to get on the Council and I think our larger goal is support for the resolution, not to test support at this early stage from “outside” the NC.

David Lloyd then replied:

I would definitely suggest not specifying BDS, but emphasizing support for academic freedom, etc. . . .

Nikhil Singh, who was already on the National Council, disagreed:

[W]e all know that ‘academic freedom’ is not good enough.

My real question: what do we hope to gain from election of pro-BDS members to the American Studies Association national council if we have not made any of the stakes of their election clear to the membership? . . .

I think that not revealing something this important and intentional and then hoping later to use the American Studies Association national council as a vehicle to advance our cause will not work and may well backfire, because it will lack legitimacy.

(SM4308.) Ultimately, of the three nominees in the discussion, only Alex Lubin actually mentioned BDS in his candidate statement. He wrote: “As a council member I will support the American Studies Association’s domestic and international political commitments, including its support of unionized hotels, its resolution on the Iraq war, its statement on the occupy movement, *and a pending*

resolution on the academic and cultural boycott of Israel.” He lost the election. Neither Maira nor Kauanui mentioned the possibility of an American Studies Association resolution boycotting Israel. They both won. A nominee’s commitment to the boycott of Israel and its academic and cultural institutions was a fact that was, and was believed by ASA members to be, material.

70. The three National Council members selected to sit on the Executive Committee in 2013 were Karen Leong, Nikhil Pal Singh, and Defendant Chandan Reddy. Their nominations to the National Council (in 2011 for Singh, and in 2012 for Leong and Reddy) and then to the Executive Committee (in 2013) were indeed “a sure thing,” as they were already working with USACBI Leaders Puar, Kauanui, Maira, Schueller and Tadiar to pass a USACBI Academic Boycott at the Association for Asian American Studies. Leong and Singh had presented the proposed resolution to the Association for Asian American Studies membership, and were listed by name on the document circulated at the conference asking Association for Asian American Studies members to vote. Reddy was listed on the same document, as one of the “Asian American and Pacific Islander Studies scholars who have endorsed/and or are involved in the US Campaign for the Academic and Cultural Boycott of Israel (USACBI),” along with Puar, Kauanui, Maira, and Tadiar. (Association for Asian American Studies, Annual Conference April 2013, “Resolution Proposed: Support Boycott of Israeli Academic Institutions.”)

71. Also on the National Council were President Marez and President Elect Duggan. By the end of her three-year term on the Nominating Committee, Puar (along with two other USACBI Endorsers on the Nominating Committee) had turned the American Studies Association National Council from a body primarily comprised of American Studies professors and scholars, and otherwise diverse members (in terms of gender, ethnicity, national origin, religion, LGBTQ identification, and

region, as well as personal interests and viewpoint), to one overwhelmingly comprised of individuals with a singular focus on adopting the USACBI Boycott.

72. By concealing their political agenda when standing for election, Defendants Puar, Kauanui, Maira, Marez, and Duggan failed to disclose a fact that they knew to be material to ASA members. Defendants Puar, Kauanui, Maira, Marez, and Duggan thereby breached their fiduciary duty of candor owed to American Studies Association members. Furthermore, by manipulating the nominating process, and by covertly packing the American Studies Association Leadership with USACBI Leaders and Endorsers, the Individual Defendants breached their duty of loyalty and caused American Studies Association to engage in an *ultra vires* action by violating the American Studies Association Constitution, which requires that the nominees presented by the nominating committee “shall be representative of the diversity of the association’s membership” (Article VI, sec. 2).

73. It is the responsibility of the American Studies Association President to ensure that the “chartered obligations and purposes of the Association” are fulfilled (Article IV, sec. 2), and it is the responsibility of the National Council to conduct the business and “oversee the general interests of the association.” The President, Executive Council, and National Council breached their fiduciary duties of candor and loyalty by obscuring their illicit political agenda when seeking elective office at the American Studies Association, and thereafter by subordinating the Association’s obligations and purposes to their own personal political interests.

74. The stacking of the American Studies Association Leadership was intentional, and the National Council was aware of it. A confidential memo to the National Council from Karen Leong describes a meeting in 2012 where participants discussed the fact that they were “working to elect council members who support BDS.” (ASA 328.)

75. By failing to ensure that the National Council fairly represented the diversity of the membership – in interests and point of view, as well as other characteristics – and by failing to fully disclose their political agenda when seeking elective office, the Individual Defendants placed their personal interest in the success of USACBI through the adoption of the USACBI Boycott at the American Studies Association over the interests of the American Studies Association and its members. In doing so, they breached their fiduciary duties to the voting membership.

76. Packing the American Studies Association Leadership by failing to disclose to American Studies Association members material facts about its anti-Israel boycott agenda provided USACBI a vehicle to reach thousands of academics who would otherwise not be exposed to or interested in USACBI's cause. And, once in power at American Studies Association, the USACBI leaders were able to divert American Studies Association assets and to exploit the American Studies Association infrastructure (including access to the membership rolls, fundraising tools, the American Studies Association website and blogs, communications from the Executive Officers and National Council to the membership, an annual meeting to spread their message), to support a movement for a Academic Boycott in a large ostensibly neutral professional academic association.

77. Moreover, prior to the annual meeting at November 2013, when the National Council would consider the proposed resolution to adopt the Boycott ("the Resolution"), it was assumed that the National Council itself – a council heavily packed with USACBI leadership and supporters achieved illicitly by withholding material facts regarding the USACBI's anti-Israel agenda – could and would adopt the Resolution without a membership vote. The American Studies Association had never held a vote on a resolution before, and the USACBI Leadership that packed the National Council expected that the Resolution would be adopted regardless of the views of the majority of the American Studies Association membership. Thus, in the minds of the Individual Defendants at the

time, packing the National Council was all that was needed to ensure that the American Studies Association would adopt the USACBI Boycott.

B. Defendants Exploit American Studies Association Resources to Advance the USACBI Platform.

I. The Academic and Community Activism Caucus and the 2012 Annual Meeting

78. The Academic and Community Activism Caucus (“Activism Caucus”) is an American Studies Association-sponsored caucus of American Studies Association members intended “to provide a network and resource exchange for scholars within American Studies Association interested in issues of academic activism and social justice specific to American Studies.”

(www.theasa.net/caucus_activism/.) “Issues to be taken up by the caucus include forms of academic activism within and without the University’ work conditions and means of supporting full-time and part-time instructors in American Studies.”

79. At some point in late 2012, Defendants Sunaina Maira and Malini Johar Schueller, both members of the USACBI Organizing Collective, became co-leaders of the Activism Caucus. The two co-leaders dedicated the Activism Caucus entirely to the adoption of the USACBI Boycott by the American Studies Association.

80. At the same time, Maira and Schueller were both involved in a similar coordinated attempt to adopt the USACBI Boycott at the Association for Asian American Studies. In fact, Schueller is one of a small group of BDS activists who proposed the Association for Asian American Studies resolution, along with Karen Leong and Nikhil Pal Singh. The Association for Asian American Studies resolution proposal names Defendant Maira, along with Defendants Kauanui, Puar, Reddy, and Tadiar as Asian American and/or Pacific Islander Studies scholars involved in USACBI.

81. The movements for an academic boycott of Israel at the Association for Asian American Studies and American Studies Association were conceived, planned, and executed by USACBI Leadership. (After the American Studies Association's adoption of the Academic Boycott at issue in this case, similar attempts to bring the USACBI Boycott to the American Anthropology Association and the Modern Language Association were also conducted by USACBI, but they would fail.)

82. Despite an urgent need for American Studies Association involvement in employment-related issues, including the closing of American Studies departments, the overuse of adjunct, part-time, and temporary instructors at the sacrifice of tenure-track positions with benefits, decreasing financial support for American Studies at universities across the country, as well as other issues related to the profession, including diversity in employment, curriculum, new research areas, and published works, the Activism Caucus run by USACBI Leaders Maira and Schueller, did not address these issues at all. Instead, for the relevant time period, defendants subverted the mission of American Studies Association to advance their political objective of adopting the USACBI Boycott.

83. The Activism Caucus has its own webpage on the American Studies Association website – a platform to reach the American Studies Association's 3,500 members. From the beginning of the webpage's use in late 2012, this valuable vehicle for communication with American Studies Association members was used for only one purpose: to promote the adoption of the Academic Boycott. The webpage failed to reflect or discuss numerous topics related to American Studies that were of particular concern to American Studies scholars, regardless of the interests and concerns of dues-paying American Studies Association members.

84. The Activism Caucus's efforts to adopt the USACBI Boycott began at the 2012 Annual Meeting in Puerto Rico. At that meeting, Bill Mullen – a member of both the Advisory Board

and the Organizing Collective of USACBI – manned a table directly next to the registration table, at the entrance to the venue. Mullen asked American Studies Association members and guests entering the Annual Meeting to sign a petition endorsing the Resolution. His table, like the registration table next to it, bore the imprimatur of the American Studies Association, making it appear as if the document on offer for signature at this table were endorsed by the American Studies Association. No other petitions, sign-up sheets, or literature were displayed at the entrance, where entrants had to stop to register.

85. In spite of the prime and suggestive location, fewer than 150 attendees signed the petition, even though the great majority of attendees at the Puerto Rico conference stopped right next to Mullen’s table, at the registration table. The reason for the failure of the petition is clear: there was no grassroots support within the membership of the American Studies Association for the USACBI Boycott. There never had been.

86. At this time, the Individual Defendants were not concerned, and did not believe they actually needed to be concerned, with the views of real, grassroots membership of the American Studies Association. They believed they only needed to control the National Council to achieve their goal. Once such control was achieved, USACBI and the BDS movement would benefit from all of the free publicity disseminated by the American Studies Association National Council in the course of the next year.

87. At the 2012 National Council meeting, held during the Annual Meeting, the National Council addressed the topic of a resolution and the circulating petition. Defendant Marez, who was President-Elect at the time, announced that he planned to organize “a major plenary session, entitled 'Town Hall: The United States and Israel/Palestine' at the 2013 Annual Meeting. The current President of the American Studies Association, Matthew Frye Jacobson, noted that “various caucuses

have also drafted statements or resolutions . . . on Palestine and Puerto Rico to be at vetted at caucus meetings” during the 2012 Annual Meeting. President Jacobson advised that the Activism Caucus is not authorized to speak on behalf of the American Studies Association, but may issue a statement as an American Studies Association caucus. However, the President stated,

In terms of a statement, anything that the executive committee or council issues on behalf of the organization and the membership needs to conform to the by-laws that we have circulated a few times to councilors – that is the statement should be focused strongly around issues of our educational mission and questions of academic freedom.

(American Studies Association, Minutes for National Council Meeting, San Juan, Puerto Rico, November 15, 2012.)

88. The Activism Caucus would never present a statement that was “focused strongly around issues of our educational mission and questions of academic freedom.” *Id.* They knew that on July 1, 2013, Defendant Marez would take over as President, and the Executive Committee would consist of Defendants Marez, Duggan, and Reddy, along with Nikhil Pal Singh and Karen Leong. President Matthew Frye Jacobson would no longer be president, and would be serving his last year on the Executive Committee. He would also be the only member of the Executive Committee who was not a BDS activist, and the only member who was not a USACBI Endorser.

89. The Executive Committee again refused to adopt a resolution in support of the USACBI Boycott at its next meeting, in May of 2013. Defendants were informed that the National Council would discuss the matter at the 2013 Annual Meeting. By that time, the composition of the National Council would be packed with USACBI Leaders and Endorsers.

90. Defendants Kauanui and Maira were elected to the National Council (after nomination by the Nominating Council) in the spring of 2013. When they began their terms in June, the National Council would include 9 USACBI Endorsers, including two members of the USACBI Organizing

Committee and four members who had just led the effort to adopt the USACBI Boycott at the Association for Asian American Studies. The National Council would be led by President Marez and President-Elect Duggan, both of whom were advocating for and actively promoting the adoption of the USACBI Boycott.

2. The 2013 Annual Meeting, “Roundtable,” and “Open Meeting”

91. The 2013 American Studies Association Annual Meeting provided a forum for Defendants to misdirect expenditure of American Studies Association assets to publicize and promote USACBI’s political mission to thousands of academics, without USACBI incurring any expenses of its own. The National Council’s statement on the resolution described the effort, at least in part:

In March of 2013, the Program Committee for the 2013 American Studies Association convention met and discussed ways to create opportunities at the meeting to discuss issues related to calls for boycott. The resulting program included 8 sessions on Middle East American Studies, with four focused specifically on United States/Israel/Palestine. At the same time the Ethnic Studies Committee organized two panels about settler colonialism that discussed the asserted Israeli occupation of Palestine, while the Activism Caucus organized a panel called ‘Boycott as a Non-Violent Strategy of Collective Dissent.’”

(ASA 308.) The line-up included two featured, prime-time sessions on both Friday and Saturday: “Palestine in Crisis” and “Academic Freedom and the Right to Education: The Question of Palestine.” Well-known speakers in support of the Boycott were invited to speak at the sessions; meanwhile, no speakers were invited to present the alternative view. On information and belief, significant resources were expended to promote BDS and USACBI at the 2013 Conference; meanwhile, no resources were invested in presenting the opposing viewpoint.

92. To ensure adoption of the USACBI Boycott, Defendants sought to bring Palestinian advocates from the Middle East – and to cover their expenses from the American Studies Association till. Defendant Marez, who would be American Studies Association President during the 2013 Annual

Meeting, had no concerns about spending American Studies Association funds to fly speakers in from the Middle East to promote the USACBI Boycott. “We should provide them with a waiver of registration and travel stipend. Is it possible to use some of the complimentary rooms the American Studies Association gets to provide them with rooms as well? *I know we will probably get criticized for not offering an equal invitation to other scholars to provide a balanced viewpoint . . .*” (LD303.)

The Individual Defendants purposely selected as speakers Palestinians who lived in areas where Israel employs security procedures for travel, choosing such people instead of Arab Palestinian advocates who lived and worked in Israel or had moved to the United States, based only on this criterion – as opposed to their credentials to speak on the topics of the panels, or the question of academic freedom.

Karen Leong wrote back to Marez and the others:

one point of doing this was to make sure we invited scholars living and working in Palestine who would need permission from Israel to travel .

. . . I think only Lisa Taraki fits that bill. Ahmad Sa'di lives and works in Israel and has given a number of talks in the US it appears. And Munir Akash seems to now be a U.S. based scholar. Do we need to invite someone else who's currently working and living in Palestine, in addition to Lisa? Do we have the funds to invite more than one scholar based in Palestine? But if the goal now is primarily to have a panel with Palestinian perspectives on the occupation and BDS then I think this line up is great. Also, maybe Sa'di and Akash have spoken of their difficulties and denial from entering and exiting Palestine. Then we could cite that as a clear curtailment of Palestinian and U.S.-based scholars' academic freedom: a clear reason for the American Studies Association to propose a resolution (of some sort).

Lisa Taraki is an associate professor of sociology at Birzeit University in the West Bank, and a founder of both PACBI and USACBI. She is not a scholar in American Studies and is not a member of the American Studies Association. Defendant Reddy wrote:

I'm not sure about putting this all on email, . . . We did have a strategic purpose in inviting these scholars. . . . The strategy as discussed at Executive Committee was that any interference with the scholar's travel would give American Studies Association a reason to address academic freedom issues. So I guess whatever does occur may be a point of discussion at the special

meeting. It is true that the invitation for these scholars to speak could be seen as “stacking the deck” by the EC.

(LD 310.) In other words, the American Studies Association Executive Committee for FY 2013 – or at least these members of it – were planning to dip into American Studies Association funds to pay for Palestinians to come to the 2013 Annual Meeting, not for their research or scholarly contributions, not to speak about their work, but because they might be detained in travel and this “fact” could be used as an “example” to present to the National Council.

93. On information and belief, speakers and guests at the American Studies Association Annual Meetings do not have their travel expenses paid and do not receive a travel stipend. If American Studies Association did pay Lisa Taraki or any Palestinian to come to the 2013 Annual Meeting, with the goal that the person or person(s) would have some difficulty in travel and thus serve as a “case in point” for the Individual Defendants to exploit in debate, it would be the only time the American Studies Association ever did so.

94. Defendant Marez could not have been any more blunt about his intention to “stack the deck” at the 2013 Annual Meeting:

Ultimately, I don't think any scruples about appearing to stack the deck should stop us from inviting Palestinian scholars. The best way to address people feeling that there is too much attention to this matter is to recall this year's program was partly organized to provide information on the Israel-Palestine conflict, and to create places for the necessary discussion of the issue. . . .

Which is to say it would be hard to devote too much attention to the nexus of issues condensed by the topic of the US/Israel/Palestine.

I think it makes sense to invite Taraki to join the town hall. It might also make sense for her to join the "boycott" panel if there is room. But before contacting her I wanted to know about resources we can devote to bringing her to the convention. It's easy enough to waive membership and registration. John, in general I know the American Studies Association does not have funds it devotes to travel expenses for invited guests but in this case I'm hoping we can do something.

Would it be possible to devote funds from the conference budget or other pots of [money] to this?

(LD313.)

95. Regardless of these efforts, the broad, general membership of the American Studies Association still did not support the USACBI Boycott. Although the Activism Caucus had been pushing the petition for a full year, ever since Bill Mullen manned his table at the 2012 Annual Meeting, only 400 to 450 members had signed – about 10% of the membership of approximately 4000. (CM585, email dated December 3, 2013, “between 400 and 450 American Studies Association members signed either a hardcopy of the resolution, or the change.org petition.”)

96. At the 2013 Annual Meeting, Defendants claimed that 800 of the American Studies Association’s 4000 members had signed the petition. Even if this were true, it would only constitute about 20% of the membership, which would not be a very impressive share after a full year attempting to gather signatures. But, in fact, the number was only half that.

97. As far as we have seen in the documents produced in this litigation, Defendants never informed the membership that they had given them inaccurate information, and that support for the Resolution was only half what they had claimed.

98. For example, at the open meeting on November 23, 2013, David Lloyd, a member of the USACBI Organizing Collective, stood up to endorse the boycott and attempted to explain away the fact that only 800 members of the American Studies Association had signed. Meeting notes produced by American Studies Association summarize his statement to the room as follows:

[The proposed resolution] has circulated within the association since last year, and publicly. The petition for the resolution has 800 signatures. We are very aware of a large number of those afraid to sign in favor of the boycott because of the pattern of violence against those who speak out against Israel.

(ASA 0005.) In fact, however, there was neither violence nor threats of violence directed in response to any person's decision to sign the petition. Interested members had a whole year to sign the petition, and could do so online, in the privacy of their homes. David Lloyd did not (and could not) justify his reference to "the pattern of violence against those who speak out against Israel," but his comment reveals his awareness of the small number of signatures obtained after a full year circulating the petition, and the lengths that USACBI Leadership was willing to go to justify imposing the Boycott on an academic association that simply did not support it. And, again, his claim that 800 ASA members had signed the petition was false, potentially inflated by 200%.

99. During the planning for, and throughout the 2013 Annual Meeting, certain Individual Defendants continued to collaborate with USACBI Leadership and continued to keep secret their collaboration with USACBI. A subset of the Organizing Collective was involved in "organizing" the movement to adopt the USACBI Platform and Boycott at the American Studies Association, even though these people were not members of the American Studies Association, through communications with Defendants Kauanui, Maira, Mullen, and Tadiar, *inter alia*. The involvement of USACBI Leadership is revealed in numerous emails produced in this litigation between Defendants Maira, Kauanui, Mullen, and Schueller with a listserv for unidentified leaders of USACBI (uscom4acbi@lists.riseup.net) and these additional USACBI Leaders: Magid Shihade (Founding Member), Cynthia Franklin (Organizing Collective), Jordana Rosenberg (Advisory Committee), Stephen Salaita (Organizing Collective), and Sasha Gelzin (Organizing Collective), Lisa Taraki (Advisory Committee), David Lloyd (Organizing Collective), Lena Ibrahim (Organizing Collective). Other correspondence included Omar Barghouti – the "founder" of BDS and PACBI. (*See, e.g.*, SM 7955, Email from S. Maira to Omar Barghouti, "I just wanted to send a quick update and request, if you have time, related to the ASA academic boycott campaign. If you have a few minutes, would

you mind reviewing the attached FAQ's sheet quickly? Just in case you catch anything that is inaccurate that we may have missed,” and O. Barghouti’s response, “Great! We shall discuss this among PACBI colleagues and get back to you ASAP. A quick reading of the first part showed at least one factual sentence that needs editing to be as accurate as possible”; *see also* SM 8306, email exchange between S. Maira, S. Gelzin, D. Lloyd, J. Rosenberg, “We are making an FAQ sheet for the upcoming ASA conference, at which we will be trying to pass a Academic Boycott. I'm still waiting on final edits from Lisa Taraki and Omar Barghouti,” and “The text is still being edited by Omar Barghouti and PACBI but I could send you the draft.”)

100. In one of these emails, USACBI Organizing Committee member Jordana Rosenberg explicitly acknowledged that the American Studies Association “open meeting,” and indeed the entire movement within the American Studies Association for the boycott of Israel, were a USACBI Organizing Collective production:

[Defendant] Jasbir [Puar] has let me know she received a complainy email from Rachel Buff (prof at U-Wisc-Milwaukee) about a) Jasbir’s comments at the town hall and b) the way the procedure of the resolution has come about. . . . she has complained to Jasbir among other things about the non-transparency of procedure . . . and also Jasbir’s remarks about Jews. As Jasbir is not actually a member of the organizing collective (and perhaps not a member of the activism caucus) I do not believe she should have to field this rant, so I’m happy to do so.

(NT 673.) Rosenberg then continued: “by the way – by remarks about Jews, I’m of course joking but this person is upset about Jasbir having joked in an off the cuff manner during the Town Hall and she seems to be worked up about it.” (NT673.) As this exchange makes clear, the USACBI played the central role in advancing the American Studies Association Boycott: these emails reveal USACBI’s Organizing Collective directing how American Studies Association officials should handle concerns raised by American Studies Association members in an American Studies Association meeting.

101. These emails, *inter alia*, also show that Individual Defendants sacrificed their loyalty to the American Studies Association – of which they were officers, and to which these Individual Defendants bore fiduciary duties – to the interests of the USACBI. The fiduciary duties of the Individual Defendants to the membership of the American Studies Association required that the Individual Defendants put the interests of the American Studies Association and its members first when engaged in American Studies Association activities. Instead, the Individual Defendants breached their duty of loyalty by covertly using their official positions within American Studies Association to advance the agenda of the USACBI: forcing a Resolution that was detrimental to the American Studies Association. In addition, as discussed below, the Individual Defendants refused to present opposing viewpoints of American Studies Association members and factors that would weigh against the Resolution in the minds of many. They therefore also breached their fiduciary duty of candor.

C. Silencing Dissent and Withholding Information Pertinent to the Vote from Membership

102. The American Studies Association National Council was to consider the Resolution on November 25, 2013. Although nine out of fifteen members of the National Council were USACBI Endorsers, and despite the experience of National Council members Leong, Reddy, Maira, and Kauanui at the Association for Asian American Studies, and the efforts and support of American Studies Association President Marez and President-Elect Duggan, apparently not everyone on National Council was in agreement.

103. Although the plan had been for the National Council to adopt the Resolution at the November 25, 2013 meeting, the National Council was unable to agree to adopt the Academic Boycott without putting the issue to a vote of the membership. Apparently a compromise was

reached, where the National Council announced that the council members endorsed the Resolution, but that the membership would vote to endorse it as well.

104. Defendants Maira and Kauanui were not at all pleased that the members of the American Studies Association would be able vote on the Academic Boycott, as Defendant Kauanui wrote to Omar Barghouti as she updated him on the outcome:

Unanimous vote by the council to endorse the resolution (revised) but to also put a members vote asking them to endorse. That last part was very difficult for me and Sunaina to stomach- but it was the only way.

(SM 9606, *see also* SM 9649, “Suffice it to say that it was not easy”.)

105. From this point on, the Individual Defendants used their positions of power and authority as ASA officers to ensure that the voices of dissent were silenced and that information pertinent to the members’ decision on the vote (including information regarding the effect of a boycott on the American Studies Association) was withheld unless it favored the resolution. Meanwhile, USACBI Leaders formed a google group with name “ASA-boycott-coordination.” The group of USACBI Leaders would focus on winning the Academic Boycott vote. The group was not based out of the American Studies Association or formed for the association’s members. It was a USACBI team, entirely comprised of members of the USACBI Organizing Committee (or Founding Members, the case of Omar Barghouti), where Defendants Maira and Kauanui – members of the American Studies Association National Council, with the associated fiduciary responsibilities, worked with USACBI Leaders, outside of the American Studies Association, to influence the American Studies Association vote. (*See* SM 12446, listing the members of the ASA-boycott-coordination google group, and emails between the members.)

106. The group would plan, together, the most effective ways to influence American Studies Association members. (*See, e.g.*, SM9960, “I think all those articles USACBI is keeping track

of should be posted on the ASA FB page, no?"; "morgan cooper swung into action . . . and has contacted the various groups, lists, individuals she contacted working w/Sunaina for the AAAS [Association of Asian American Scholars] resolution, asking them to write individually and collectively to support the [American Studies Association] resolution.”)

1. Removal of Plaintiff Bronner from the 2013 National Council Meeting

107. As editor of the Encyclopedia of American Studies, Plaintiff Bronner was an *ex officio* member of the National Council. (American Studies Association Const. Art. IV, sec. 1(g).) Plaintiff Bronner attended the November 25, 2013 National Council meeting, just as he had attended the Executive Committee meeting in April 2013, the National Council meeting in November 2012, and each of the annual Executive Committee and National Council meetings during his tenure as he held the position of Editor of the Encyclopedia of American Studies.

108. President Marez and the other Defendants knew Plaintiff Bronner’s position on the Resolution on November 25, because, *inter alia*, Plaintiff Bronner had spoken against the resolution at the Saturday night meeting, just two nights before. The Individual Defendants also frequently discussed over email the fact that Bronner opposed the Resolution, and that he was communicating his views to other members. Marez and the other Defendants at the National Council meeting knew that Plaintiff Bronner, a former winner of the American Studies Association’s Turpie award, a lifetime member of the American Studies Association, and an active and involved participant in the American Studies academy, was well-respected, and also that his views were representative of the views of a large segment and perhaps a majority of professors in American Studies departments in colleges and universities across the country.

109. Unwilling to allow any dissent at the National Council meeting from the pro- Boycott position, Defendant Marez, acting as President, Defendants arranged for Plaintiff Bronner – an officer

of the American Studies Association and member of the National Council, per the American Studies Association bylaws – to be unceremoniously kicked out of the National Council meeting. As American Studies Association Executive Director John Stephens testified in deposition, this move was unprecedented. The editor of the Encyclopedia of American Studies had never been removed from a meeting, except in the rare instance where the next editor of Encyclopedia was to be selected. (J. Stephens Dep. 101:18-104:22.)

110. Notably, Plaintiff Bronner was not asked to leave an earlier National Council meeting also involving a resolution, on an unrelated topic. But at that meeting, as Executive Director Stephens testified, “[Bronner] did not object to the resolution.” (J. Stephens Dep. 107:18.)

111. The removal of Plaintiff Bronner from the National Council meeting was an *ultra vires* act, contrary to the bylaws and the long-standing practice of the American Studies Association. It was also an act by the Individual Defendants against the interests of Plaintiff Bronner and other members of the American Studies Association, for the purpose of furthering their personal political interests and those of USACBI, and was thus a breach of their fiduciary duties to Plaintiffs.

2. Defendants hide dissenting viewpoints that would inform the membership’s decision on the vote.

112. Among the fiduciary duties owed by Defendants to the Plaintiffs is the duty of candor, also known as the duty of disclosure. The duty of candor requires fiduciaries to “‘disclose fully and fairly all material facts within its control that would have a significant effect upon a stockholder vote.’” *Caruso v. Metex Corp.*, CV 89-0571, 1992 U.S. Dist. LEXIS 14556, at *48 (E.D.N.Y. July 30, 1992) (quoting *Stroud v. Grace*, 606 A.2d 75, 84 (Del. 1992)).

113. The Individual Defendants purposefully and intentionally withheld material information from American Studies Association members, including the fact that the Individual

Defendants expected that if the Academic Boycott was adopted, the American Studies Association would be widely attacked throughout the academic world and the press, and that this would harm the American Studies Association's reputation, its members' relationships with their universities, and the American Studies Association's size, strength, and finances. The Individual Defendants also withheld information refuting factual claims about the USACBI/PACBI platform and academic freedom in the territories.

114. Among other things, Defendants refused to post any information questioning or condemning the Resolution on the American Studies Association's general website, including two letters opposing the boycott from academic leaders including former presidents of the ASA. As John Stephens explained in deposition:

A. [T]here was a debate about how this should be done, and at the end of debate there was a decision made by the council that the president would have the final authority as to what would go on or not go on the website.

Q. Okay. So were there any guidelines for the president to follow with respect to making those decisions?

A. From the board? No.

(Stephens Dep. 91:15-23.)

Q. Do you recall an incident where somebody wanted to have something posted on the website and the president said no?

A. Yes.

Q. What do you recall?

A. I recall that Hank Reichman at the American Association of University of professors wanted to post a letter of opposition to the resolution, and the president's response basically was that if the AAUP would allow him to post a letter of opposition on their site to his opposition, then he would consider it, but he denied the request to post.

(*Id.* at 92:2-14.)

A. There was statements from former presidents of the American Studies Association asking that their opposition to the resolution be prominently displayed as information for the membership at large.

Q. Who made the decision to refuse that request?

A. The president.

Q. Was there a vote with the council?

A. There was discussion on the council. Either the Council or between the president and the executive committee. I believe that the request came to the president and to me. I forwarded it to the council.

Q. And[?]

A. I don't know how the decision was finally arrived at except that the decision was made and the letter describing the rationale was offered by the president[.]

(Id. at 94:3-18.)

Q. Does that mean that you are unable to recall any example of documents that were in favor of the resolution that the president refused to have posted on the website?

A. The president's argument was that the documents posted on the website were those adopted by the council, and it was the president's vehicle for communicating with his membership.

Q. [T]he time period that we're discussing here, then, is it after the council had decided to put it to vote . . . but the membership had not yet voted?

A. Yes.

Q. And so this is the period when people are getting prepared to vote?

A. Right.

...

Q. And at that time, the president refused to put up certain documents that set forth the opinion of people opposed to the resolution?

A. Yes.

(Id. at 95:10-96:8.)

115. These letters in opposition are just two of the many letters opposing the Academic Boycott that the American Studies Association received from leaders in academia and American Studies. The Individual Defendants refused to share any of these letters with the members, simply and only because the letters expressed a view with which the Individual Defendants disagreed. Many other such letters were received by the American Studies Association, expressing a wide range of reasons why the American Studies Association should not adopt the Resolution, including from some who agreed with the goals of the Resolution, but felt that the procedure of adoption was flawed, opaque, and unfair; that the Resolution reflected an anti-Semitic intent in that it punished the academics of Israel while other countries were not targeted for boycotts, and that the Resolution severely infringed on academic freedom, and eliminated the potential for productive discourse among academics.

116. The Defendants received correspondence from still others who warned that the passage of the Resolution would be destructive to the American Studies Association. Amongst themselves, the Individual Defendants acknowledged that the association would be powerfully and widely attacked, and also that Resolution would be divisive, and cause conflict amongst the membership. This information was clearly material to American Studies Association members who were contemplating how to vote on the Resolution. In order to maximize votes for the Resolution and minimize those against, however, the Defendants withheld it.

3. Defendants form a subcommittee of USACBI Leaders and firmly pro-resolution advocates to draft the disclosure materials for the National Council, and withhold their knowledge of the expected backlash.

117. Once the National Council had decided that the full membership would vote on whether to “endorse” the Resolution, the Individual Defendants endeavored to ensure that the American Studies Association shared only pro-boycott propaganda with its members, to minimize

members' exposure to opposing viewpoints, and to withhold from the membership the risks the Resolution posed to the American Studies Association – risks that the Individual Defendants were well aware of, discussed among themselves, and were preparing to spend American Studies Association funds to counter.

118. A subcommittee of the National Council was formed to revise the text of the Resolution and the accompanying documents. The members of the subcommittee were Defendants Kauanui, Maira, and Reddy, later joined by Defendant Avery.

119. Of course, there were other members of the National Council who were not USACBI Leadership and/or had not just led the same movement for boycott at the Association for Asian American Studies who might have served on the subcommittee. On information and belief, there were members of the National Council who were ambivalent about, or even opposed to, the American Studies Association's adoption of the USACBI Boycott, and others concerned about the process by which the Resolution was to be decided upon, because the process appeared to them one-sided. Certainly, there were members of the National Council who were less interested in the outcome of the vote than Defendants Avery, Kauanui, Maira, and Reddy. They were not represented on the subcommittee that drafted the materials that would go to the membership, the academic community (including university presidents), and the press.

120. The subcommittee drafted a statement from the National Council to accompany the Resolution and documents for distribution to the members, including Frequently Asked Questions or FAQ's and Guidance. It also drafted talking points for discussions with the media, and separate talking points for discussions with the members who were preparing to vote. All of these documents were entirely one-sided in support of the Resolution. Large portions of them were adopted from USACBI documents, and included links to USACBI materials. (See, e.g., CM 495.)

121. Defendant Maira continued to share these documents with other USACBI Leaders, as well as Omar Barghouti, to ensure that the final documents complied with the USACBI/PACBI Platform. She and others on the subcommittee would reject potential changes that the National Council proposed unless they were in conformance with the USACBI Platform. Maira even distributed at least one document to PACBI and Barghouti to ask for their comments and edits. (*See, e.g.,* SM 9426, Email from S. Maira (Dec. 2, 2013), with the subject line, “*IMPORTANT ! suggestions from PACBI on specific guidelines,*” “Dear Lisa, Curtis, and all: I'm sharing feedback I also just received from Omar Barghouti himself. In fact, he made the effort to even suggest a way we can add a few words to make sure that the line for boycott is more clear for both these Q's in the guidelines and the FAQs.”) With respect to another issue, she reprimanded the National Council regarding whether a university could be “unboycotted,” saying that this should be up to USACBI, not American Studies Association. In an email to the entire National Council, with the subject line “*CONFIDENTIAL: What does it mean to ‘unboycott,’*” Defendant Maira wrote:

I'd already raised the concern that it is not simply up to us in ASA to adjudicate when an Israeli university would or would not be boycottable. I'd explained that would be determined by PACBI, along the lines of the guidelines based on the 3 principles of BDS, which an Israeli university would need to publicly uphold and affirm (highly unlikely as I note[.])

(CM 451.)

122. In anticipation of an attack on the ASA as a result of their wrongdoing, the Individual Defendants planned a “Rapid Response Team” to address it. The Individual Defendants planned to pay for related expenses, including the costs of public relations professionals, out of American Studies Association funds.⁹ (*See, e.g.,* CR 66; LD 5754, “We may have to use some of our trust fund

⁹ According to Defendants, expenses related to the Resolution were paid from a budget dedicated to such matters, funded by contributions earmarked for this purpose. According to our review of the documents,

principal this year to put out these fires. The sooner we explore the logistics the better.”) The documents prepared for distribution to the membership did not reflect the concerns over the need to repel an attack on the ASA, or what such an attack, and ASA-funded efforts to repel it, might mean for both the reputation and the finances of the American Studies Association.

D. Defendants Freeze the Membership Rolls to Prevent Those Opposed to the Resolution from Voting -- Thereby Banning Plaintiff Barton From Voting.

123. Knowing that the general membership of the American Studies Association did not support the Resolution, and that the National Council did not accurately reflect the membership’s interests, priorities, and viewpoints, and the diversity of the membership generally, the Defendants decided to freeze the membership rolls at a strategic moment so that some members who were thought unlikely to support the Resolution could be prevented from voting. This decision was made on November 25, 2013, and the membership rolls were immediately frozen, over a week before the American Studies Association announced that a vote would take place.

124. Pursuant to the American Studies Association Constitution, a “member whose dues are six months in arrears shall be dropped from the rolls. Members who are so dropped *may be reinstated at any time* by the payment in advance of one year’s dues.” (American Studies Association Const. Art. II, sec. 2, *emphasis added*.)

125. Consistent with Article II, section 2, in all previous elections, members could pay dues as late as the last day of an election and still vote in the election. Executive Director John Stephens

however, that budget would not exist until spring 2014. Plaintiffs do not have information as to the specific expenses incurred, but are aware that Resolution-related legal expenses (dating perhaps back to 2013) had been paid by credit card, and that significant funds were withdrawn from the American Studies Association Trust Fund to pay for Resolution-related expenses, including the credit card bill, in 2016.

See section II.G., pp. 57-60, *infra*. Requests for Production of documents reflecting expenses related to the resolution were served in May; however, as of now, Defendants have objected to this request and have not produced the full set of responsive documents.

testified that the election on the Resolution was the first and only time that members whose dues were six months behind were not allowed to vote even after they paid the late dues:

Q. [I]s there any record of a deadline for eligibility to vote prior to November 24, 25, 2013?

THE WITNESS: I didn't know, and no one knew, actually, there would be a vote until November 25. That is, the council had not decided to put it out for a vote until November 25. There had been no discussion at the previous meetings about putting it out for a vote. That discussion took place at the Sunday meeting.

Q. Is there any place in the bylaws that accounts for suspending the provision in the bylaws that says that membership is reactivated upon payment of dues in arrears?

THE WITNESS: Not that I'm aware of.

Q. Okay. Has this ever happened at any time that you recall?

A. No.

...

Q. And so the experience of members in the American Studies Association who, if they're procrastinators like me, who always do things at the very last minute, the experience of those people is that they can wait until a day before an election, pay their dues, and vote?

A. Yes.

...

Q. So up to the day that they were already banned from voting, they had no previous awareness that if they didn't pay their dues on time, this vote would happen and they would already be banned from taking part?

A. Well, no one would have known that because no one knew there was going to be a support vote until November 25.

Q. But on November 25 when that group got together and said, "We're going to do a support vote," they could have said, "So let's give folks five days to get their money in arrears to pay up their debt so that they can take part"?

A. Yes.

Q. But they didn't do that?

A. No.

...

Q. That heads up that you weren't going to be able to vote came after it was too late for people to pay their arrears and be able to vote?

A. They froze the membership roster on November 25.

Q. With no warning?

A. That was the board decided to freeze that --

Q. I hear you.

A. -- and they told me to instruct Johns Hopkins to hold all orders for membership until the vote was over.

(J. Stephens Dep. 150:3-23, 151:18-23, 154:14-155:4, 155:16-156:1.)

126. Defendants' decision to freeze the membership before announcing the vote meant that Plaintiff Barton and other American Studies professors and scholars, long invested in the reputation of American Studies as a field of study and the American Studies Association as an institution, and who had paid dues for many years, were blocked from voting on the resolution. That was exactly the intention of the Individual Defendants.

127. At the time of the vote, Plaintiff Barton was unclear on his membership status, but when he attempted to vote online, was unable to do so. He immediately renewed his membership, paying a year's worth of dues. Defendants accepted Barton's payment and renewed his membership.

128. Although Plaintiff Barton had paid his dues, Defendants' scheme to freeze the membership rolls prevented him from voting. American Studies Association Executive Director John Stephens told Plaintiff Barton that Barton would not be permitted to vote on the Academic Boycott because he did not renew his membership early enough. Stephens did not admit or otherwise disclose

that Defendants had intentionally manipulated the American Studies Association's rules in order to prevent Barton and other long-time American Studies Association members from voting against their Resolution.

129. No provision of the American Studies Association regulations governing membership restricts the right to vote on questions to be addressed by the membership to persons who became a member any specified period prior to the date on which such a vote is to be held.

130. In fact, the American Studies Association routinely sends emails just before elections to those whose memberships have expired, reminding them to pay dues so that they may vote in the upcoming election.

131. On information and belief, at least one person known by Plaintiffs was permitted to vote after paying dues in December 2013, just as Plaintiff Barton attempted to do.

132. Plaintiff Barton's position on the Academic Boycott was publicly known and was known in particular to John Stephens. On information and belief, Plaintiff Barton was prevented from voting solely because of his views – as were others in the same situation.

133. Although Barton and others would not be allowed to vote, the American Studies Association National Council still accepted their payments of dues, and did so without warning them that the payments would not reinstate their voting rights.

134. Emails produced in discovery reveal that Defendants intentionally froze membership before the announcement of the vote in order to minimize votes in opposing the Resolution. An email from John Stephens makes the point clearly: those who would pay their dues after the announcement of the vote would likely vote against the Resolution. (CM00000268.) The email reflects the fact that many former and potential members, some who even paid to attend the 2013 Annual Meeting, conference, were not paying to join or renew their memberships to the American Studies Association,

because of the Resolution. These people had no way of knowing at the time that there would be the opportunity for the membership to vote, and thus were withholding their potential dues payments because they simply chose not to be “members” of an organization that would adopt a USACBI Boycott, even if their research and academic work required them to attend the 2013 Annual Meeting. The first email from Stephens to Defendant J.K. Kauanui, states, in pertinent part:

On October 31, 2013, there were 3730 paid individual American Studies Association members. So 230 people joined/renewed in conjunction with their pre-registration to attend the annual meeting. There were additional people who joined at the 2013 American Studies Association. The 3,500 figure was for individuals on September 30, 2013. Our drop from 4600 in 2012 was partly related [to] non-renewals from San Juan program participants [and people] for whom the 2013 theme did not resonate.

The vast majority of these folks [who attended the 2013 Annual Meeting but did not renew or become members] attended in support [of] the projects of the 2013 annual meeting. They are simply not joining the American Studies Association to oppose BDS . . .

And JHU Press told me today that they’ve heard from some members who are holding off on their 2014 renewals until the issue is resolved.

I bet that 90% of the 400 or so who joined or renewed since October 1 are either for the resolution or neutral.

I noted that several people, like Sonya Michel, did register for the conference as non-members attended the open forum[, s]o I think the day we announce any vote is the cutoff date for voter registration (or December 31st)

For now the risk is to cut off supporters, not opponents.

Once a vote is announced, the risk shifts dramatically the other way
(I.e. people joining/renewing to oppose), IMHO

(CM 268, emphasis added.)

135. In a second email just minutes later, Stephens recommended cutting off membership on December 1 – the day before the planned announcement of the vote. As he explained, this would greatly limit the ability of even long-term members to pay their dues so as to be able to vote on a

matter important to them and of great importance to the future of the American Studies Association.

Stephens wrote:

So I think the cut off for “voter registration,” i.e., joining the American Studies Association and being included in the referendum, ought to be December 1, the day before Curtis this all goes to the media. I also think we should state that **ONLY** members registered before December 1, 2013 are eligible to vote. ***It’s once a referendum is announced that the opponents may move to renew in order to vote instead of withholding their renewals as a protest.*** And there’s no opening for people to join simply to vote against our council.

(CM 268, emphasis added.)

136. Not even the day before the announcement of the vote was soon enough to lock out the opposition, however. Defendant J.K. Kauanui immediately forwarded the email to the National Council, and the response from USACBI Leaders and Endorsers was swift and harsh. (CM 329, Email, “Re: CONFIDENTIAL: Proposed cutoff date for member endorsement ballot,” Nov. 26, 2013.) Maria Saldana wrote:

We agreed at the meeting that the cut off of registration would be the weekend of the conference. I said it three times and Curtis agreed that the membership as of the conference would be those allowed to vote. ***I assure you that even though we haven’t announced the vote people are registering in anticipation.*** Please let us not walk back on this!

Id., *emphasis added.* Defendant Sunaina Maira wrote, “YES” (*Id.*), and Marisol Lebron wrote:

I think it is very important to stick to this deadline and we have a clear rationale for doing so, namely people will be registering **AFTER** the conference when these debates took place.

Id. Never before had attendance at the last Annual Meeting or any debate been a requirement to renew membership to the American Studies Association, or to vote on any matter. There was no legitimate, “clear rationale,” only an illegitimate plan to lock potential opponents out of the vote, in clear contravention of the American Studies Association bylaws.

137. The decision to freeze the membership rolls on November 25 and ban members like Plaintiff Barton from voting was an *ultra vires* act, in violation of the American Studies Association Constitution, Article II, sec. 2, and the long-standing practice of the American Studies Association, and a breach of the contract between Plaintiff Barton and the association. It was also an act by the Defendants against the interest of Plaintiff Barton and other members of the American Studies Association, for the purpose of furthering their personal interests and the interests of the USACBI, and thus was a breach of Defendants' fiduciary duties to the Plaintiffs. Moreover, accepting the dues payment from Professor Barton, knowing that the reason for the payment would not be fulfilled, constitutes an additional breach of Defendants' fiduciary duties to Plaintiff Barton and those current and former members of the American Studies Association who did not benefit from the Resolution.

E. The Announced Results of the Vote Violate American Studies Association Bylaws and the District of Columbia Nonprofit Corporations Act.

138. Art. XI, § 3 of the American Studies Association By-Laws in effect at the time of the vote on the Academic Boycott states:

Should an issue arise which, in the opinion of the Executive Committee or Council, seems to require public action, speech or demonstration by the association at a particular annual meeting, the Council shall meet to formulate a response. The Council shall convene an emergency meeting of the membership on the first full day of the annual meeting, to recommend a course of action, and conduct a public discussion of the issue(s); and the vote of two-thirds of those in attendance may approve the recommended action.

Pursuant to this provision, the Resolution could pass only if it were approved by a vote of two-thirds of the members convened on the first full day of the Annual Meeting.

139. The vote that took place did not conform to § 3. The American Studies Association National Committee put the Resolution to a vote of the American Studies Association membership during a ten-day period in December 2013, not on the first day of the November meeting. Less than a

third of the membership voted – 1,252 members out of 3,853 that were eligible to vote. Only 827 members voted for the resolution – approximately 21% of the total membership. The American Studies Association asserts that the resolution passed with 827 votes in favor, out of 1,252 members who voted on the proposal. However, *even if the Resolution could pass with less than a third of the members voting, and only 21% of the members voting in favor, it did not pass under art. XI, § 3, because it was not supported by two-thirds of those voting.* Two-thirds of 1,252 is 835.

140. If art. XI, §3 of the bylaws was not applicable to the vote on the boycott, the default rule is found in Section 29-405.24 of the D.C. Nonprofit Corporation Act, which sets forth the requirements for a quorum for a vote of the members of groups like the American Studies Association. Section 29-405.24 provides:

Members entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those members exists with respect to that matter. Except as otherwise provided in the articles of incorporation or bylaws, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

141. Accordingly, in the event that art. XI, § 3 of the American Studies Association By-Laws did not govern the Academic Boycott, a quorum on the measure would have been “a majority of the votes entitled to be cast on the matter by the voting group.” Thus, in order for the Resolution to pass, more than 50% of the active members would have to vote in favor of the Resolution. Fifty percent of 3,853 is 1,927.

F. The Passage and Adoption of the Resolution Constitutes a Substantial Part of the American Studies Association’s Activities, Violating the Association’s Bylaws.

142. The American Studies Association’s Statement of Election specifically mandates that “No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene

in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.” Statement of Election, ¶ 3, § 4.

143. The American Studies Association claims tax-free status under 26 U.S.C. § 501(a), which exempts from taxation organizations described under 26 U.S.C. § 501(c)(3). Section 501(c)(3) states:

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, . . . *no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation*

26 U.S.C. § 501. Under IRS regulations, a “nonprofit organization that attempts to influence and advocate changes in the laws of a foreign country is an ‘action’ organization and therefore does not qualify for exemption from tax.” Rev. Rul. 73-440, 1973-2 C.B. 177.

144. “An organization will not be regarded as operated exclusively for one or more purposes specified in § 501(c)(3) if more than an insubstantial part of its activities is not in furtherance of one or more of those purposes.” *Mysteryboy, Inc. v. Commissioner*, 2010 Tax Ct. Memo LEXIS 14, 40-45. “An organization is also not operated exclusively for one or more purposes specified in § 501(c)(3) if it is an action organization Under § 1.501(c)(3)-1(c)(3)(ii), Income Tax Regs., an organization is an action organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise.” *Id.*

1. **Efforts to Influence Israeli Legislation Constitute a Substantial Part of American Studies Association Activities**

145. USACBI calls for a boycott of Israeli academic institutions until Israel complies with the USACBI demands. Those demands require dramatic change in Israeli law, and specifically, the adoption of numerous statutes and large-scale legislation by the Knesset. As stated in the USACBI

FAQ's and Mission Statement, available on the USACBI website, USACBI calls for boycott of Israeli academic organizations until Israel implements the following:

- Ending its occupation and colonization of all Arab lands and dismantling the Wall;
- Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
- Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN resolution 194.

<http://www.usacbi.org/wp-content/uploads/2015/10/FAQ-on-the-Academic-Boycott-of-Israeli-Institutions.pdf>; see also <http://www.usacbi.org/mission-statement/> (same and showing that the demands come directly from PACBI). The individual defendants specifically referenced these requirements as they sought to draft a resolution that would be consistent with the USABI and PACBI boycott goals.

146. It would not be feasible to describe the thousands of laws the State of Israel would have to adopt, strike, or amend in order to meet the three requirements of PACBI. To begin with, Israeli law requires that any international treaties or agreements are issued through legislation by the Knesset.¹⁰ Thus, the act of withdrawing from the West Bank or East Jerusalem could only be accomplished by a legislative act of the Knesset.

147. Indeed, all major transfers or cessions of Israeli authority in the West Bank and Gaza Strip since 1967 have required legislative acts of the Knesset. For example, Israel's unilateral withdrawal from the Gaza Strip required a massive piece of legislation (the Disengagement Plan

¹⁰ Specifically, Israeli constitutional law denies the force of law to international agreements of the Israeli government, even if ratified as treaties by the Knesset, unless the provisions thereof are enacted into statutory law by the Knesset. Moreover, Israel's Basic Law: Human Dignity and Liberty requires that infringements upon property rights to be authorized by primary legislation.

Implementation Law of 2005) to address questions of property ownership, compensation, taxation, and local government authority, *inter alia*. See H CJ 1661/05 **Gaza Coast Regional Council v. The Knesset**, PD 59(2) 481 (2006) (Israel Supreme Court) (holding that the state of Israel was constitutionally required to grant compensation to aggrieved property owners, a legislative act). Further legislation was required to enact various aspects of the Israel- PLO agreements (the “Oslo Accords”) into Israeli statutory law, such as the Implementation of the Interim Agreement Concerning the West Bank and Gaza Strip Law (Judicial Powers and Other Provisions) (Legislative Amendments), 1996.

148. The American Studies Association Boycott adopts the platform of USACBI and PACBI, a fact that was explicitly stated, without reservation, in certain emails between the individual defendants. Defendants who serve or served in both USACBI and American Studies Association Leadership relied on USACBI materials in drafting the Resolution and associated documents. Individual defendants even consulted with Omar Barghouti, the leader of BDS and a founding member of USACBI, while drafting the Resolution and explanatory documents. Indeed, when there was discussion about when an Israeli academic institution could or should be “unboycotted,” individual defendant Sunaina Maira, demonstrating her conflicting loyalties, instructed others working on the Resolution that such decisions should only be left up to USACBI/PACBI, and not American Studies Association. (CM 451, “*it is not simply up to us in ASA to adjudicate* when an Israeli university would or would not be boycottable. I’d explained *that would be determined by PACBI, along the lines of the guidelines based on the 3 principles of BDS.*”),

149. The Resolution therefore calls for constitutes an attempt to influence Israeli legislation, in violation of the American Studies Association Bylaws that prohibit “the carrying on of propaganda,

or otherwise attempting, to influence legislation,” and therefore is *ultra vires*. Statement of Election, ¶ 3, § 4.

150. Aside from the passage of the Resolution itself, the efforts of the Defendants directed at forcing Israel to change legislation were resource-intensive. They include campaigning for adoption of the Resolution, the 2013 Annual Meeting, which was dominated by the Resolution issue, and responding to organizational risks and widespread backlash in the larger academic community and the general public resulting from the Resolution.

151. These activities overwhelmingly occupied the time, energy, and resources of American Studies Association officers, Executive Committee, and National Council. Defendants even sought to hire an additional employee to assist. For many years, the American Studies Association had only one paid employee: Executive Director John Stephens. After the Resolution, the National Council set out to hire a second employee specifically because of the very large amount of extra work required to address the backlash from the Resolution.

152. In conclusion, for a multi-year period and very likely still today, change in Israeli legislation was a substantial purpose of the American Studies Association, in violation of the American Studies Association bylaws and placing the American Studies Association’s status as a § 501(c)(3) non-profit entity at risk.

2. Efforts to Influence United States Legislation Constitute a Substantial Part of American Studies Association’s Resolution-Related Activities

153. The American Studies Association’s adoption of and support for the Resolution also required Defendants to commit a substantial part of the organization’s efforts to influencing U.S. legislation.

154. Immediately after the American Studies Association announced the Resolution, U.S. federal and state legislators introduced bills in response. In January of 2014, the New York State Senate passed a bill prohibiting state universities from expending tax dollars on groups that boycott Israel. Also in January, legislation was introduced in Pennsylvania condemning “the American Studies Association’s academic boycott against Israel as an intolerable, anti-Semitic, base form of bigotry and hatred.” (CR59, quoting the bill.) Similar bills specifically targeting the American Studies Association Resolution were introduced in Illinois and Maryland state legislatures (LD6463).

155. At the federal level, H.R. 4009, a similar bill also intended to prohibit government funding from supporting the American Studies Association, was introduced specifically in response to the American Studies Association Resolution. (LD6089.)

156. The American Studies Association, acting through the Individual Defendants in their official capacities as officers or other leaders of the American Studies Association, engaged in a variety of efforts to block legislation directed at the association from multiple legislatures became all-consuming, easily constituting a substantial portion of the association’s efforts and resources. (*See, e.g.*, LD00006114, “the American Studies Association is logistically overwhelmed right now” as a result of its efforts to combat these proposed state laws)

157. As the cost of defending the American Studies Association against, *inter alia*, the legislative initiatives directed at the Resolution, became prohibitive, President Marez began a fundraising campaign by the name of “Stand with the American Studies Association.” The campaign began on March 28, 2014, and was scheduled to end six months later, with the goal of raising \$100,000 to fund the American Studies Association’s efforts to respond to the bills proposed in Congress and the state legislatures, *inter alia*.

158. The “Stand with the American Studies Association” campaign began with a mass email to the membership. The response was not positive – many members responded angrily. The campaign would only raise approximately \$50,000 – just half the goal – and would take up the majority of President Marez’s time as American Studies Association President. Responding to the legislation proposed in multiple states and at the federal level consumed a substantial portion of the American Studies Association’s resources.

159. The overwhelming expenditures of effort, time, and financial resources for the purpose of influencing legislation violated the Statement of Election, ¶ 3, § 4:

No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Violation of this provision constitutes an *ultra vires* act.

160. “The presence of a single substantial purpose that is not described in § 501(c)(3) precludes exemption from tax . . . regardless of the number of the importance of the purposes that are present and that are described in § 501(c)(3). *Mysteryboy v. Commissioner*, 2101 Tax Ct. Memo Lexis at 47-49. The actions of the Individual Defendants described here clearly contravene this rule and so put the American Studies Association’s tax-exempt status at material risk.

161. Because they placed at substantial risk the American Studies Association’s non-profit tax status, Defendants breached fiduciary duties of loyalty and care to Plaintiffs, whose individual rights as members of the non-profit entity “were affected by the alleged failure to follow the dictates of the constitution and by-laws and they thus had a ‘direct, personal interest’ in the cause of action, even if ‘the corporation’s rights are also implicated.’” *Daley v. Alpha Kappa Alpha Sorority, Inc.*, 26

A.3d 723, 729 (D.C. 2011), quoting *Franchise Tax Board of Cal. v. Alcan Aluminum, Ltd.*, 493 U.S. 331, 336 (1990); see also *Jackson v. George*, 146 A. 3d 405, 415 (D.C. App. 2016).

III. DEFENDANTS' ACTS DRAIN THE ASA'S FINANCIAL RESOURCES

A. Defendants Invade the American Studies Association Trust Fund to Cover the Expenses Arising from the Academic Boycott

162. The American Studies Association maintains a Trust and Development Fund (“Trust Fund”). According to documents provided by the Defendants, there had been no withdrawals from the Trust Fund at least as far back as June 30, 2008 – the earliest date that Defendants have provided documents that report transfers from the Trust Fund to the operating account. (ASA 930.)

163. In the fiscal year ending on June 30, 2016, Defendants began withdrawing large amounts from the Trust Fund to cover, at least in part, expenses related to the Academic Boycott and the decline in revenue – including grants and membership fees – following the adoption of the Academic Boycott.

164. Because the association’s bylaws did not allow for large withdrawals, or any withdrawals from the Trust Fund’s capital, Defendants changed the bylaws to permit these withdrawals, and did so without informing the members.

165. Although the American Studies Association’s bylaws require that the trustees of the fund “shall publicly issue an official accounting of the Funds receipts, investments, and expenditures,” there has been no such public issuance, and the rank and file members are not informed of withdrawals from the Trust Fund or the reasons for such withdrawals, including the large withdrawals discussed below. (Exh. A, Const. art. VIII, sec. 6.)

1. Defendants Begin to Withdraw Large Amounts from the Trust Fund.

166. In the fiscal year beginning July 1, 2015, and ending June 30, 2016 (“FY 2016”), *Defendants withdrew over \$112,000 from the Trust Fund.* (JS 1332_37.) This withdrawal is consistent with documents produced in discovery that reveal plans to invade the Trust Fund to pay expenses related to the Academic Boycott. (JS 1940.)

167. This was the first of at least three planned annual withdrawals, which would deplete the assets of the Trust Fund at a materially greater rate than the return on the fund’s investments.

168. Defendants have not yet produced internal documents reflecting the American Studies Association’s finances for the fiscal years ending on June 30, 2017 (“FY 2017”), or June 30, 2018 (“FY 2018”), and have not distributed to the members the official annual accounting of the Trust Fund, as required by the Association’s own Bylaws. However, the American Studies Association’s annual IRS Form 990s are public documents and available online. The Form 990 for FY 2017 reports sales of securities of \$268,085, and at a loss of \$19,319. (ASA Form 990 for the year ending 6/30/2017, p. 9, Part VIII, line 7.)

2. Defendants Change the ASA Bylaws to Allow for Large Withdrawal from the Trust Fund Without Giving Notice to Members.

169. Until March of 2016, the American Studies Association’s bylaws provided:

Bylaws, Article XII: Association Trust and Development Fund

Sec. 1. The Trust and Development Fund shall have as its main purpose to insure the long-term, financial stability of the association in accordance with Article VIII, Section VI, of the Constitution of the American Studies Association. The Fund may also from time to time *make small grants* in support of the projects, activities, or prizes of the association.

...

Sec. 3. The interest and dividend income of the Trust and Development Fund may be used during the fiscal year for the purposes of the association’s incorporation to the extent authorized by the Internal Revenue Service and

the District of Columbia. *No expenditure shall be made from the Fund's principal balance or capital gains.* All surpluses at the end of the fiscal year shall be assigned to the Fund's principal balance. . . .

(Exh. A, Bylaws, art. 12, *emphasis added.*) Withdrawals of the size described above clearly exceed the permission to “make small grants” and are clearly forbidden as “expenditure[s] . . . from the Fund’s principal balance or capital gains.”

170. Defendants thus amended the bylaws to allow for large withdrawals in support of the Academic Boycott and related matters, and to cover for loss of revenues also resulting from the Academic Boycott.

171. Article XII of the bylaws, effective March 2016, is restated below, with emphasis on the elimination of the word “small” from the term “make small grants” in §1, and the addition of the clause in § 4 providing for the withdrawal of 4% of assets of the trust fund each year, including the fund’s principal balance and capital gains:

ARTICLE XIII: Association Trust and Development Fund

Sec. 1. The Trust and Development Fund shall have as its main purpose to insure the long-term, financial stability of the association. The Fund may also from time to time *make grants* in support of the projects, activities, or prizes of the association.

. . . .

Sec. 4. The interest and dividend income of the Trust and Development Fund may be used during the fiscal year for the purposes of the association’s incorporation to the extent authorized by the Internal Revenue Service and the District of Columbia. *The Trustees may spend each year a maximum of 4% of the monthly average of Fund's assets from the preceding year.* All surpluses at the end of the fiscal year shall be assigned to the Fund's principal balance. . . .

(Exh. C.)

172. The withdrawals in FY 2016 and 2017 appear to exceed 4% of the monthly average of the Trust Funds assets from the previous years.

173. The Bylaws adopted in November 2016 also state that, “[a]t least once annually, the Board shall publicly issue an official accounting of the Fund's receipts, investments, and expenditures[.]” (Exh. C, art. XIII, § 2.)

174. These changes to the Bylaws were adopted by the National Council, who did not inform the full membership about the proposed changes to the limitations on withdrawals from the Trust Fund.

B. Financial Injury to American Studies Association and Plaintiffs’ Interests Resulting from Defendants’ Actions

175. According to internal emails, expenses arising from the Academic Boycott were charged, or avoided, and so such expenses increased until money was withdrawn from the Trust Fund:

Extraordinary expenses over the past several years, notably, legal fees and the new website, have been covered by grants from the Fund (in the total amount of \$294k for fy 2016 and 2017 combined), as well as by the monies raised through the Stand with the ASA campaign. . . .

This convergence of extraordinary expenses has, however, meant that cash flow has been restricted with the result that at the end of 2016, the association was carrying a substantial debt [including] *\$40k in unpaid legal expenses), which had been covered by charging against the ASA's American Express account . . . The \$40k charge remains outstanding*; it will be serviced in/near the start of FY2018.

(JS 1940.)

I. Decrease in revenue

176. The American Studies Association reports aggregate annual gifts, grants and contributions (“contributions”) each year, as required, on its IRS Form 990. American Studies Association’s average reported contributions for the ten-year period from and including FY 2003 through FY 2012 is \$50,394 with a median of \$41,576. This average is brought down by low giving

in FY 2008 (\$30,556) and 2009 (\$33,959), due to the Great Recession. Excluding the two years of the Great Recession, contributions averaged \$54,928, with a median of \$48,418 and a range of \$31,458 (FY 2012) to \$108,629 in (FY 2004).

177. FY 2012 began July 1, 2012, and includes the 2012 Annual Meeting, where David Lloyd (and other USACBI Leadership) set up the petition calling for the Resolution, includes the presentation of the Resolution to the Executive Committee, and includes public and internal criticism of the proposed Resolution.

178. Contributions in FY 2012 (\$31,458), FY 2014 (\$33,080), and FY 2015 (\$31,456) the last year we have records for – were all lower than every other year since FY 2003, with the sole exception of FY 2008. Indeed, contributions for FY 2012, FY 2014, and FY 2015 were even less than contributions for FY 2009. Quite simply, Academic Boycott offended a substantial number of long-term and potential new contributors. Others did not want to contribute an organization that would engage in an academic boycott of Israel; additional others would not to contribute to an organization that would engage in *any* academic boycott, and still others simply did not want their contributions to an academic organization to go to any purpose other than education and research. Donations to the American Studies Association general fund collapsed.

179. The American Studies Association reports contributions for FY 2013 of \$70,544 but does not note on the Form 990 that \$49,000 was specifically contributed by supporters of USACBI and PACBI, and that these funds were earmarked solely for responding to legal costs and other “support for the Resolution.” (Decl. of J. Stephens at ¶ 9.) These funds could not be used for any other purpose. Administrative costs, research, or grants of the type American Studies Association had generally covered through the general fund.

180. Subtracting these \$49,000 in restricted gifts from total FY 2013 contributions of \$70,544 leaves contributions of only \$21,544 for the American Studies Association general fund, far less than the usual amount contributed to the American Studies Association. Thus, although administrative costs increased after voting on the Resolution was completed, the unrestricted resources available to cover those costs declined significantly, due to the sharp decline in donations to the American Studies Association's general fund.

181. According to the American Studies Association's IRS Form 990s, membership fees also fell in response to the Academic Boycott. This is true despite the fact that USACBI Leadership and Endorsers and other supporters of the Resolution encouraged their students to join the American Studies Association so that they could attend the 2013 Annual Meeting and ultimately vote.

182. The American Studies Association reports membership fees each year, as required, on its IRS Form 990. American Studies Association's average reported membership fees for the ten-year period from and including FY 2003 through FY 2012 is \$266,948 with a median of \$ 276,411. These simple statistics include dips in membership fees during the Great Recession, when membership fees fell to \$271,397 in FY 2008 and \$246,024 in FY 2009.

183. In FY 2012, membership fees fell by \$41,431 (14%). As stated above, FY 2012 began July 1, 2012, and includes the 2012 Annual Meeting, where David Lloyd (and other USACBI Leadership) set up the petition calling for the Resolution, includes the presentation of the Resolution to the Executive Committee, and includes public and internal criticism of the proposed Resolution.

184. Membership dues for FY 2014 were also less than FY 2012, although more than FY 2013. As John Stephens explained in deposition, some portion of membership fees in FY 2013 were paid by advocates for USACBI and the Resolution, as a means of "supporting" the American Studies Association Resolution. These "members" would not continue their membership in following years.

185. As the numbers show, American Studies Association membership fees dropped after the resolution, and, per the 990 forms for FY 2014 and FY 2015, have not recovered. John Stephens confirmed this in deposition testimony:

[Q. I]s it consistent with the trends that you have noticed that the past two years of revenue, the year ending [June 30] 2015 and the year ending [June 30] 2016, are less than the 10 years prior?

A. Yes.

Q. [E]xcept for the fiscal year ending in June of 2014, is that trend also consistent with respect to contributions?

A. Yes.

(Stephens Dep., 178:16-24.)

2. Resolution-related expenses

186. Defendant American Studies Association claims that expenses incurred in support of the Resolution were paid out of a segregated fund, solely funded by contributions that were earmarked by the donors for this purpose. *See* Decl. of J. Stephens, ¶ 9 (“Following the Resolution, a number of organizations and individuals instituted various public relations-oriented attacks on the American Studies Association because of the Resolution. A large amount of contributions since the Resolution have been in support of American Studies Association’s Resolution. \$49,000 is the total amount of the contributions that have been specifically designated by donors for American Studies Association’s support for the Resolution.”) The Stephens Declaration further states that the American Studies Association retained a media strategist and a Public Relations consultant for \$20,000 (total), and that the only other areas of expenses “that were arguably related to the resolution were in regard to American Studies Association’s 2014 meeting,” specifically, \$9,900 in conference travel grants, and \$7,300 spent in support of the American Studies Association program, “Scholars Under Attack.”

(Stephens Decl. ¶¶ 11-13.) Thus, Stephens' statement that, "it is clear that there has been no financial loss on American Studies Association's part as a result of the Resolution. If anything, there has been a net gain of at least \$11,770" is unsupported by the documents produced by Defendants.

187. The American Studies Association has incurred substantial legal costs defending the Resolution that are not reflected in the Stephens Declaration. Defendant Stephens testified in deposition that he hired lawyers on behalf of the American Studies Association even before the Academic Boycott passed, because he was concerned about potential legal risk, and was aware that the Activism Caucus was engaging with Palestine Legal, an anti-Israel advocacy legal group. (Stephens Dep., 51:13-17.)

188. If Stephens was unsure that the advice the Activism Caucus was receiving from Palestine Legal was legally sound, he was wise to hire an independent law firm. Among other things, Palestine Legal misinformed the Activism Caucus that the American Studies Association could not be successfully sued for the Resolution, on the theory that the First Amendment protects boycotts. (CM 1116.) As this Court has held in this very case, an act that violates a law that only incidentally affects speech is not immune from legal challenge. The American Studies Association's actions in this case are not protected by the First Amendment with respect to challenges based on corporate, fiduciary or contract law. Indeed, the *ultra vires* claim presented in the First Amended Complaint survived the First Amendment challenge.

189. Although Defendants have continuously claimed that the American Studies Association did not incur costs related to the Academic Boycott in excess of contributions earmarked for the Academic Boycott, internal documents produced in discovery reveal that Defendants charged legal fees related to "numerous lawsuits" on an American Express card, and carried the balance on the card, potentially for years, until they began withdrawing from the Trust Fund in fiscal year 2015.

(See, e.g., Stephens Decl., ¶ 15, “The only monies/expenses paid out by ASA related to the Resolution were less than the total amount of contributions made to ASA specifically designated for ASA in support of the Resolution”; as discussed below, these contributions totaled \$49,000 and were exhausted by the end of 2014, well before the Trust Fund withdrawals described here.)

190. Although not reported in Stephens’ Declaration, the American Studies Association has incurred significant legal, insurance, and other costs arising from the Resolution. Significantly, according to documents produced by Defendants, these expenditures appear to have been covered by the American Studies Association Trust and Development Fund, the American Studies Association’s American Express card, and delaying payment. An email as from FY 2016 American Studies Association President Candice Chuh to the American Studies Association Board of Trustees of the Trust and Development Fund and American Studies Association Finance Committee, dated May 10, 2017, states:

Extraordinary expenses over the past several years, notably, legal fees and the new website, have been covered by grants from the Fund (in the total amount of \$294K for FY 2016 and 2017 combined), as well as by the monies raised through the Stand with the American Studies Association campaign. . . .

This convergence of extraordinary expenses has, however, meant that cash flow has been restricted with the result that at the end of 2016, the association was carrying a substantial debt (of about \$120K for payment of Denver annual meeting related expenses, as well as \$40K in unpaid legal expense), which had been covered by charging against the American Studies Association’s American Express Account. . . .

The \$40K charge against remains outstanding; it will be serviced in/near the start of FY 2018. The National Council has approved increase to both membership and annual meeting registration fees . . .

The Executive Committee approved the purchase of liability coverage for Directors and Officers at the rate of \$12K per year, which will be folded into our regular operating budget. . . .

The American Studies Association has incurred extraordinary legal expenses related to suits filed against us [and] a substantial contingency fund seems warranted. Toward that end, we recommend that two years of the authorized draw from the Trust and development Fund be put aside for such purposes . . . roughly \$95K . . .

(JS1940 at 2.) Under the new fee schedule approved by the American Studies Association, annual membership dues for a tenured professor with an income over \$125,000 per year more than doubles, increasing from \$120 to \$275; dues for a professor who earns between \$100,000 per year will increase 67%, from \$120 to \$200 per year, and dues for an associate professor who earns \$75,000 per year will increase 50%, from \$99 to \$150 per year. *Id.*

191. On information and belief – and based on the information in immediately previous paragraphs – a substantial portion of the costs of defending the Resolution were not have not been paid out of the \$49,000 described in the Stephens Declaration.

192. Documents produced by Defendants thus far in discovery reveal numerous emails that refer to hiring an assistant for John Stephens specifically to address the increase in workload brought about by the backlash to the Resolution. *See, e.g.*, Email from Lisa Duggan to trustees re “American Studies Association Finance Trustees Meeting,” Dec. 14, 2013:

Dear American Studies Association Finance Trustees:

The result of the American Studies Association vote on the Academic Boycott will be announced on Monday. If, as we expect, the resolution is endorsed by the membership, we will need to act quickly and effectively to assist departments, programs, centers and individuals throughout the US and abroad that may come under attack. The National Council in its meeting on Nov. 24 supported the idea of hiring an assistant director, perhaps part time, to coordinate these efforts from the office in DC, taking some of the enormous pressure off of John. In order to release the funds to make this hire, the Finance Trustees must meet, in person or digitally, and agree to the expenditure from our trust account.

(CM 900.) Other documents address expenditures for a “rapid response” media team, *e.g.*, CM 1089 (“tell the firm the American Studies Association is in the midst of a difficult situation, describe the

situation a bit, and ask them to pitch us various services they could imagine providing at a variety of different costs”).

193. Many of these emails discuss payment out of the American Studies Association Trust Fund, including the email from Lisa Duggan detailed in the previous paragraph. At this time, we have insufficient documents to determine whether funds were withdrawn from the American Studies Association Trust Fund specifically to cover expenses related to the Resolution. However, the emails produced thus far indicate that Defendants were planning to pay Resolution-related expenses with money withdrawn from the American Studies Association Trust Fund well into 2014.

194. For example, Defendant Marez, who was American Studies Association President in April 2013 and who dedicated much of his efforts to fundraising specifically for Resolution-related expenses (and to the detriment of the American Studies Association general fund and the American Studies Association activities and purposes that rely on that fund), sent the following email regarding accessing the American Studies Association Trust Fund to Stephens and the trustees of the fund:

Subject: Trust fund allocation for PR?

Hi John, Lisa and I are talking with the PR folks tomorrow and I wanted to return to the below exchange, which suggests that 40K for PR, contingent on the firm and plan, have been allocated from the trust fund. I don't recall discussing that particular allocation but if the money has been earmarked, what do we need to do, John, to access it?

Our fundraising is going well but at present we do not yet have enough money in hand to pay for PR . . . and we can't wait any longer to raise more before we get help.

(LD 6679.) *See also* email exchange between Chandan Reddy and John Stephens, CR 66, “[Reddy asking,] ‘is the \$40,000 and the six month time frame a reference to this year’s approved budget? Could next year’s budget continue to fund a PR firm?’ [and Stephens responding] ‘This is correct, Chandan (funded from the trust fund with the approval of the trustees).’”

195. According to John Stephens' testimony, he eventually required two separate budgets, presumably due to legal concerns regarding the use of funds from the Trust to pay for Resolution-related expenses:

A. There was a point where I drew -- where I explained to the elected officers that they could not use the trust fund of the organization to support the resolution, and said at that point, "The only way I think that you could do this is if you have contributions or do fundraising."

. . . . And that's where that -- that's the origin of that particular budget.

Q. And which budget was that?

A. That's the \$47- or \$48,000 budget for the resolution. I basically protected the association's budget and the trust fund from any obligation to the resolution or its defense.

Q. Okay. Can you give me -- I don't mean to interrupt you -- but a date of when you had this correspondence with them?

A. We got -- this would be some time in the period between December of '13 and the May business meeting of the executive committee of 2014.

Q. Okay. Was that written correspondence?

A. Yes. It was an opinion from counsel declaring the trust fund[.]

. . . .

Q. Other than communications with your attorney, is there any record of your communications with the board or the executive officers with respect to the trust fund?

A. Only to declare that in accordance with the bylaws, it was to be used for investment in the association. It was to be spent on infrastructure[.]

(Stephens Dep., 181:4 – 183:10.)

196. Without documentation that has yet to be produced, it is impossible to establish when the "separate budgets" were established, and to what extent support for the Resolution was in fact financed by the Trust Fund -- it is clear, however, that the withdrawals from the Trust Fund in 2016 and 2017 did cover Resolution-related expenses to some extent. (*See* ¶¶ 162-171, *supra*.)

IV. DEFENDANTS REMOVE PLAINTIFF BRONNER FROM HIS POSITIONS AS EDITOR OF THE ENCYCLOPEDIA, ASA OFFICER, AND MEMBER OF THE NATIONAL COUNCIL.

197. The Encyclopedia of American Studies (“the Encyclopedia”), an online encyclopedia of topics, persons, issues and events in American Studies, was established in 2001 by Miles Orvell, first as a collection of books and then as an online resource in 2004. The Encyclopedia was a joint project between American Studies Association (“ASA”) and Johns Hopkins University Press (“JHUP”). JHUP originally owned the rights to the Encyclopedia.

198. Orvell served as editor of the Encyclopedia until October 15, 2011, when Plaintiff Simon Bronner took over as editor. Plaintiff Bronner was recommended for the job by Orvell, and on the basis of that recommendation he was appointed editor by the ASA Executive Committee and his appointment was ratified by the National Council. Pursuant to the ASA Constitution and Bylaws, the editor of Encyclopedia is both an *ex officio* officer and a non-voting member of the National Council, and Plaintiff Bronner met his responsibilities faithfully. (See Exh. A, ASA Constitution and Bylaws, Art. IV, sec. 1 & Art. V, sec. 1(g).)

199. The Encyclopedia was a valuable asset to the ASA, particularly in the form of name recognition and reputational value. This value increased significantly while Plaintiff Bronner was editor and is also reflected in increased revenues and profit to JHUP. The net surplus increased from \$3,617 in 2010 to \$9,625 in 2011, and then nearly doubled to \$18,950 in 2012. (Final Statements for the Encyclopedia of American Studies, 2010, 2011, and 2012, prepared by Johns Hopkins University Press (“JHUP”).) The increased revenues came from both an increase in subscriptions to the online Encyclopedia and a very large increase in licensing and permission income. Traffic to the site also increased, by approximately 50% between March 2012 and March 2013. (WebTrends Marketing Lab Report for 3/1/2012 – 3/31/2013.) Indeed, *the Encyclopedia’s reputational value was worth so*

much to the ASA that in 2013 the association purchased it from John Hopkins University Press to make it a free and open-source online resource.

200. Despite the Encyclopedia's value to the ASA, and despite having just paid \$18,000 to purchase the rights from JHUP *and* agreeing to a hosting contract with JHUP requiring annual payments of \$15,000 through December 2019, along with other annual costs, Defendants secretly shut down all work on the Encyclopedia only a short time after buying it. Defendants took this step solely because of bias against Plaintiff Bronner because of what they believed to be his support for Zionism and as retribution against him for actions he took to oppose the ASA's Academic Boycott.¹¹ For these reasons, Defendants stripped Plaintiff Bronner of his position as an officer of the ASA – and did so without ever raising any concerns to him and without the knowledge of the membership.

201. Documents produced by Defendants in this case confirm that Defendants:

- a. Removed Plaintiff Bronner from his position as editor of the Encyclopedia solely because of his opinion on the Academic Boycott, and although there was no replacement to take over the responsibilities of editor;
- b. Falsely claimed that Plaintiff Bronner (and other members who opposed the Academic Boycott) conspired to undermine that ASA as an organization, an

¹¹ [REDACTED] However, it is not possible that Defendants could know Plaintiff Bronner's politics related to Israel – [REDACTED] Plaintiff Bronner has not written or made public statements about that issue, or about the politics of Israel or its relationship with the Arab or Muslim world. Plaintiff Bronner's opposition to the Academic Boycott is based on his belief that it contravenes the principle of academic freedom, and on his opposition to the exclusionary effect of scholarly boycotts. Assumptions that Plaintiff Bronner [REDACTED] can only be based on his heritage and the speakers' own biases. [REDACTED]

[REDACTED]

The term “Zio” is often used as a pejorative way to describe Jews and “an anti-Semitic term used to describe supporters of modern-day Israel.” Britain's Labour Expels Jewish Anti-Zionist Activist Over Anti-Semitic Remarks, <https://www.timesofisrael.com/britains-labour-expels-jewish-anti-zionist-activist-over-anti-semitic-remarks>. See also <https://mosaicmagazine.com/observation/2016/03/whore-you-calling-a-zio/>, discussing former Grand Wizard of the Ku Klux Klan David Duke's use of the term on his website, WikiZio.

[REDACTED].

allegation Defendants made only because Bronner and these other ASA members opposed the Academic Boycott;

- c. Removed Plaintiff Bronner from his position as editor of the Encyclopedia, without ever raising any concerns or complaints to him, and although he met all of the requirements and performance goals of his contract and successfully increased the name recognition and reputation of the Encyclopedia;
- d. Hid their plans from anyone not involved in carrying them out because they knew that removing Plaintiff Bronner as editor exposed them to liability and out of concern that their commentary was libelous;
- e. Falsely claimed that they were merely conducting a routine, open call for applications at the end of Plaintiff Bronner's term as editor-in-chief, to the point of inviting Plaintiff Bronner to apply for his job, and showing him a draft announcement calling for applications – even though Defendants knew that they had no intention of ever issuing the draft announcement, and in fact never did so;
- f. Misled Plaintiff Bronner about the potential to renew his term as editor, to the extent that, on May 17, 2015, Defendant Duggan even told Plaintiff Bronner “We are not assuming you will not want to stay on as editor after 2016! The call for proposals very definitely includes soliciting Penn State and yourself for another term,” when Defendant Duggan had already decided to remove Plaintiff Bronner, and Defendant Stephens had already begun a secret search for another person who could be identified as the new editor;
- g. Announced in January 2017, that Professor Holland, a member of the ASA Executive Committee, was the new editor of the Encyclopedia, [REDACTED];

- h. Represented to the ASA membership and publicly that Professor Holland was the editor of the Encyclopedia from January 2017 to the present, although not a single entry or edit has been made to the Encyclopedia since the day Holland purportedly took over, and all work on the Encyclopedia remains suspended over two years later;
- i. Falsely represented to the ASA membership and the public that Professor Holland was the editor of the Encyclopedia beginning in January 2017, when **[REDACTED]**;
- j. Changed the bylaws to strip Plaintiff Bronner of the positions of officer of the ASA and non-voting member of the National Council, without informing the membership or Plaintiff Bronner; and
- k. Prevented Plaintiff Bronner from presenting derivative claims in an amended complaint by 1) removing him as editor of the Encyclopedia, 2) refusing to allow him to continue as editor temporarily when there was no replacement to succeed him as editor, and 3) changing the bylaws so that the editor of the Encyclopedia could not bring a derivative claim while Defendants' Motion to Dismiss the derivative claims brought by Plaintiff Bronner was pending.

A. Defendants Plan to Remove Plaintiff Bronner as Editor of the Encyclopedia Within Days of the of the Vote Solely Because of Defendants' Bias and Prejudice.

202. Immediately after the vote, the ASA was bombarded with letters from university presidents and others rejecting the Academic Boycott as well as the ASA's process for adopting the boycott. Ultimately, 262 universities made public statements condemning the Academic Boycott, including the leaders of many of the most well-respected institutions in the country, (e.g., to name a

few, Brown University, Columbia University, Cornell University, Dartmouth College, Duke University, Emory University, Georgetown University, Harvard University, New York University (NYU), Northwestern University, Princeton University, Stanford University, State University of New York system (SUNY), Tufts University, University of California system, University of Chicago, University of Pennsylvania, University of Southern California, University of Texas, and Yale University.¹² The American Association of University Professors, the American Council on Education, the Association of Public and Land-grant Universities, the American Psychiatric Association, and the Royal Society of Britain also publicly rejected the boycott. *See* note 11, *supra*.

203. [REDACTED], ignoring his actual statements on opposing the boycott, which were concerned with academic freedom and the exclusionary effect of scholarly boycotts, not advocacy of Zionism or the political aspirations or rights of the Jewish people.

204. Defendants' accusations against Plaintiff Bronner about his reasons for opposing the Academic Boycott, and their false accusations against him regarding the steps he took to oppose the Academic Boycott, were made solely because Plaintiff Bronner is Jewish, and their biased assumption that because he is Jewish, Plaintiff Bronner's opposition to the Academic Boycott was based only on a blind allegiance to Israel, and not the numerous other valid and strong reasons why he, and numerous others – the majority of the academic community – oppose academic boycotts of all kinds.

¹² The website, "Legal Insurrection" keeps a complete list of the 262 universities as well as a list of association that rejected the ASA's Academic Boycott at www.legalinsurrection.com/2013/12/list-of-universities-rejecting-academic-boycott-of-Israel/, last accessed March 4, 2019.

205. [REDACTED] This was flatly untrue. Plaintiff Bronner had no involvement in any such effort.¹³

206. [REDACTED]

207. [REDACTED] Plaintiff Bronner did not at any time disparage the ASA or make any public statements critical of the ASA, other than stating his own personal view that the Academic Boycott violated academic freedom and discriminated against Israeli academics – all Israeli academics, regardless of their position on Israeli policy in Palestine. This personal view was unrelated to his work as editor, and the Encyclopedia was in no way affected by his personal opinion – an opinion shared by the overwhelming majority of academics, including ASA members, *and that the ASA had publicly promised to respect.*

208. [REDACTED] Plaintiff Bronner never spoke to any reporter or anyone associated with the *Daily Caller* – not about the ASA or any other topic. He did not organize the more than 260 university presidents who made statements condemning the ASA, including the 100 that made public statements within just two weeks of the Academic Boycott. He did not cause the American Association of University Professors or the Association of American Universities, among others, to condemn the ASA, nor did he manipulate the media into printing negative articles on the ASA.

209. The backlash against the ASA – which was immediate and forceful – was an organic expression of dissent directly from universities, associations, and academic leaders throughout the United States. This was the backlash that Defendants knew, before the Academic Academic Boycott was adopted, would occur when the ASA took this step. Defendants did not care enough about the

¹³ The only institutional member's withdrawal that Plaintiff Bronner had any involvement in was the withdrawal of his own department at Penn State – Harrisburg, where Plaintiff Bronner was chair of the department. But even as chair, Plaintiff Bronner brought the decision to the members of the department, and the decision was made as a group. Plaintiff Bronner would not need to influence the other members of his department to oppose the Academic Boycott. Indeed, two of them of them are plaintiffs in this lawsuit.

impact of such a backlash to reconsider their decision to promote the Boycott – because Defendants’ goal in promoting the Boycott was the promotion of their own political view, not the welfare of the American Studies Association. Before it occurred, when Defendants discussed this backlash that they knew would happen, and that they knew would damage the ASA, Defendants never stated that the backlash would be the fault of Plaintiff Bronner, editor of the Encyclopedia of American Studies.

210. [REDACTED]

211. [REDACTED]

B. Defendants Were Aware That Removing Plaintiff Bronner Would Subject the ASA and the National Council to Liability.

212. [REDACTED]

213. [REDACTED]

214. [REDACTED]

215. [REDACTED] As stated above, Plaintiff Bronner did not encourage institutional members to resign, did not leak a confidential vote to the *Daily Caller* (or ever communicate anything to the *Daily Caller*), and *did not violate his fiduciary responsibilities* in any way. [REDACTED]

C. Defendants Refuse to Work with Plaintiff Bronner on the Executive Committee and National Council While He is Still an Officer and Member of the National Council.

216. With no legal basis to remove Plaintiff Bronner as an officer or as a member of the National Council, Defendants simply shut him out until his term was over. They stopped inviting him to meetings, stopped sending him information that always had been sent to *ex officio* officers, and should have been, sent to him as an officer and member of the National Council. Defendant Duggan even sought to lock him out of planning and decisions directly related to the Encyclopedia.

[REDACTED] As they shut him out, Defendants continued to refuse to discuss any of their concerns with Plaintiff Bronner.

217. For example, all of the ex officio officers, including the editor of the Encyclopedia, attended the Executive Committee annual business meeting each spring. [REDACTED]

218. [REDACTED]

219. [REDACTED]

220. [REDACTED]

221. Over the remainder of his contract, invitations to the spring Executive Committee meeting and the November National Council meeting would eventually cease. The meeting minutes, financial information, proposed changes to the bylaws, and other matter that any ex officio officer and National Council member should receive also stopped coming, and when the National Council decided at their 2016 meeting to change the bylaws such that the editor of the Encyclopedia would no longer be an officer or a member of the National Council, Plaintiff Bronner was not invited to the meeting and did not know that the National Council was considering such an action.

D. Defendants Fake an “Open Call” for a New Editor and Encourage Plaintiff Bronner to Apply.

222. Aware that they could not legally remove Plaintiff Bronner from the National Council for his position on the Academic Boycott, Defendants decided that they would replace him as editor as soon as his contract expired.

223. Plaintiff Bronner’s contract with the ASA provided for renewals at the end of each term. For the entire history of the Encyclopedia, the editor’s contract was renewed at the end of each term, with the sole exception of the year that Miles Orvell decided to resign, for entirely personal reasons. The ASA had never removed an editor of the Encyclopedia and had never failed to renew the editor’s contract at the end of a term if the editor wished to have it renewed.

224. At some point after Defendants realized that they could not simply remove Plaintiff Bronner from the National Council, and that their reasons for doing so were clearly illegal and exposed them to liability, Defendants decided they would have to wait out the current term of his contract. They decided instead simply that his contract would not be renewed.

225. Defendants had a problem, however: Plaintiff Bronner and the staff at Penn State were doing a great job with the Encyclopedia. Readership was up. The reputation of the Encyclopedia was growing. There was no reason not to renew the contract, and there was no one interested in the position who was as qualified as Plaintiff Bronner. If Defendants did not renew his contract at the end of the term, as it always had been renewed automatically, they would need to be able to justify replacing him or risk exposing their true intentions and expose themselves to liability.

226. Defendants knew that if they wanted to replace the Plaintiff Bronner, they should call for applications for a new editor. They would have to allow Plaintiff Bronner and Penn State to apply, however, and it was unlikely that another applicant would be more qualified. If no other competitive applicants applied, they would have to renew Plaintiff Bronner's contract. This was unacceptable to Defendants, so there could not be a legitimate open call for the editorship. Defendants would have to find and install a replacement without holding an open competition. But in an effort to protect themselves from a legal challenge to these actions, Defendants decided to pretend that there was an open competition.

227. As early as 2014 – the first year of Plaintiff Bronner's contract – Defendants decided they would not renew his contract. If they wanted an open call for applications and an effective selection process – if they cared about the Encyclopedia, as an asset of the ASA – they would have to quickly get to work on the process. **[REDACTED]**

Defendants Duggan, Marez, and Stephens would not prepare for an open call, because Plaintiff Bronner might apply.

228. [REDACTED]

229. On May 17, 2015 – [REDACTED] – Defendant Duggan contacted Plaintiff Bronner by email to inform him that there would be a call for proposals for a new home for the Encyclopedia at the end of his term. She made a striking effort to assure him that it was simply a routine call, unrelated to any goal of replacing him as editor – so much that she strongly invited him to apply. The email stated:

Simon--

I'm sure you're aware that your term as editor of the EAS expires on December 31, 2016. At our most recent meeting the ASA Executive Committee discussed plans for EAS beginning in 2017. We are finalizing a call for proposals for a new home and editor for EAS, to be widely circulated, as is the common practice for such editorships (and as we recently did for AQ). *We are not assuming you will not want to stay on as editor after 2016! The call for proposals very definitely includes soliciting Penn State and yourself for another term. I'd like to send you our draft call for proposals as soon as we have it*, and then talk to you on the phone to get your input on it. Will you be available and reachable between now and the end of May? If so, at what number should I call you once we have sent you the draft call for proposals?

Hope you are doing well as spring semester ends!

LD

(*Emphasis added.*) The email was the *bold, first step of the sham*. There would be no open invitation to apply for the editorship. Defendant Duggan certainly would never allow for a “call for proposals [that] includes soliciting Penn State and yourself for another term.”

230. Meanwhile, Defendants worked on a draft call for applications to give to Plaintiff Bronner. The draft would never be released, but they still struggled over the language regarding the current editor. [REDACTED]

231. The draft call for applications was sent from Defendant Duggan to Plaintiff Bronner “for edits.” He responded with minor comments. Plaintiff Bronner believed a call for applications would go out. He believed Defendant Duggan when she said that they hoped he would apply. He was misled.

232. By August 2016 - over a year after Defendant Duggan had given Plaintiff Bronner a draft of an open call for applications and reassured him, “We are not assuming you will not want to stay on as editor after 2016! The call for proposals very definitely includes soliciting Penn State and yourself for another term” and less than four months before the end of Plaintiff Bronner’s term, there was no plan to transfer editorship, no new editor to transfer editorship too, and Defendants’ targeted invitations were unsuccessful. [REDACTED]

233. On October 30, 2016, two months before Plaintiff Bronner’s current term would end, he reached out to Defendant Stephens: “I would like to write the EAS editorial board to inform them of the future of the EAS. If you could send me information that I could share, I would appreciate it.” [REDACTED] They had nothing to tell Plaintiff Bronner, so they lied. “The EAS editorship is on the agenda for the National Council meeting and a call will go out thereafter.” No call ever went out. [REDACTED] A call would mean that Plaintiff Bronner could apply and might be the only qualified applicant. The ASA leadership was unwilling to have Plaintiff Bronner as an officer or on the National Council.

E. After Defendants Announce a New Editor to Replace Plaintiff Bronner, the Encyclopedia Stops Operations Without Disclosing to Members or the Public.

234. On December 6, 2016, after the November 2016 National Council meeting (a meeting that Plaintiff Bronner was not invited to and was not sent materials for, although he was still an officer and non-voting member of the council) [REDACTED] There was no name to replace

Plaintiff Bronner's as editor of the Encyclopedia. Defendants would rather the Encyclopedia shut down than even hold an open call that Plaintiff Bronner might respond to.

235. On January 5, 2017, Defendant Stephens announced that Professor Holland, a member of the National Council, was the new editor of the Encyclopedia. **[REDACTED]**

236. No work has been done on the Encyclopedia since Ms. Holland was "named" editor of the Encyclopedia. Over two years later, no new entries have been made to the Encyclopedia. It also appears that no updates have been made to existing entries, and the bibliographies have not been updated – all tasks required of the editor of the Encyclopedia with specific guidelines and deadlines under the contract with the previous editors. (Publishing Agreement (Nov. 11, 2011, at ¶ 8); Editor Agreement (Jan. 1, 2014) at ¶ 7.)

237. **[REDACTED]**

238. Indeed, there is no evidence that any work had been done on the Encyclopedia at all since December 2016. The list of recent entries includes no entries added after Plaintiff Bronner's term. (*New Articles*, https://eas-ref.press.jhu.edu/new_articles.html, accessed March 4, 2019, announcing "new" entries for Annette Baxter, Louisa May Alcott, Daniel Aaron, Alfred Hornung, American Culture Association, American Studies Association, American Studies in India, American Studies in Israel, American Studies in Scandinavia, Atheism, Mary C. Turpie, Theodore Dreiser, and Constance Rourke. All of these entries date back to 2017 and were added to the Encyclopedia when Plaintiff Bronner was editor.)

239. Moreover, there is nothing on the University of North Carolina website, including on Professor Holland's own page, that indicates that UNC is the home of the Encyclopedia, or that Ms. Holland is the editor, although her webpage does include her position as editor of the *Southern Literary Journal*. (See <https://americanstudies.unc.edu/sharon-p-holland/>, accessed March 4, 2019,

not mentioning that she is editor of the *Encyclopedia of American Studies*, but stating, “I have recently been appointed editor of SLJ (*Southern Literary Journal*) and am tasked with moving it from English and Comparative Literature at UNC to the American Studies Department”).

240. Nor does Professor Holland’s Curriculum Vitae, accessed on March 4, 2019, via link on <https://americanstudies.unc.edu/sharon-p-holland>, mention that she is editor of the Encyclopedia, although it mentions other work she has been involved in with the ASA.

241. In fact, certain pages of the Encyclopedia website still name Penn State as the Encyclopedia’s home, and Plaintiff Bronner as editor. (See, e.g., <https://eas-ref.press.jhu.edu/contact.html>, accessed March 4, 2019, “Do you have a comment or question about the editorial content contained in the EAS? Send editorial comments or questions to Professor Simon J. Bronner of Penn State Harrisburg at amstd@psu.edu.”)

242. Ultimately, Defendants chose to shut down the Encyclopedia rather than have Plaintiff Bronner on the ASA National Council. Defendants made this choice solely because of Plaintiff Bronner’s viewpoint on the Academic Boycott. Consequently, Defendants breached their fiduciary duties to both Plaintiff Bronner and to the ASA itself. Plaintiff Bronner was deprived of his annual stipend of \$8,500 and the reputational value of his position as editor [REDACTED]. At the same time, the ASA lost one of its best assets – one that the association had just purchased from JHUP solely to benefit from the name recognition – because Defendants would not sit on the National Council with a person who disagreed with their position on the Academic Boycott, and, indeed, would not even speak with him about the disagreement.

F. Defendants Secretly Change the ASA Bylaws to Strip Plaintiff Bronner of His Position as Officer.

243. Until November 17, 2016, the ASA Constitution and Bylaws provided that the editor of the Encyclopedia was an *ex officio* officer of the ASA. *See* Exhibit A, ASA Constitution and Bylaws as of May 2013, Art. IV, sec. 1 (“appointed officers shall be the executive director, the editor of the Encyclopedia of American Studies, and the editor of the American Quarterly”). The editor of the Encyclopedia also served as a non-voting member of the National Council. Exh. A at Art. V, sec. 1(g).

244. The ASA National Council made significant changes to the ASA bylaws in November 2015, ratified by a vote of the membership on March 2, 2016, but no changes were made to the status of the editor of the Encyclopedia as an officer and non-voting member of the National Council. *See* Exhibit B, ASA Bylaws as of March 2016, Art. IV, sec. 2 (“The appointed officers shall be the executive director, the editor of the American Quarterly, and the editor of the Encyclopedia of American Studies”) and Art. V, sec. 1(g).

245. On November 18, 2016, the National Council amended the bylaws to strip the editor of the Encyclopedia – Plaintiff Bronner – of the position of officer and non-voting member of the National Council. The amendment simply deleted the words “the editor of the Encyclopedia of American Studies” from Article IV, section 2, and from Article VI, section 1(g). **[REDACTED]**

246. Plaintiff Bronner was not invited to the November 2016 National Council meeting where this decision was made, and was not invited to participate by phone, although he was a non-voting member of National Council, and non-voting members traditionally attend the meetings or participate by phone. Defendant Stephens also did not send Plaintiff Bronner the materials for the National Council meeting, which included the proposed changes to the bylaws. Thus, Plaintiff

Bronner was not informed of the proposed changes before the National Council meeting on November 18, 2016 and had no opportunity to address the National Council prior to the vote.

247. Nor was Plaintiff Bronner informed of the changes to the bylaws after they were made. In fact, Plaintiff Bronner believed that he was an officer of the ASA for the entire period that he was editor of the Encyclopedia, and when his successor took over the Encyclopedia, he believed that she was and would be an officer and non-voting member of the National Council as well, for approximately two years after the bylaws were amended.

248. It appears that no notice of this change in the bylaws was ever given to the full membership, either. Plaintiffs Rockland, Barton, and Kupfer have no recollection of ever receiving any notice from the ASA that the National Council had changed the bylaws to remove the editor of the Encyclopedia as an officer and non-voting member of the ASA. No notice to the membership has been found in Defendants' production.

249. The changes to the bylaws removing Plaintiff Bronner's status as an officer and member of the National Council were made at the first meeting of the National Council after the initiation of this lawsuit in Federal Court on April 20, 2016.

250. Both the original complaint and the First Amended Complaint included derivative claims. Pursuant to § 29-411.02 of the District of Columbia Nonprofit Corporations Code, derivative claims must be brought by a member of the National Council or by 50 members of the organization. Plaintiff Bronner, as an *ex officio* officer and a member of the National Council, brought the derivative claims.

251. The changes to the bylaws in November 2016 stripped Plaintiff Bronner of his ability to pursue derivative claims as an officer and member of the National Council. At that time, Defendants knew that their motion to dismiss the case was pending in front of the Federal Court,

including a motion to dismiss the derivative claims for failure to meet the procedural requirements of the code, specifically the requirement of a demand letter under § 29–411.03. Plaintiffs had argued that demand would be futile; Defendants opposed Plaintiffs’ futility argument.

252. By stripping Plaintiff Bronner of his status as an officer of the ASA, Defendants ensured that if the derivative claims were dismissed on procedural grounds, Plaintiff Bronner could not bring new or cured derivative claims in an amended complaint. And that is exactly what happened. The Court did dismiss the derivative claims on procedural grounds, but allowed the direct claims to proceed. If Plaintiff Bronner were still an officer and member of the ASA, Plaintiffs could have, and would have, replead the derivative claims.

253. Defendants changed the bylaws to strip the editor of the Encyclopedia of status as an officer and member of the National Council, for two reasons: first, to prevent Plaintiff Bronner from pursuing the derivative claims, and second, because they were simply unwilling to work with Plaintiff Bronner because of his position on the Academic Boycott.

254. Although Defendants were specifically instructed by the court to produce all documents relating to any changes in the ASA bylaws, Defendants did not produce a single document relating to the November 2016 changes other than **[REDACTED]**.

255. That very brief explanation is both insufficient and illogical. Under the bylaws in effect at the time, both the editor of the Encyclopedia and the editor of the American Quarterly (along with the executive director, the third of the three *ex officio* officers) were “designated by the Executive Committee with the ratification of two-thirds of the voting members of the Council” and “receive such compensation as the Executive Committee may determine with ratification by the Council.” Exh. A at Article IV 7. That was certainly true of Plaintiff Bronner’s appointment.

256. Of course, how an officer is paid – whether through direct employment or on a contract basis – is irrelevant to whether a person is an officer. Indeed, an officer of a nonprofit may be unpaid. Regardless, the only reason that the editor of the Encyclopedia is an independent contractor is because the ASA bought the Encyclopedia from JHUP, effective January 1, 2014. When JHUP owned the Encyclopedia, the editor was paid by JHUP and party to a joint contract with the ASA to produce the Encyclopedia. Yet for all of those years, before and after the ASA’s purchase of the Encyclopedia, the bylaws provided that the editor of the Encyclopedia was an officer and member of the National Council.

G. Defendants’ Acts Damaged Both Plaintiff Bronner and the ASA.

257. Plaintiff Bronner’s work on the Encyclopedia was exceptional. The Encyclopedia grew under him. There was never a single complaint about his work on the Encyclopedia, and there was substantial praise. There is simply no explanation for removing him as editor other than his opposition to the Academic Boycott and Defendants’ unsubstantiated assumptions about him, whether because of his opposition to the Academic Boycott, his heritage, or Defendant Duggan’s continuing insistence that he somehow led a revolt against the ASA.

258. Plaintiff Bronner lost the \$8,500 annual payment for five years (\$42,500) of editorship that he certainly would have served if Defendants were not determined to remove him as an officer and from the National Council. He also lost numerous opportunities to visit and review American Studies programs across the country and to speak at conferences, paid invitations he had received as editor of the Encyclopedia. Plaintiff Bronner was working on a related book for the Encyclopedia, an opportunity now lost. Moreover, he has suffered reputational damage, both from Defendants’ acts and the false statements they made to justify those acts.

259. The ASA has lost as well. The Encyclopedia took off under Plaintiff Bronner. He worked hard and effectively, providing results well beyond the minimum requirements of his contract. The ASA paid to purchase the Encyclopedia and also pay for a contract with JHUP through 2019 because the Encyclopedia was a valuable resource. Without an editor, and not having been updated for over two years, the ASA has simply tossed out an asset – solely because Defendant Duggan and the other Defendants were unwilling to work with someone who disagreed with them.

COUNT ONE

Breach of Fiduciary Duties Against the Individual Defendants by All Plaintiffs (Material Misrepresentations and Omissions in Connection with Elections to Office and Seeking Member Approval of Academic Boycott and Amendment of the Bylaws)

260. Plaintiffs repeat and reallege each of the allegations set forth above as if fully set forth herein.

261. As members of the National Council and the Nominating Committee of the American Studies Association, the Individual Defendants owe all the duties of a fiduciary to the American Studies Association and all of its members.

262. However, as explained above, the Individual Defendants have breached their fiduciary duties of loyalty, care, candor and good faith by making or causing to be made material misrepresentations and omissions to members, when seeking election to the National Council and approval of the Academic Boycott, including misrepresentation and omission of material facts regarding (1) their personal political agenda and plan to suborn the Association to advance the purposes of the USACBI by causing the American Studies Association to adopt and implement the Academic Boycott, and (2) the expected costs of the Academic Boycott, including, *inter alia*, reputational and financial costs and the loss of good will. As a result of breaching their fiduciary duties, the Individual Defendants have harmed the American Studies Association and its members and are liable to the American Studies Association for the damages incurred. Because their conduct was not in good faith, it is not exculpated by § 29–406.31 of the D.C. Nonprofit Corporation Act.

263. Plaintiffs seek a return of funds to compensate the American Studies Association for financial damages, and are also entitled to recover damages, including punitive damages, from the Individual Defendants, as a result of this breach of fiduciary duty.

COUNT TWO

Breach of Fiduciary Duties Against the Individual Defendants by All Plaintiffs (Duty of Loyalty and Good Faith, Misappropriation and Misuse of Assets of the American Studies Association)

264. Plaintiffs repeat and reallege each of the allegations set forth above as if fully set forth herein.

265. As members of the National Council of the American Studies Association, the Individual Defendants owe the American Studies Association and all of its members the highest duties of care, loyalty, good faith, and candor. Among other things, these duties include the obligation not to engage in conduct that directly or indirectly is in their own self-interest, and to instead faithfully represent the mission of the American Studies Association and its members, and to abide by the dictates of its organizational documents and the D.C. Nonprofit Corporation Act. The Individual Defendants also have a fiduciary duty to treat all members equally and to avoid conferring benefits or advantages on themselves that are not enjoyed by all other members. *See Willens v 2720 Wisconsin Ave Co-op Assn Inc.*, 844 A.2d 1126,1136 (D.C. 2004) (board members “owe a fiduciary duty to act solely in the interest of *all* shareholders.’ . . . the ‘unequal treatment of shareholders’ may violate the fiduciary duty of loyalty—especially if the directors responsible for such treatment are personally interested in the transaction in question,” *quoting Ackerman v 305 East 40th Owners Corp.* 592 N.Y.S. 365, 367 (App. Div. 1993).)

266. However, as explained above, the Individual Defendants have breached their fiduciary duties and wasted Association assets by (1) misappropriating, misusing and diverting the funds, membership list, reputation, good will, institutional structure, processes and other assets of the American Studies Association and its members to further their personal political interests over the interests and mission of the American Studies Association and its members, (2) conferring an unequal

and unfair advantage to supporters of the Academic Boycott over opponents by manipulating the nomination and voting process, miscounting votes, causing the violation of American Studies Association Constitution and bylaws, withholding voting rights from certain members and denying opponents access to the American Studies Association's online and other resources to communicate to fellow American Studies Association members their opposition to the resolution and (3) subverting the interests and resources of the American Studies Association and its members to advance the political goals of an outside party, namely the USACBI. As a result of breaching their fiduciary duties, the Individual Defendants have harmed the American Studies Association and its members and are liable to the American Studies Association for the damages incurred. Because their conduct was not in good faith, it is not exculpated by § 29-406.31 of the D.C. Nonprofit Corporation Act.

267. Plaintiffs seek a return of funds to compensate the American Studies Association for financial damages, and are also entitled to recover damages, including punitive damages, from the Individual Defendants, as a result of this breach of fiduciary duty.

COUNT THREE

Ultra Vires and Breach of Contract Action Against All Defendants by All Plaintiffs (Failure to Nominate Officers and National Council Reflecting Diversity of Membership)

268. Plaintiffs repeat and reallege each of the allegations set forth above as if fully set forth herein.

269. Pursuant to the American Studies Association Constitution, "The Nominating Committee shall nominate candidates for the office of [President Elect], member of the Council, and members of the Nominating Committee. It shall present two nominees for each elected position.

Nominees shall be representative of the diversity of the association's membership." (American Studies Association Const., art. VI, § 2.)

270. The American Studies Association Constitution further provides that it "shall be [the President's] duty formulate policies . . . and to fulfill the chartered obligations and purposes of the Association" (Art. IV, § 2). The National Council provides oversight, including "the discussion of policies and of instructions that should be given to the elected or appointed officers, and "shall conduct the business, set fiscal policy, and oversee the general interests of the association." (Art. V, § 2.)

271. Defendants were in violation of the American Studies Association Constitution, because the candidates for American Studies Association President, the Executive Committee, and the National Council were not "representative of the diversity of the association's membership." This violation of the American Studies Association Constitution continued for years.

272. The American Studies Association Presidents, including Defendants Marez and Duggan, did nothing to ensure that the slate of candidates was "representative of the diversity of the association's membership," in violation of their "duty . . . to fulfill the chartered obligations" of the American Studies Association, and . the National Council, including all of the Individual Defendants with the exception of Puar, also failed to properly oversee the officers and the nominating committee, and to "oversee the general interests of the association."

273. Defendants' failure to abide by the American Studies Association Constitution, Article VI § 2, Article V, § 2, and Article VI, § 2, constitutes *ultra vires* conduct that has harmed Plaintiffs, other members of the American Studies Association, and the American Studies Association itself. First, Defendants' conduct deprives the individual members of leadership that appropriately reflected the actual interests of the membership. The great majority of members of the American Studies

Association did not join to advocate for USACBI, but instead to be part of an academic association that would focus on the interests of American Studies scholars. The American Studies Association Leadership, however placed the interests of USACBI and the PACBI platform ahead of the interests of American Studies scholars, spending almost all of the time they dedicated to their American Studies Association positions promoting and supporting the Resolution and related issues.

274. These *ultra vires* acts also damaged the American Studies Association as an institution. The Resolution was extremely divisive, and the many of the most respected scholars in American Studies, with years of knowledge and experience to share, simply abandoned the group, as a result of which the American Studies Association became an organization that was no longer dedicated, primarily, to *studies*. These and other acts of the Defendants in the context of the Resolution, destroyed the faith and trust of the members in the American Studies Association Leadership and the procedures the Leadership adopted, causing permanent division, all to the detriment of those members and the American Studies Association itself.

275. Finally, these *ultra vires* acts allowed the Defendants to force the Resolution on the American Studies Association, against the best interests of the entity itself. The American Studies Association has suffered financial detriment, from decreased revenues resulting from both a decline in membership fees and fewer and/or smaller contributions, and from an increase in expenses directly related to the Resolution. It has also suffered reputational damage, including public criticism of the American Studies Association, which the American Studies Association has attempted to fend off at the expense of tens of thousands of dollars spent on public relations and media consultants. This *ultra vires* conduct has also resulted in the improper expenditure of American Studies Association funds related to membership dealings, public relations, legal matters, and other items including employee time and effort.

276. These acts also violate Defendant American Studies Association’s contract with the Plaintiffs, and all of its members.

277. As a proximate result of Defendants’ abuses of power and disregard for American Studies Association’s foundational documents – constituting both *ultra vires* acts and breach of contract, Plaintiffs have suffered significant economic and reputational damage. Defendants’ actions have caused and continue to cause irreparable injury to American Studies Association’s reputation.

278. Section 29–403.04 of the D.C. Nonprofit Corporation Act authorizes a member to challenge an *ultra vires* act in a legal proceeding, and it authorizes the award of injunctive relief and damages by a court. Plaintiffs are entitled to recover damages from the Individual Defendants incurred by the American Studies Association, and to declaratory and to injunctive relief.

COUNT FOUR

Ultra Vires Action and Breach of Contract Against All Defendants by All Plaintiffs (Freezing Membership Rolls to Prohibit Voting)

279. Plaintiffs repeat and reallege the allegations set forth above as though fully set forth herein.

280. “A member of an organization may directly sue that organization to enjoin actions that the organization did not have power to execute.” *See* D.C. Code § 29-403.04(b)(1); *see also* *Daley v. Alpha Kappa Alpha Sorority, Inc.*, 26 A.3d 723, 729 (D.C. 2011). Actions taken by the organization that are “expressly prohibited by statute or by-law” or outside the powers conferred upon it by its articles of incorporation are *ultra vires*. *Compton v. Alpha Kappa Alpha Sorority, Inc.*, 64 F. Supp. 3d 1, 18 (D.D.C. 2014), *aff’d*, 639 F. App’x 3 (D.C. Cir. 2016); *see also* *Daley*, 26 A.3d at 730 (emphasis omitted) (quoting *Columbia Hosp. for Women Found., Inc. v. Bank of Tokyo-Mitsubishi Ltd.*, 15 F. Supp. 2d 1, 7 (D.D.C. 1997), *aff’d*, 159 F.3d 636 (D.C. Cir. 1998)). ‘In certain

circumstances, a long-standing pattern or practice of corporate behavior may give rise to a by-law.’ *Family Fed’n for World Peace [v. Hyun Jin Moon]*, 129 A.3d 234, 251 (D.C. 2015).” Memorandum Opinion (Mar. 31, 2017) at 30 (Dkt. 28).

281. Defendants’ decision to freeze the American Studies Association membership rolls as of November 25, 2013, such that members (including Plaintiff Barton) who paid their dues after November 25 were unable to vote on the Resolution, is “expressly prohibited” by the American Studies Association Constitution, Art. 2, sec. 2, and constitutes an *ultra vires* act. Defendants’ decision to freeze the American Studies Association membership rolls also violates the American Studies Association’s long-standing practice of allowing members whose dues were in arrears to vote immediately upon paying their dues – even if they paid their dues as late as the last day of an election.

282. These acts also violate Defendant American Studies Association’s contract with the Plaintiffs, and all of its members.

283. Defendants’ *ultra vires* acts were harmful to the Plaintiffs and other members of the American Studies Association. First, they stripped certain members of their right to vote, an integral benefit of membership in the organization. Moreover, they stripped these members of their rights solely on the basis of their beliefs, and the likelihood that those beliefs would stand in the way of Defendants’ Resolution.

284. Defendants’ conduct also damaged the American Studies Association as an institution. The Resolution itself and Defendants’ *ultra vires* interference with members’ voting rights has been extremely divisive. These and other acts of the Defendants have destroyed the faith and trust of the members in the American Studies Association Leadership and procedures adopted by the Leadership, causing permanent division and mass resignations by long-term, active members, to the detriment of those members and the American Studies Association itself.

285. Finally, *ultra vires* acts allowed the Defendants to force the Resolution on the American Studies Association, against the best interests of the entity itself. The American Studies Association has suffered financial detriment, from decreased revenues resulting from both a decline in membership fees and fewer and/or smaller contributions, and from an increase in expenses directly related to the Resolution. It has also suffered reputational damage, including public criticism of the American Studies Association, which the American Studies Association has attempted to fend off at the expense of tens of thousands of dollars on public relations and media consultants. This *ultra vires* conduct has also resulted in the improper expenditure of American Studies Association funds related to membership dealings, public relations, legal matters, and other items including employee time and effort.

286. As a proximate result of Defendants' abuses of power and disregard for American Studies Association's foundational documents, Plaintiffs have suffered significant economic and reputational damage. Defendants' actions have caused and continue to cause irreparable injury to American Studies Association's reputation.

287. Section 29-403.04 of the D.C. Nonprofit Corporation Act authorizes a member to challenge an *ultra vires* act in a legal proceeding, and it authorizes the award of injunctive relief and damages by a court. Plaintiffs are entitled to recover damages from the Individual Defendants incurred by the American Studies Association, and to declaratory and to injunctive relief, including withdrawal of the Resolution.

COUNT FIVE

Ultra Vires Action and Breach of Contract Against All Defendants by All Plaintiffs (Substantial Part of Activities Attempting to Influence Legislation)

288. Plaintiffs repeat and reallege the allegations set forth above as if fully set forth herein.

289. The American Studies Association's bylaws specifically mandate that "[n]o substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting, to influence legislation[.]" Statement of Election, ¶ 3, § 4.

290. As discussed above, efforts to influence Israeli legislation constitute a substantial part of the American Studies Association's activities, as do efforts to influence U.S. legislation at both the state and federal level. Indeed, efforts to influence legislation appear to constitute nearly all of the American Studies Association's activities, at least with respect to Defendant Marez's term as American Studies Association President (FY 2012) and Defendant Duggan's term as American Studies Association President (FY 2013).

291. Consequently, American Studies Association was in violation of the Statement of Election from approximately July 2013 until at least June of 2015.

292. The Defendants' failure to abide by the Statement of Election constitutes an *ultra vires* act that was harmful to Plaintiffs, other members of the American Studies Association, and the American Studies Association itself.

293. These acts also violate Defendant American Studies Association's contract with the Plaintiffs, and all of its members.

294. First, the individual members did not receive the value they expected from membership in the American Studies Association. The great majority of members of the American Studies Association did not join to advocate for USACBI or to influence legislation, but instead to be part of an academic association that would focus on the interests of American Studies scholars. The Defendants, however, as a consequence of the American Studies Association Leadership's *ultra vires* acts, placed the interests of USACBI and the PACBI platform ahead of the interests of American Studies scholars.

295. These *ultra vires* acts also damaged the American Studies Association as an institution. The effort to change Israeli law by adopting the Academic Boycott was extremely divisive, and the subsequent backlash, including the bills introduced in U.S. state and federal legislatures and the Defendants' all-consuming efforts to defeat those bills only intensified the divide, until many of the most respected scholars in American Studies, with years of knowledge and experience to share, simply abandoned the group, and the American Studies Association became an organization that was no longer dedicated, primarily, to *studies*. These and other acts of the Defendants in the context of the Resolution, destroyed the faith and trust of the members in the American Studies Association Leadership and the procedures the Leadership adopted, causing permanent division, all to the detriment of those members and the American Studies Association itself.

296. Finally, these *ultra vires* acts allowed Defendants to force the Resolution on the American Studies Association, against the best interests of the entity itself. The American Studies Association has suffered financial detriment, from decreased revenues resulting from both a decline in membership fees and fewer and/or smaller contributions, and from an increase in expenses directly related to the Resolution. It has also suffered reputational damage, including public criticism of the American Studies Association, which the American Studies Association has attempted to fend off at the expense of tens of thousands of dollars on public relations and media consultants. This *ultra vires* conduct has also resulted in the improper expenditure of American Studies Association funds related to membership dealings, public relations, legal matters, and other items including employee time and effort.

297. As a proximate result of Defendants' abuses of power and disregard for American Studies Association's foundational documents, Plaintiffs have suffered significant economic and

reputational damage. Defendants' actions have caused and continue to cause irreparable injury to American Studies Association's reputation.

298. Section 29–403.04 of the D.C. Nonprofit Corporation Act authorizes a member to challenge an *ultra vires* act in a legal proceeding, and it authorizes the award of injunctive relief and damages by a court. Plaintiffs are entitled to recover damages from the Individual Defendants incurred by the American Studies Association, and to declaratory and to injunctive relief.

COUNT SIX
(IN THE ALTERNATIVE)

**Breach of Contract Against Defendant American Studies Association by All Plaintiffs
(Voting Process Contrary to Bylaws)**

299. Plaintiffs repeat and reallege the allegations set forth above as if fully set forth herein. Plaintiffs plead this Count Six in the alternative to Count Seven.

300. “It is well established that the formal bylaws of an organization are to be construed as a contractual agreement between the organization and its members since the continuing relationship between the organization and its members manifests an implicit agreement by all parties concerned to abide by the bylaws.” *Mesheh v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 361 (D.C. 2005).

301. Boycotting Israel was an issue “which, in the opinion of the Executive Committee or Council, seem[ed] to require public action, speech or demonstration by the association at a particular annual meeting” per Article XI, § 3 of the American Studies Association By-Laws. Accordingly, the Academic Boycott could pass only if it were approved by two-thirds of the members voting on the first full day of the Annual Meeting.

302. The Academic Boycott was not lawfully passed because: (a) the ultimate vote tally, and the only tally publicly available, is not limited to votes cast at the Annual Meeting, but includes

votes by hundreds of other members who were not present at the Annual Meeting; (b) a two-thirds majority of the 1,252 members who allegedly voted on the resolution would have been 834 or 835, while the alleged number of those supporting the Academic Boycott falls short; (c) the vote was not held on the first full day of the annual meeting that occurred that year, November 20, 2013.

303. The breach of the American Studies Association's contractual obligations to Plaintiffs harmed Plaintiffs, resulting in actual damages. As a consequence of Defendants' breach, Plaintiffs are also entitled to declaratory relief invalidating and vacating the Academic Boycott and injunctive relief to prohibit its implementation.

COUNT SEVEN
(IN THE ALTERNATIVE)

**Breach of D.C. Nonprofit Corporation Act Against Defendant
American Studies Association by All Plaintiffs**

304. Plaintiffs repeat and reallege the allegations set forth above as if fully set forth herein. Plaintiffs plead this Count Seven in the alternative to Count Six.

305. Section 29-405.24 of the D.C. Nonprofit Corporation Act sets forth the requirements for a quorum for a vote of the members of groups like the American Studies Association. It states that:

Members entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those members exists with respect to that matter. Except as otherwise provided in the articles of incorporation or bylaws, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

306. Accordingly, in the event that art. XI, § 3 of the American Studies Association By-Laws did not govern the Academic Boycott, a quorum on the measure would have been "a majority of the votes entitled to be cast on the matter by the voting group."

307. Upon information and belief, a “majority of the votes entitled to be cast on the matter” of the Academic Boycott would have had to exceed 1,8000 members—a majority of the American Studies Association’s voting membership. The Academic Boycott was thus adopted in breach of § 29-405.24 of the D.C. Nonprofit Corporation Act and is null and void.

308. The wrongful adoption of the Academic Boycott in breach of the D.C. Nonprofit Corporation Act was harmful to the Plaintiffs, resulting in damages. Plaintiffs are also entitled to declaratory and injunctive relief against the implementation of the Academic Boycott purportedly adopted without a lawful quorum.

COUNT EIGHT

Breach of Contract Against Defendant American Studies Association by Plaintiff Barton (Denial of Right to Vote)

309. Plaintiff Barton repeats and realleges the allegations set forth above as if fully set forth therein.

310. By offering membership on the terms set forth in its website, American Studies Association makes an offer capable of being accepted and forms a contract entitling those persons who accept that offer to the benefits of membership.

311. “It is well established that the formal bylaws of an organization are to be construed as a contractual agreement between the organization and its members since the continuing relationship between the organization and its members manifests an implicit agreement by all parties concerned to abide by the bylaws.” *Meshel v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 361 (D.C. 2005).

312. One of the contractual benefits of membership is the right to vote on matters put before the American Studies Association’s members for approval. American Studies Association Const. art. II, § 3 (“Only individual members in good standing shall have the right to vote or hold office in the

association”). Plaintiff Barton accepted the American Studies Association’s offer for membership in 2013, during the vote on the Israeli boycott.

313. Such discrimination against Barton regarding his right to vote, on the basis of the way he chose to vote, is a violation of Barton’s contractual rights to membership privileges as those rights are created by the American Studies Association and its regulations, resulting in damages, including punitive damages.

COUNT NINE

Corporate Waste Against All Defendants by All Plaintiffs

314. Plaintiffs repeat and reallege the allegations set forth above as if fully set forth herein.

315. The doctrine of waste defines “waste” as the “exchange of corporate assets for consideration so disproportionately small as to lie beyond the range at which any reasonable person might be willing to trade.” *See 3A Fletcher Cyc. Corp.* § 1102 at 150–51 (2010). The essence of a waste claim is “the diversion of corporate assets for improper or unnecessary purposes.” *Daley v. Kappa Alpha Sorority, Inc.*, 26 A.3d 723, 730 (D.C. 2010).

316. The Individual Defendants’ decision to use American Studies Association resources to advocate, conduct a vote on, declare enacted, and then support the Academic Boycott was so egregious or irrational that it could not have been based on a valid assessment of the corporation’s best interests. This decision went far so beyond the bounds of reasonable business judgment that the only possible determinant of these actions by the Individual Defendant is their bad faith and conflict of interest, which consists of their conscious decision to appropriate American Studies Association resources for purposes outside of those established by its organic documents and to advance their own personal political goals.

317. Defendants insistence on adopting the Academic Boycott, knowing that it would damage the association financially, and their withdrawals of approximately \$500,000 from the Trust Fund in just three years, constitutes corporate waste.

318. These actions resulted in the damages alleged herein and outlined in prior Counts and previous paragraphs. Plaintiffs are entitled to recover damages from the Individual Defendants on behalf of the American Studies Association.

COUNT TEN

Breach of Fiduciary Duty by Plaintiff Bronner and all Plaintiffs Against All Defendants (Removal of Plaintiff Bronner from Position as Editor of the Encyclopedia, *Ex Officio* Officer, and Member of the National Council)

319. Plaintiffs repeat and reallege the allegations set forth above as if fully set forth herein.

320. As members of the National Council of the American Studies Association, the Individual Defendants owe the American Studies Association and all of its members the highest duties of care, loyalty, good faith, and candor. Among other things, these duties include the obligation not to engage in conduct that directly or indirectly is in their own self-interest, and to instead faithfully represent the mission of the American Studies Association and its members, and to abide by the dictates of its organizational documents and the D.C. Nonprofit Corporation Act. The Individual Defendants also have a fiduciary duty to treat all members equally and to avoid conferring benefits or advantages on themselves that are not enjoyed by all other members. *See Willens v 2720 Wisconsin Ave Co-op Assn Inc.*, 844 A.2d 1126,1136 (D.C. 2004) (board members “‘owe a fiduciary duty to act solely in the interest of *all* shareholders.’ . . . the ‘unequal treatment of shareholders’ may violate the fiduciary duty of loyalty—especially if the directors responsible for such treatment are personally

interested in the transaction in question,” *quoting Ackerman v 305 East 40th Owners Corp.* 592 N.Y.S. 365, 367 (App. Div. 1993).)

321. However, as explained above, the Individual Defendants have breached their fiduciary duties to Plaintiff Simon Bronner by removing him as editor of the Encyclopedia of American Studies, solely because they did not want him to serve with them on the National Council because they disagreed his position on the Academic Boycott and considered him to be a Zionist. These acts were taken to Plaintiff Bronner’s detriment and to the detriment of the American Studies Association and all of its members.

322. By removing Plaintiff Bronner solely to satisfy their own personal interests and biases, Defendants breached their fiduciary duties to Plaintiff Bronner and to the American Studies Association and its other members.

323. By shutting down the Encyclopedia of American Studies – a valuable asset of the American Studies Association – merely because they were unwilling to work with Plaintiff Bronner, and based on unsubstantiated assertions, Defendants breached their fiduciary duties to Plaintiff Bronner and to the American Studies Association and its other members.

324. By spreading false information about Plaintiff Bronner to convince others that he should be removed as an editor of the Encyclopedia, Defendants further breached their fiduciary duties to Plaintiff Bronner and to the American Studies Association and its other members.

325. These acts damaged Plaintiff Bronner financially, in the amount of \$8,500 per year for the additional five-year term he undoubtedly would have served as editor. He also suffered reputational damage and lost prospects for speaking at conferences.

326. Finally, the acts against Plaintiff Bronner, as set forth in detail above, were committed out of bias and cruelty, and include dishonest and unsubstantiated allegations against him, widely

shared by Defendants with other members of the National Council and outside of the National Council. Defendant Bronner therefore seeks and is entitled to punitive damages.

COUNT ELEVEN

Tortious Interference with Contractual Business Relations by Plaintiff Bronner Against the Individual Defendants

327. Plaintiffs repeat and reallege the allegations set forth above as if fully set forth herein.

328. “To make out a prima facie case of intentional interference with business relations, the plaintiff must prove: ‘(1) existence of a valid contractual or other business relationship; (2) the defendant's knowledge of the relationship; (3) intentional interference with that relationship by the defendant; and (4) resulting damages.’ *NCRIC, Inc. v. Columbia Hosp. for Women Med. Ctr., Inc.*, 957 A.2d 890, 900 (D.C. 2008) (footnote omitted); see *Paul v. Howard Univ.*, 754 A.2d 297, 309 n.23 (D.C. 2000).” *Onyeoziri v. Spivok*, 44 A.3d 279, 286 (D.C. 2012). There is a narrow defense for conduct that is privileged or legally justified. *Id.* at 288. However, this is a defense to be raised by the defendants. “Instead of the plaintiff bearing the burden of proving that the defendant's conduct was wrongful, it is the defendant who bears the burden of proving that it was not.” *NCRIC, Inc. v. Columbia Hosp. for Women Med. Ctr., Inc.*, 957 A.2d at 901 (“We have never declared it an element of a prima facie case that the defendant’s intentional interference be otherwise wrongful”). The defense applies “when a defendant acts to protect an existing economic interest and if ‘he does not employ improper means.’ *Temps & Co. v. Finova Mezzanine Capital, Inc.*, 1:00-cv-1349, 2001 U.S. Dist. LEXIS 6006, 2001 WL 503249, at *1 (D.D.C. May 9, 2001). To determine whether a defendant utilized ‘improper means,’ the District of Columbia looks to the factors supplied by the Restatement (Second) of Torts. *Onyeoziri v. Spivok*, 44 A.3d 279, 291 (D.C. 2012). ***This standard is also met if***

the plaintiff shows malice, or spite.” Lannan Found. v. Gingold, 300 F. Supp. 3d 1, 28-29 (D.D.C. 2017), emphasis added.

329. Defendants sought to remove Plaintiff Bronner from his position as editor of the Encyclopedia as early as December 2013, for no reason other than because of his opposition to the Academic Boycott, and their unwillingness to have him on the National Council. They sought to reach this end by making false and pejorative statements about him to the entire National Council, and to others. After they were aware that they could not remove him from his position as editor immediately without subjecting themselves to liability for discrimination, they arranged to ensure that his contract would not be renewed, and eventually shut him out of the National Council and the Executive Committee’s work and communications for the rest of his term.

330. Defendants’ acted with both “malice and spite” with respect to Plaintiff Bronner, and directly and specifically with respect to their actions to remove him as editor of the Encyclopedia, *ex officio* officer, and member of the National Council.

331. Defendant Bronner’s contract ended on December 31, 2016. There is no question that his contract should have been renewed – there were no complaints about his work, the Encyclopedia had expanded greatly under his leadership, and there was no competition for the position. The decision to renew his contract should have been made by the National Council, as it existed, at that time, and based on his performance and the Encyclopedia’s performance. However, the acts of Defendants interfered with the renewal of that contract – including the false and pejorative misstatements about Plaintiff Bronner, the decision to pretend that there would be an open call for applications when Defendants already decided that there would be no open application process, and the decision to appoint an editor in name only, while shutting down the Encyclopedia, solely to prevent renewal of Plaintiff Bronner’s contract and his presence on the National Council. In

particular, Defendant Duggan's and Defendant Stephen's efforts to this end ensured that the contract would not be renewed.

332. The culmination of their actions, which took place over a three-year period, occurred in December of 2016. At that time, some of the Defendants' terms on the National Council had expired. To the extent that Defendants acted to interfere with Plaintiff Bronner's contract in a period of time when they were not fiduciaries of Plaintiff Bronner and the American Studies Association, they are liable for interference with the contractual business relationship between Plaintiff Bronner and the association.

333. These acts damaged Plaintiff Bronner financially, in the amount of \$8,500 per year for the additional five-year term he undoubtedly would have served as editor. He also suffered reputational damage and lost prospects for speaking at conferences.

334. Finally, the acts against Plaintiff Bronner, as set forth in detail above, were committed out of bias and cruelty, and include dishonest and unsubstantiated allegations against him, widely shared by Defendants with other members of the National Council and outside of the National Council. Defendant Bronner therefore seeks and is entitled to punitive damages.

COUNT TWELVE

Aiding and Abetting Breach of Fiduciary Duty by All Plaintiffs Against Defendants Sunaina Maira, J. Kehaulani Kauanui, Jasbir Puar, and John Stephens, Steven Salaita

335. Aiding-abetting includes the following elements: (1) the party whom the defendant aids must perform a wrongful act that causes an injury; (2) the defendant must be generally aware of his role as part of an overall illegal or tortious activity at the time that he provides the assistance; (3) the defendant must knowingly and substantially assist the principal violation. *Halberstam v. Welch*, 705 F.2d 472, 478 (D.C. Cir. 1983); see *Investors Research Corp. v. SEC*, 628 F.2d 168, 178 (D.C.

Cir. 1980), *cert. denied* 449 U.S. 919 (1980); *Woodward v. Metro Bank of Dallas*, 522 F.2d 84, 94–95 (5th Cir. 1975); *Landy v. Federal Deposit Insurance Corp.*, 486 F.2d 139, 162–63 (3d Cir.1973), *cert. denied* 416 U.S. 960 (1974). The focus is on whether a defendant knowingly gave “substantial assistance” to someone who performed wrongful conduct, not on whether the defendant agreed to join the wrongful conduct. *Halberstam v. Welch*, 705 F.2d 472, 478 (D.C. Cir. 1983).

336. Defendants Maira, Kehaulani, and Puar were all actively engaged in the effort to stack the National Council with members who would usher through the Academic Boycott, through Defendant Puar’s efforts on the nominating committee to ensure that only advocates for the Academic Boycott would be nominated for the National Council. In concert with Defendant Puar, Defendants Maira and Kehaulani were nominated for the National Council, and did not inform the membership of their intentions to pass the Academic Boycott – knowing that it would damage the ASA – during the election. Although Defendants Maira and Kehaulani were not on the National Council until after this election, their actions in concert with Defendant Puar and other fiduciaries constitute aiding and abetting breach of fiduciary duty. Correspondence between defendants clearly show that all three knew that their efforts, in concert with fiduciaries, would cause damage to the American Studies Association and its members.

337. Similarly, Defendant Salaita acknowledged publicly that he was heavily involved in the effort to pass the Academic Boycott before he was a member of the National Council. His substantial assistance, also knowing that the Academic Boycott would cause great damage to the American Studies Association and its members, also constitutes aiding and abetting breach of fiduciary duty.

338. Defendant John Stephens is a fiduciary, and was a fiduciary, throughout the entire period at issue. Defendant Stephens is an *ex officio* officer of the American Studies Association, and

his efforts to advance the Academic Boycott, to allow for large expenditures by the association in furtherance of the Academic Boycott and related issues, to change the bylaws to allow for large withdrawals from the ASA Trust Fund, and to make those withdrawals, totaling at least \$294,000 in fiscal years 2015 and 2016 combined, according to the American Studies Association's own documents, as produced in discovery, and an additional \$155,000 the next year, according to the association's IRS Form 990 for fiscal year 2017, for a total of approximately \$450,000.

339. Although Defendants Stephens is not a voting member of the National Council, he clearly violated his own fiduciary duties to the American Studies Association and its members in numerous ways, through numerous acts that he committed to the detriment of the association and its members.

340. Defendants Stephens is also liable for aiding and abetting the members of the National Council and other fiduciaries with respect to their official acts voting to adopt the Academic Boycott, change the bylaws, and withdrawing funds from the Trust.

341. Defendant Stephens also breached his fiduciary duty to Plaintiff Bronner, the American Studies Association, and its members, through his own acts in furtherance of the removal of Plaintiff Bronner as editor of the Encyclopedia of American Studies and officer and member of the National Council, and in closing down the Encyclopedia, a valuable asset of the American Studies Association, solely because of Plaintiff Bronner's position on the Academic Boycott.

342. Defendant Stephens is also liable for aiding and abetting the National Council, and particularly Defendant Duggan as President-Elect, President, Immediate Past President, and member of the National Council, in taking official action to remove Defendant Bronner as editor without replacing him and consequently shutting down the Encyclopedia.

343. Plaintiffs seek a return of funds to compensate the American Studies Association for financial damages, and are also entitled to recover damages, including punitive damages, from the Individual Defendants, as a result of Defendants' aiding abetting of breach of fiduciary duty.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that this Court enter judgment against the Defendants and in favor of the Plaintiffs, and award:

- 1) A declaration that the vote of the American Studies Association membership with respect to the Israel boycott was *ultra vires*, in breach of Defendants' contractual obligations or of the D.C. Nonprofit Corporation Act, and wasteful;
- 2) An accounting of the American Studies Association's financial books and records;
- 3) A declaration that the Individual Defendants breached fiduciary duties owed to the American Studies Association and its members;
- 4) A declaration that Defendants aided and abetted breaches of fiduciary duties owed to the American Studies Association and its members;
- 5) A permanent injunction enjoining and restraining the American Studies Association and each of the Individual Defendants who remains in a position of American Studies Association leadership from taking any action that does not strictly follow the statement of purpose as set forth in the American Studies Association's Constitution, and all other provisions of the bylaws, including the provision of the bylaws that requires the distribution of financial statements to the members;
- 6) A permanent injunction enjoining and restraining the American Studies Association from taking any action to enforce the Academic Boycott purportedly adopted by the

American Studies Association's National Council and the American Studies Association;

- 7) A permanent injunction enjoining and restraining the American Studies Association from making any payments or expenditures in violation of the Defendant American Studies Association's Constitution, including in support of the Academic Boycott;
- 8) Actual damages to Plaintiff Bronner for injury, including financial injury, injury to his reputation, and loss of economic advantage, arising from his removal as editor of the Encyclopedia, ex officio officer, and member of the National Council;
- 9) Actual damages on behalf of the American Studies Association from the Individual Defendants, jointly and severally, in an amount to be determined at trial but in excess of \$75,000, representing the amounts of all money expended, and the value of all American Studies Association assets appropriated, in the service of getting the Academic Boycott enacted; defending it and/or the American Studies Association after such enactment; or enforcing the Academic Boycott after it was enacted;
- 10) Punitive damages;
- 11) The costs and disbursements of this action, including attorneys' and experts' fees; and
- 12) Such other and further relief as is just and equitable.

Dated: March 11, 2019

Signed: _____
/s/Jennifer Gross
Jennifer Gross

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ARTICLE I: Name and Object

Sec. 1. The name of this society shall be the American Studies Association

Sec. 2. The object of the association shall be the promotion of the study of American culture through the encouragement of research, teaching, publication, the strengthening of relations among persons and institutions in this country and abroad devoted to such studies, and the broadening of knowledge among the general public about American culture in all its diversity and complexity.

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ARTICLE II: Members

Sec. 1. The members of the association shall be:

- (a) Any person interested in the study of American culture, upon payment of one year's individual dues;
- (b) Any cultural or educational non-profit organization interested in the study of American culture, upon the payment of one year's institutional dues; and
- (c) Any honorary members of the association. Honorary members shall be elected by an affirmative vote of two thirds of the voting members of the National Council and be exempt from the payment of dues.

- About
- What the ASA Does
- Membership in the ASA
- Officers and Committees
- Staff
- Past Presidents
- Constitution and Bylaws**
- Minutes
- Resolutions and Actions
- White Papers
- News and Events
- Annual Meeting
- Communities
- Prizes & Grants
- Publications
- Opportunities
- Resources

LOGIN

Login is required to join an ASA member community group and contribute to the community blogs.

Username:

Password:

[Reset your password](#)

REGISTER

Register here to begin or renew an ASA membership

Register here to join an ASA community (members only)

Register here to submit an application for an ASA grant or prize or for an ASA committee (members)

Sec. 2. Any member whose dues are six months in arrears shall be dropped from the rolls. Members who are so dropped may be reinstated at any time by the payment in advance of one year's dues.

Sec. 3. Only individual members in good standing shall have the right to vote or hold office in the association.

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ARTICLE III: Affiliated Societies

Sec. 1. Any society committed to the study of American culture may be admitted to the status of Affiliated Society by an affirmative vote of two-thirds of the voting members of the National Council.

Sec. 2. Any Affiliated Society which at any business meeting of the Council shall announce its intention to terminate its affiliation with the association may at the succeeding business meeting effect such termination.

Sec. 3. A Society's affiliation with the association may be terminated for sufficient reason by a vote of two-thirds of the voting members of the Council.

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ARTICLE IV: Officers

Sec. 1. The elected officers shall be the president and the vice president. The appointed officers shall be the executive director, the editor of the Encyclopedia of American Studies, and the editor of the American Quarterly.

Sec. 2. The president shall serve a one-year term, following a one-year term as vice-president. The president shall preside at meetings of the Council, of the Executive Committee, and of the Association. It shall be his or her duty, to formulate policies and projects for presentation to the Council and to fulfill the chartered obligations and purposes of the Association.

Sec. 3. The vice president shall be elected for a one-year term followed by a one-year term as president. The vice president shall preside at meetings of the Finance Committee. He or she shall be a member of the Council and of the Executive Committee. If the office of the president shall through any cause, become vacant, the vice president shall thereupon become president for the remainder of the president's term, followed by the normal one-year term as president.

Sec. 4. The executive director shall be the chief administrative officer of the association. It shall be his or her duty, under the direction of the president and Council, to oversee the affairs of the association, to have responsibility for the continuing operations of the association, to supervise the work of its committees and staff, to assist in the formulation of policies and projects for submission to the Council, to execute instructions of the Executive Committee and of the Council, and to perform other such duties as the Executive Committee and the Council may direct.

Sec. 5. The editor of the American Quarterly shall insure that the Quarterly fulfills its stated aim to aid in giving a sense of direction to studies in the culture of the United States, past and present, and that the Quarterly conducts its affairs in a manner consistent with the aims of the association.

Sec. 6. The editor of the Encyclopedia of American Studies shall be concerned with the development and maintenance of the Encyclopedia and shall insure that it functions as a resource consistent with the aims of the association.

Sec. 7. The appointed officers shall be designated by the Executive Committee with the ratification of two-thirds of the voting members of the Council for specified terms of office not to exceed three years and shall be eligible for reappointment as designated in the association's bylaws. They shall receive such compensation as the Executive Committee may determine with ratification by the Council.

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ARTICLE V: Council

Sec. 1. There shall be a Council, constituted as follows:

only)

Register here to submit a proposal for the 2016 annual meeting (members only).

Log in not required to view the ASA web pages.

In order to perform a specific action, such as submitting a proposal or application, multiple logins may be required.

EVENTS

Mar. 1 | 2016 Community Partnership Grants
Applications for the 2016 Community Partnership Grants Program to assist American Studies collaborative, interdisciplinary community projects due

Mar. 1 | 2016 Regional Chapter Grants
Applications for the 2016 grants program to assist regional American Studies conferences and projects due

Apr. 1 | Apply for Standing and Prize Committees
For details, click here

- (a) The president and the vice president;
- (b) The immediate past president, who shall serve a one-year term;
- (c) Thirteen members elected in a national election by the membership-at-large, five to be elected every first year, and four to be elected every second and third year, serving staggered three-year terms;
- (d) Two student members elected in a national election by the membership-at-large, to be elected every first and third year, serving staggered three-year terms.
- (e) One member, who is a secondary educator, elected in a national election by the membership-at-large, to be elected every third year, serving a three year term; and
- (f) One international member elected in a national election by the membership-at-large, to be elected every third year, serving a three-year term.
- (g) The executive director, the editor of the Encyclopedia of American Studies, and the editor of the American Quarterly, serving as non-voting members.

Sec. 2. The Council shall conduct the business, set fiscal policy, and oversee the general interests of the association. The Council shall fix the amount of dues and the date upon which any change of dues becomes effective. It may appoint such committees as it deems necessary. It shall call a meeting of the association at a time and place it deems appropriate. The Council shall hold at least one business meeting annually, at a time and place to be determined by the Executive Committee, for the election of members to committees, for the approval of the budget, for the consideration of reports and recommendations from the officers and committees, for the discussion of policies and of instructions that should be given to the elected or appointed officers, and for the transaction of other such business as may come before it. It shall report on its deliberations and actions through the publications of the association.

Sec. 3. To transact the necessary business in the interim between the annual business meetings of the Council, there shall be an Executive Committee constituted as follows:

- (a) The president and the vice president;
- (b) The immediate past president, who shall ex officio serve a one-year term; and
- (c) Three voting members of the Council, elected annually by the Council. The Executive Committee in the conduct of the Association's business shall be subject always to the general direction of the Council.

Sec. 4. For the general management of the financial affairs of the Association, there shall be a Finance Committee constituted as follows:

- (a) The vice president, serving as chair;
- (b) Three voting members of the Council, elected annually by the Council; and
- (c) The executive director, serving as a non-voting member.

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ARTICLE VI: Elections

Sec. 1. There shall be a Nominating Committee, consisting of six members elected in a national election by the membership-at-large for staggered terms of three years, two members to be elected annually. The president shall annually appoint the chair of the Nominating Committee from among the committee's membership for a one-year term.

Sec. 2. The Nominating Committee shall nominate candidates for the office of vice president, member of the Council, and members of the Nominating Committee. It shall present two nominees for each elected position. Nominees shall be representative of the diversity of the association's membership. With the exception of the student, international, and the secondary educator positions on the Council, candidates shall be listed in alphabetical order without further distinctions.

Sec. 3. Nominations may also be made by petitions carrying in each case the signatures of at least twenty-five members of the association in good standing and indicating in each case the

particular vacancy for which the nomination is intended. The chair of the Nominating Committee must receive nominations by petition at least four weeks before the committee makes its own nominations. The chair shall ascertain that all candidates nominated by the committee or by petition have consented to stand for election.

Sec. 4. The ballot shall be distributed to the full membership of the association at least six weeks after the completion of the nominations. No vote received after the due date specified on the ballot shall be valid. Election shall be by a plurality of the votes cast for each vacancy. The votes shall be counted, sealed, and deposited in the headquarters of the association, where they shall be kept for at least one year. In the case of a tie vote, the choice among the tied candidates shall be made by majority vote of the voting members of the Council.

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ARTICLE VII: Regional Chapters

Sec. 1. The Council and officers of the association shall seek to promote the welfare of the regional chapters. The Council and officers of the association shall also encourage the regional chapters to further the objectives of the association and shall support the chapters in this effort.

Sec. 2. Each regional chapter shall have a constitution approved by the Council. The Council shall insure that the constitutions of the regional chapters are consistent with the provisions of the constitution of the association. The Council shall also insure that the elections of the regional chapters are conducted openly and fairly.

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ARTICLE VIII: Various

Sec. 1. The Council may receive gifts and may take, receive, hold, and convey funds and property, both personal and real, necessary for the purposes of the association's incorporation, and other real and personal property the income of which shall be applied to the purpose of the association, to the extent authorized by the District of Columbia.

Sec. 2. The Council shall adopt bylaws consistent with the provisions of the constitution, upon any matter of concern to the association.

Sec. 3. The Council shall adopt such regulations and rules as maybe necessary to give full force and effect to the constitution and bylaws and to determine their procedures.

Sec. 4. Amendments to this document may be proposed by the Executive Committee or by petitions carrying the signature of at least twenty-five members of the association in good standing. Such proposed amendments shall be submitted in writing to the members of the Council at least thirty days prior to any business meeting of the Council. At this meeting, the amendments shall be submitted to a vote, a favorable vote of two-thirds of the voting members of the Council being required for approval by the Council. Amendments approved by the Council shall be submitted to the members of the association by a mail ballot within three months of the Council's approval. Ratification shall require a favorable vote of the majority of the members voting.

Sec. 5. The Council shall, upon adoption of this constitution, have the power to decide upon the details of the transition from the existing organization to the one embodied in this document.

Sec. 6. The Trust and Development Fund shall be administered by a Board of Trustees. The vice president of the association shall serve as the chair of the Board. The president, with the advice and consent, of the Council shall appoint five other trustees. No more than two of the appointive trustees shall be currently serving as members of the Council. Each appointed member shall serve a term of five years, except in the case of an appointment to complete an unexpired term. The Fund shall consist of all endowment and trust funds and other such funds as may be assigned to it by the Council, and with appropriate professional advice, the Board of Trustees shall direct the investment of the Fund's resources in a fiscally sound and socially responsible manner. At least once annually, the Board shall publicly issue an official accounting of the Fund's receipts, investments, and expenditures. The Council may, at its pleasure, assign any surpluses from the general operating funds to the Trust and Development Fund. No appropriation shall be made from the Fund's capital except upon the request of at least two-thirds of the voting members of the Council approved by at least four members of the Board of Trustees. The Finance Committee of the Council shall meet at least once each year with the Board of Trustees of the association to discuss investment policies and the financial needs of the association.

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Bylaws, Article I: Dues

Sec. 1. Individual member dues shall be based on a calendar year.

Sec. 2. Institutional member dues shall be based on a fiscal year.

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Bylaws, Article II: Officers

Sec. 1. If the office of vice president shall, through any cause, become vacant, the Council shall elect an ad interim vice president from its membership. He or she shall be eligible to succeed himself or herself in accordance with Article VI, Section 2, of this constitution.

Sec. 2. Whenever the vice president shall have succeeded to the office of president in accordance with the provisions of Article IV, Section 3, of this constitution, he or she shall be eligible to succeed himself or herself in accordance with Article VI, Section 2, of this constitution.

Sec. 3. The executive director shall be appointed in accordance with Article IV, Section 7, of this constitution. The executive director may be reappointed, by a vote of two-thirds of the voting members of the Council, for additional terms of office not to exceed three years each. The executive director shall be notified in writing by the president at least one year before the expiration of a given term if the appointment will not be renewed. The executive director's performance shall be reviewed annually by the elected officers at the spring business meeting of the Executive Committee.

Sec. 4. The editor of the American Quarterly shall be appointed in accordance with Article IV, Section 7, of this constitution. The term of office shall be three years and may be renewed, for a maximum of two additional terms, by a vote of two-thirds of the voting members of the Council. The editor shall be notified in writing by the president at least one year before the expiration of a given term if the appointment will not be renewed.

Sec. 5. The president and the vice president shall serve without compensation.

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Bylaws, Article III: Board of Editors

Sec. 1. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Board of Advisory Editors of the American Quarterly, to assist the editor on matters of general editorial policy and scholarly orientation. The Advisory Board shall consist of at least twelve members. Only individual members of the association in good standing shall have the right to serve on the Board of Advisory Editors. Their terms shall be for three years and are renewable for one additional term. The executive director shall, ex officio, be a member of the Board of Advisory Editors, without vote.

Sec. 2. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Board of Managing Editors of the American Quarterly, to advise the editor about the disposition of manuscripts submitted to the journal. The Managing Board shall consist of at least eight members. Only individual members of the association in good standing shall have the right to serve on the Board of Managing Editors. Their terms shall be for three years and are renewable for one additional term. The Editor may, at his or her discretion, designate any member of the association in good standing, to serve pro temp for a one-year maximum term as a visiting member of the Board of Managing Editors. The executive director shall, ex officio, be a member of the Board of Managing Editors, without vote.

Sec. 3. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint Associate Editors of the American Quarterly, to assist the editor with his or her duties. Only individual members of the association in good standing shall have the right to serve as the Associate Editor. The term of the Associate Editor shall be for three years and is renewable for two additional terms.

Sec. 4. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Book Review Editor of the American Quarterly, to assist the editor with the book review section of the journal. Only individual members of the association in good standing shall have the right to serve as the Book Review Editor. The term of the Book Review Editor shall be for three years and is renewable for two additional

terms.

Sec. 5. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint an Exhibition Review Editor of the American Quarterly, to assist the editor with the exhibition review section of the journal. Only individual members of the association in good standing shall have the right to serve as the Exhibition Review Editor. The term of the Exhibition Review Editor shall be for three years and is renewable for two additional terms.

Sec. 6. All appointments to editorial boards and offices commence on July 1.

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Bylaws, Article IV: Council

Sec. 1. The Council may, at its discretion, fill any vacancy in its elected membership by designating any member of the association in good standing to serve as Council member ad interim until the close of the next annual business meeting.

Sec. 2. Whenever any vacancy shall occur in the membership of the Executive Committee or of the Finance Committee, the president may, at his or her discretion, designate a voting member of the Council to serve ad interim as a member of the committee in question.

Sec. 3. Council meetings shall be open to all members of the association.

Sec. 4. The executive director, under the direction of the president, shall prepare the agenda for the business meetings of the Council. Agendas, including the complete texts of all proposals requiring formal action by the Council, shall be sent to all Council members at least four weeks in advance of the meeting. Agendas shall also be available for distribution to all other members of the association attending the meeting.

Sec. 5. Council Members unable to attend a business meeting for a valid reason may submit a proxy vote in writing to the executive director prior to the business meeting. The proxy vote shall address itself to a specific resolution, shall be in writing, and shall include the voter's name. A proxy vote shall not be applied to a resolution introduced subsequent to the proxy. The proxy shall be considered valid if it addresses the sense of the resolution even if that resolution is amended in minor elements. If a question shall arise in this regard, the presiding officer of the association shall determine the applicability of the proxy.

Sec. 6. Except where specified in the association's constitution or bylaws, a majority vote by all voting members of the Council, including those casting proxy votes, will be sufficient for approval of a proposal.

Sec. 7. The president shall preside at the business meeting. In his or her rulings from the chair, the provisions of the constitution and bylaws shall guide him or her, and where not in conflict with these, by the current edition of Robert's Rules of Order Newly Revised. The president shall cause official minutes of the business meeting to be prepared, which shall include a record of all motions and their disposition, together with all votes cast thereon, when recorded.

Sec. 8. The president may, at his or her discretion, appoint an official parliamentarian from among the voting members of the Council. The parliamentarian shall hold office for a term of one year. He or she shall advise and assist the president in the conduct of the business meeting, and shall perform such additional duties as are appropriate to his or her office.

Sec. 9. The Executive Committee shall transact the necessary business of the association in the interim between the annual business meetings of the Council. The executive director, under the direction of the president, shall prepare the agenda for the annual spring business meeting of the Executive Committee. All Council members shall receive the agenda, including the complete texts of all formal proposals requiring formal action by the Executive Committee, at least four weeks in advance of the annual spring business meeting of the Executive Committee.

Sec. 10. The Finance Committee shall consider the budget prepared by the executive director and submit it to the Council for approval in accordance with Article IV, Section 4, of these by-laws. The budget shall be available for distribution to the membership of the association at the Council's meeting. A public accountant at the end of the association's fiscal year shall review the financial accounts of the association. The association shall have a June 30 fiscal year-end. The executive director shall be bonded.

Sec. 11. The Council may elect the same three voting members of the Council to concurrent terms on the Executive and Finance committees.

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Bylaws, Article V: Committees

Sec. 1. The Council shall appoint such committees as it deems necessary. In order to advance the activities of the association, there shall be both standing committees, as designated by the bylaws, and ad hoc committees, as recommended by the Executive Committee with the approval of the Council. All committees are bodies of the association and shall function at the discretion of the Council and with the Council as the final supervisor of their activities.

Sec. 2. In pursuance thereto, the Council shall define the jurisdiction of each committee, shall determine its budget, and shall decide upon its basic policies and procedures.

Sec. 3. All standing and ad hoc committees shall report in writing to the executive director at least one month in advance of the annual business meeting of the Council. The executive director shall distribute such reports to the members of the Council and they shall be published in whole or in substance in the American Studies Association Newsletter.

Sec. 4. Close attention shall be given in the composition of all committees to the diversity of the association's membership.

Sec. 5. The Executive Committee shall, at its annual spring business meeting, review all applications and nominations for appointment to the boards and standing committees of the association. Applications and nominations for board and committee positions shall be due on April 1. An applicant or nominee must be a current member of the association, must have indicated his or her willingness to serve, and must have supplied appropriate information on scholarship, teaching, and university and public service. All appointments shall commence on July 1.

Shortly after the spring business meeting of the Council, the Executive Director, under the direction of the President, shall prepare a list of appointments that the meeting produces and circulate it among the Council for ratification. If a member of Council objects to an individual, his or her appointment shall be suspended until the Executive Committee has reconvened to consider the objection either by electronic or telephone conference. If a member of Council raises a problem with a category of appointment, the Executive Committee, at its regular meeting on the evening preceding the annual fall business meeting of the Council, shall consider the problem and present the Council with formal recommendations for resolving it.

Sec. 6. International Committee. The association shall have as one of its standing committees the International Committee. The International Committee shall have as its function to keep the Council and the association's membership informed of the issues affecting international scholars and students in the profession and shall have responsibility for special tasks involving international scholars and students in the membership. The International Committee shall be composed of ten members of the association, one of whom shall be the international member of the Council. The nine non-Council members shall be named by the Executive Committee with the approval of the Council, following an open call to the membership for self-nominations and suggestions. Each of these nine members shall serve three-year, non-renewable, staggered terms. Five of these members shall come from, and represent the interests of, the five separate regions of the world. The chair of the International Committee shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. The executive director shall, ex officio, be a member of the International Committee.

Sec. 7. Women's Committee. The association shall have as one of its standing committees the Women's Committee. The Women's Committee shall have as its function to keep the Council and the association's membership informed of the issues affecting women in the profession and shall have responsibility for special tasks involving women in the membership. The Women's Committee shall be composed of seven members of the association named by the Executive Committee with the approval of the Council, following an open call to the membership for self-nominations and suggestions. Each of these seven members shall serve three-year, non-renewable, staggered terms. One of these members shall be an international member of the association. The chair of the Women's Committee shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. The executive director shall, ex officio, be a member of the Women's Committee.

Sec. 8. Students' Committee. The association shall have as one of its standing committees the Students' Committee. The Students' Committee shall have as its function to keep the Council and the association's membership informed of the current interests, needs, and professional orientations of American Studies students. The Students' Committee shall be composed of eight members of the association, two of whom shall be the student members of the Council. These six non-Council members shall be named by the Executive Committee with the approval of the Council, following an open call to the membership for self-

nominations and suggestions. Each of these members shall serve three-year, non-renewable, staggered terms. For this purpose, student members of the association shall be defined as undergraduate or graduate students officially enrolled, at the beginning of their term, in a degree-granting program. The chair of the Students' Committee shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. The executive director shall, ex officio, be a member of the Students' Committee.

Sec. 9. Minority Scholars' Committee. The association shall have as one of its standing committees the Minority Scholars' Committee. The Minority Scholars' Committee shall have as its function to keep the Council and the association's membership informed of the issues affecting minority scholars in the profession and shall have responsibility for special tasks involving minority scholars in the membership. The Minority Scholars' Committee shall be composed of six members of the association named by the Executive Committee with the approval of the Council, following an open call to the membership for self-nominations and suggestions. Each of these six members shall serve three-year, non-renewable, staggered terms. The chair of the Minority Scholars' Committee shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. The executive director shall, ex officio, be a member of the Minority Scholars' Committee.

Sec. 10. Committee on American Studies Departments, Programs and Centers. The association shall have as one of its standing committees the Committee on American Studies Departments, Programs and Centers. The Committee on American Studies Departments, Programs and Centers shall have as its function to keep the Council and the association's membership informed of the current interests, needs, and professional concerns of American Studies departments, programs, and centers and shall have responsibility for special tasks involving the association's institutional membership. The Committee on American Studies Departments, Programs and Centers shall be composed of six members of the association named by the Executive Committee with the approval of the Council, following an open call to the membership for self-nominations and suggestions. Each of these six members shall serve three-year, non-renewable staggered terms. They shall hold appointments in an American Studies department, program, or center at the time of appointment. The chair of the Committee on American Studies Departments, Programs and Centers shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. Ex officio members may be appointed from time to time to assist in the work of the standing committee. The executive director shall, ex officio, be a member of the American Studies Departments, Programs and Centers.

Sec.11. Committee on Regional Chapters. The association shall have as one of its standing committees the Committee on Regional Chapters. The Committee on Regional Chapters shall have as its function to keep the Council and the association's membership informed of the current activities, interests, and needs, of the regional chapters; to act as a liaison between the association and the regional chapters; and to have responsibility for special tasks involving the association's regional chapters. The Committee on Regional Chapters shall be composed of one member of the association from each of the regional chapters. The members shall be named by the Executive Committee with the approval of the Council, following a request to the regional chapters for their recommendations, and an open call to the membership for self-nominations and suggestions. Each of these members shall serve three-year, non-renewable staggered terms. They shall be members in good standing of their respective chapters, as well as of the association. The chair of the Committee on Regional Chapters shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. The executive director shall, ex officio, be a member of the Committee on Regional Chapters.

Sec.12. K-16 Collaboration Committee. The association shall have as one of its standing committees the K-16 Collaboration Committee. The K-16 Collaboration Committee shall have as its function to keep the Council and the association's membership informed of the current interests, needs, and professional orientations of K-16 educators involved with American Studies programs or curricula. The K-16 Collaboration Committee shall be composed of at least six members of the association, one of whom shall be the member of Council elected to the secondary educator's slot. The non-Council members shall be named by the Executive Committee with the approval of the Council, following an open call to the membership for self-nominations and suggestions. Each of these members shall serve three-year, non-renewable, staggered terms. The majority of the K-16 Collaboration Committee shall be practitioners in the field of secondary education. The chair of the K-16 Collaboration Committee shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. It is possible for the Chair and the member of Council elected to the secondary educator's slot to be the same person. The executive director shall, ex officio, be a member of the K-16 Collaboration Committee.

Sec. 13. Committee on Critical Ethnic Studies. The association shall have as one of its standing committees the Committee on Critical Ethnic Studies. The Committee on Critical Ethnic Studies shall have as its function to keep the Council and the association's membership informed of the current activities, interests, and professional concerns affecting Ethnic Studies programs, departments, and scholars; to act as a liaison among association standing committees; to be responsible for liaison with other ethnic studies organizations, and to have responsibility for special tasks involving Ethnic Studies scholars and scholarship. The Committee on Critical Ethnic Studies shall be composed of six members of the association named by the Executive Committee with the approval of the Council, following an open call to the membership for self-nominations and suggestions. Each of these six members shall serve three-year, non-renewable, staggered terms. The chair of the Committee on Critical Ethnic Studies shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. The executive director shall, ex officio, be a member of the Committee on Critical Ethnic Studies.

Sec. 14. Committee on Graduate Education. The association shall have as one of its standing committees the Committee on Graduate Education. The Committee on Graduate Education shall have as its function to keep the Council and the association's membership informed of the current issues affecting graduate education in American Studies, Ethnic Studies, and other interdisciplinary graduate-level instruction; to act as a liaison between the association and national organizations concerning graduate education in the field, such as, but not limited to, the National Research Council; to act as a liaison among association standing committees on issues concerning graduate education; and shall have responsibility for special tasks involving the association's institutional members that have Ph.D. and M.A. degree granting programs concerning graduate education. The Committee on Graduate Education shall be composed of six members of the association named by the Executive Committee with the approval of the Council, following an open call to the membership for self-nominations and suggestions. Each of these six members shall serve three year, non-renewable staggered terms. They shall all hold appointments in an American Studies, Ethnic Studies, or our other interdisciplinary departments or programs which offer the Ph.D. or M.A. degree, and at least half of the members of the committee shall be current or former Directors of Graduate Studies at their respective institutions. The chair of the Committee on Graduate Education shall be named from the committee's membership by the Executive Committee with the approval of the Council and shall serve a single term not to exceed three years. Ex-officio members may be appointed from time to time to assist in the work of the standing committee. The executive director shall, ex officio, be a member of the Committee on Graduate Education.

Sec. 15. Prize Committees. The Council shall appoint such prize committees, as it deems necessary. Each prize committee shall function at the discretion of the Council and with the Council as the final supervisor of their activities. The Council shall define the purpose of each association prize, the frequency with which it shall be awarded, the amount of each award, the terms of each prize committee, and each prize committee's basic policies and procedures. Each prize committee shall have as its function to administer the awarding of a prize designated by the association and to submit nominees for such prizes to the Council for its approval. There shall be a single winner each prize each year. There may also be named up to five finalists for a prize. Each prize committee shall be composed of three members of the association named by the Executive Committee with the approval of the Council, following an open call to the membership for self-nominations and suggestions. The chair of each prize committee shall be named from the committee's membership by the Executive Committee with the approval of the Council.

A. The Carl Bode-Norman Holmes Pearson Prize shall be awarded periodically to an individual for outstanding contribution to American Studies and for lifetime achievement. Each of the three prize committee members shall serve three-year, non-renewable terms.

B. The Mary C. Turpie Prize shall be awarded periodically to an individual for outstanding abilities and achievement in American Studies teaching, advising, and program development at the local or regional level. Each of the three prize committee members shall serve three-year, non-renewable terms.

C. The John Hope Franklin Publication Prize shall be awarded annually to the best-published book in American Studies. Each of the three prize committee members shall serve one-year, non-renewable terms.

D. The Lora Romero First Book Publication Prize shall be awarded annually for the best-published first book in American Studies that highlights the intersections of race with gender, class, sexuality and/or nation. Each of the three prize committee members shall serve one-year, non-renewable terms.

E. The Ralph Henry Gabriel Prize shall be awarded annually to the best doctoral dissertation in American Studies. The competition is limited to candidates receiving the Ph.D. degree in American Studies, American Ethnic Studies, or American Women's Studies. Each of the three prize committee members shall serve one-year, non-renewable terms.

F. The Constance P. Rourke Prize shall be awarded annually to the best article published in American Quarterly. Each of the three prize committee members shall serve two-year, non-renewable terms.

G. The Gene Wise - Warren Susman Prize shall be awarded annually for the best paper presented by a graduate student at the annual convention. Each of the three prize committee members shall serve two-year, non-renewable terms.

H. The Yasuo Sakakibara Prize shall be awarded annually for the best paper presented by an international scholar at the annual convention. Each of the three prize committee members shall serve two-year, non-renewable terms.

Sec. 16. Whenever any vacancy shall occur in the membership of a standing committee, the Executive Committee may, at its discretion, designate any member of the association in good standing to serve ad interim as a member of the committee in question.

Sec. 17. Ex officio members may be appointed to the standing committees by the Executive Committee with the approval of the Council to advise and assist the committee in question.

Sec 18. A member of the Council, named by the Executive Committee with the approval of the Council, shall serve, ex officio, on each standing committee and task force of the association.

Sec. 19. Ad hoc committees may be created from time to time by the Executive Committee with the approval of the Council as deemed necessary to carry on the work of the association. The functions of such a committee shall be specified when the committee is designated, and the committee shall cease to exist upon the completion of the task assigned, or, automatically, at the end of a maximum three-year period. The Executive Committee with the approval of the Council for maximum three-year terms shall name the chair and members of such a committee. The Executive Committee may at its discretion, fill any vacancy in the membership of an ad hoc committee to serve as a committee member ad interim until the completion of the committee's tasks or term.

Sec. 20. Committee member responsibilities. In addition to specific roles required by membership on individual committees, members of American Studies Association committees are expected to actively participate in the work of the committee, provide thoughtful input to committee deliberations, and focus on the best interests of the association and committee goals rather than on personal interests.

Members should

- Review all relevant material before committee meetings.
- Attend committee meetings and voice objective opinions on issues.
- Pay attention to association activities that affect or are affected by the committee's work.
- Support the efforts of the committee chair and carry out individual assignments made by the chair.
- Work as part of the committee and staff team to ensure that the committee's work and recommendations are in keeping with the general association mission and goals.

Sec. 21. It is possible to remove a member from a committee if that individual is ineffective, works against the committee, or gives out inaccurate information on behalf of the committee. Discussing and removing committee members should be done under conditions of strict confidentiality. The chair should talk with the ineffective board member. If the majority of the committee is in agreement, the chair should set up a time to discuss the situation. Schedule a leave of absence if there are legitimate reasons for the ineffective behavior. The leave should cover the rest of his or her term or designate a period for the leave, after which the chair should reevaluate the member. The chair may informally ask for a resignation from the member. If the committee member is non-responsive, or fails to resign, then the chair may formally request a resignation his or her resignation.

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Bylaws, Article VI: Delegates to Other Organizations

Sec. 1. The president of the association shall as appropriate, in consultation with the

Executive Committee and the ratification of the Council, appoint delegates to the meetings of various professional organizations.

Sec. 2. The president of the association shall, in consultation with the Executive Committee and with the ratification of the Council, appoint a delegate to the American Council of Learned Societies for a term of four years, with new terms of office commencing January 1.

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Bylaws, Article VII: Conventions

Sec. 1. The Council shall call an annual meeting of the association at a time and place it deems appropriate. To plan and organize an annual meeting, there shall be a Program Committee and a Site Resource Committee.

Sec. 2. The Executive Committee shall select a site for each convention at least three years in advance of the convention date. The Executive Committee shall consider the fiscal condition of the association, our ability to safely meet and freely conduct our business at the convention site, the amount of local and regional support, the adequacy of the conference facilities, the employment practices of conference hotels and vendors, and the proximity of the meeting site to the majority of association members, when selecting future convention sites. The Executive Committee shall, whenever possible, respond to invitations from regional chapters willing to host the convention. The principles involved in the selection of the convention site shall include geographical rotation in order to maximize attendance, diversify participation, and insure a reliable budgetary surplus of convention revenues over expenditures.

Sec. 3. The chair(s) of the Site Resource Committee shall be named by the president-elect, in consultation with the executive director and the members of the Executive Committee, approximately eighteen (18) months in advance of the convention date. The chair(s) shall, in consultation with the president-elect, the executive director, and the program committee chair(s), name the members of the Site Resource Committee.

Sec. 4. The chair(s) of the Program Committee shall be named by the president-elect, in consultation with the executive director and the members of the Executive Committee, approximately eighteen (18) months in advance of the convention date. The chair(s) of the Program Committee, in consultation with the president-elect, the executive director, the members of the Executive Committee, and the chairs of the standing committees of the association shall name the members of the Program Committee. The chair(s) shall name at least nine (9) but no more than twelve (12) Program Committee members. The nominations, together with appropriate biographical material on all nominees, shall be submitted for approval to the Executive Committee at least two months in advance of the annual fall business meeting of the Council. Only members of the association in good standing shall have the right to serve on the Program Committee. Prospective members of the Program Committee must have indicated a willingness to serve and must have supplied appropriate information on scholarship, teaching, and university and public service. The chair(s) when preparing recommendations for Committee members shall choose the best qualified members consistent with reasonable representation of the major fields of American Studies scholarship and the diversity of the association's membership in order to maintain a balance of age, racial, ethnic, regional, and gender participation. When approaching ASA members about possible service on the Program Committee, the chair(s) should make clear that the Executive Committee votes on the appointments to the Committee.

Sec. 5. The Program Committee shall, in accordance with the Guide to the Work of the Program Committee, determine the convention theme, the procedures for evaluating proposals, and the general content of the meeting. One slot shall be reserved for the Council for a general meeting session.

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Bylaws, Article VIII: Elections

Sec. 1. The Nominating Committee shall prepare a ballot to be sent to the executive director no later than January 1 for electronic polling of the membership with elections to be completed by March 1.

Sec. 2. The ballot shall present the names of any persons nominated by petition as specified in Article VI, Section 3, of the constitution. Nominations by petition must be in the hands of the Nominating Committee no later than October 1.

Sec. 3. The Council may, by resolution, provide for additional nominations to be made for any

position where there is a vacancy through death or by resignation of a candidate.

Sec. 4. Whenever prospective vacancies of one year or more occur in the offices of president, vice president, elected Council members, and members of the Nominating Committee, the Nominating Committee shall nominate at least two candidates for the unexpired term of any such office.

Sec. 5. Annually the executive director shall publish a "nominations announcement" in the June and September issues of the Newsletter. The announcement shall list all association positions for which elections are to be held in the forthcoming calendar year, and shall invite all members of the association to submit to the chair of the Nominating Committee on or before October 1 any recommendations for nominations thereto.

Sec. 6. On or before February 1 the chair of the Nominating Committee, or the executive director acting on his or her instructions, shall post an electronic ballot on a secure web server, accessible to the full membership of the association, together with candidates' statements and appropriate biographical material on all nominees. Such ballots shall identify as such all nominations submitted by the Nominating Committee and all nominations submitted by petition. Ballots shall be marked clearly with a due date of March 1, and no ballot submitted after that time shall be counted. The right to a secret ballot shall be insured.

Sec. 7. The Nominating Committee, or the executive director acting on its instructions, shall thereafter count and record the election results in such manner that insures the integrity of the counting and recording process. The chair of the Nominating Committee, or the executive director acting on his or her instructions, shall notify all candidates forthwith of the results of the election, and the executive director shall prepare an announcement of such results for the June edition of the Newsletter.

Sec. 8. In the event of a tie in the balloting for any office, the chair of the Nominating Committee, or the executive director acting on his or her instructions, shall prepare an electronic ballot listing the tied candidates and the Council shall decide between such candidates no later than April 1.

Sec. 9. All persons elected to association office in the annual winter election shall assume office on the following July 1.

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Bylaws, Article IX: Regional Chapters

Sec. 1. The Council shall pay such annual rebates to each regional chapter as it deems appropriate, consistent with the goal of fostering the general health and fiscal stability of both the association and the regional chapters. By a two-thirds vote, the Council shall fix the amount of chapter rebates and the date upon which any change of rate becomes effective. The amount shall be based on individual members dues received by the American Studies Association during a calendar year.

Sec. 2. A chapter's rebate shall be paid within one month of the executive director's receipt from the appropriate chapter officer of a detailed accounting of the chapter's income and expenditures for the immediately preceding year.

Sec. 3. The executive director shall provide annually without charge to each chapter a list of association members in that chapter.

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Bylaws, Article X: Professional Ethics

Sec. 1. Individuals with powers of nomination may not nominate their own spouses or family members to offices in the association. In the case of nominations made by the Executive Committee, the Council, the Nominating Committee, or any other association board, committee, or body, individuals who are part of such nominating bodies should disqualify themselves from discussion or consideration of spouses or family members for association offices.

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Bylaws, Article XI: Public Issues

Sec. 1. The Executive Committee is empowered to speak for the association on public issues where these directly affect our work as scholars and teachers. Such issues include, but are

not restricted to, academic freedom; freedom of access to information; appointments to and policies of granting and funding agencies.

Sec. 2. The Executive Committee is empowered to speak for the association on public issues where these directly affect our ability to safely meet in national or regional conventions, and freely conduct our business. Such issues include, but are not restricted to, the passage or existence of anti-sodomy laws; laws and regulations which restrict freedom of speech, or the availability of abortion (considered as a health measure); or laws and regulations tending to discriminate against particular classes or groups of association members.

Sec. 3. Should an issue arise which, in the opinion of the Executive Committee or Council, seems to require public action, speech or demonstration by the association at a particular annual meeting, the Council shall meet to formulate a response. The Council shall convene an emergency meeting of the membership on the first full day of the annual meeting, to recommend a course of action, and conduct a public discussion of the issue(s); and the vote of two-thirds of those in attendance may approve the recommended action.

Sec. 4. The association may not intervene, directly or indirectly, in any political campaign for or against a candidate for public office. The association may not endorse candidates, contribute to campaigns, raise funds, distribute statements or become involved in any other activities that may be beneficial or detrimental to a candidate.

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Bylaws, Article XII: Association Trust and Development Fund

Sec. 1. The Trust and Development Fund shall have as its main purpose to insure the long-term, financial stability of the association in accordance with Article VIII, Section VI, of the Constitution of the American Studies Association. The Fund may also from time to time make small grants in support of the projects, activities, or prizes of the association.

Sec. 2. The Executive Director shall deposit all funds contributed to the American Studies Association, its projects, activities, or prizes, in the Trust and Development Fund. All such contributions shall be promptly acknowledged in accordance with Internal Revenue Service rules and regulations for 501(3) (c) tax-exempt organizations.

Sec. 3. The interest and dividend income of the Trust and Development Fund may be used during the fiscal year for the purposes of the association's incorporation to the extent authorized by the Internal Revenue Service and the District of Columbia. No expenditure shall be made from the Fund's principal balance or capital gains. All surpluses at the end of the fiscal year shall be assigned to the Fund's principal balance.

Sec. 4. The fiscal year budget for the Trust and Development Fund shall be available for distribution to the membership of the association at the annual business meeting of the Council. A public accountant at the end of the association's fiscal year shall audit the financial accounts of the Fund. The Fund shall have a June 30 fiscal year-end.

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Bylaws, Article XIII: Amendment of the Bylaws

Sec. 1. These bylaws may be altered, amended, or repealed at any business meeting of the Council by a resolution adopted by two-thirds of the voting members, provided that such changes have been set forth in the notice of such meeting mailed to the Council members at least thirty days prior to the meeting. Council members unable to attend a business meeting for a valid reason may submit a proxy in writing to the executive director prior to the meeting in accordance with Article IV, Section 5, of these bylaws.

Last updated May 2013

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ARTICLE I: Name and Object

Sec. 1. The name of this society shall be the American Studies Association

Sec. 2. The association is organized exclusively for educational and academic study purposes, including the promotion of meaningful dialogue about the United States across the globe by supporting scholars and scholarship committed to original research, innovative and effective teaching, critical thinking, and public discussion and debate. Except as restricted in the Articles of Incorporation or these Bylaws, the association may engage in any and all lawful activities incidental to the foregoing purposes.

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ARTICLE II: Members and Dues

Sec. 1. The members of the association shall be:

- (a) Individual Members - any person interested in the study of American culture, who meets the required criteria for membership as established by the Council and pays the applicable dues;
- (b) Institutional Members -any cultural or educational non-profit organization interested in the study of American culture, upon the payment of the applicable institutional dues; and
- (c) Honorary Members - any person elected by an affirmative vote of two-thirds of the voting Council members present at a Council meeting at which a quorum is established. Honorary members shall be exempt from the payment

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of dues.

Sec. 2. Any member whose dues are six months in arrears shall be dropped from the rolls. Members who are so dropped may be reinstated at any time by the payment in advance of one year's dues.

Sec. 3. Individual Members in good standing shall have the right to vote and hold office in the association.

Sec. 4. Each Institutional Member shall designate one person to serve as the primary representative of the institution. The primary representative shall have the right to vote and hold office in the association.

Sec. 5. Membership dues shall be determined by the Council. Individual Member dues shall be based on a calendar year, and Institutional Member dues shall be based on the Institutional Member's fiscal year.

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ARTICLE III: Affiliated Societies

Sec. 1. Any society committed to the study of American culture may be admitted to the status of Affiliated Society by an affirmative vote of two-thirds of the voting Council members present at a Council meeting at which a quorum is established.

Sec. 2. An Affiliated Society may terminate its affiliation with the association by announcing its intention to terminate its affiliation at a business meeting of the Council.

Sec. 3. At the next business meeting of the Council, a Society's affiliation with the association may be terminated for sufficient reason by a vote of two-thirds of the voting Council members in office who are present at a Council meeting at which a quorum has been established.

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ARTICLE IV: Officers

Sec. 1. The elected officers shall be the president and the vice president, who shall be elected by the voting members of the association and shall serve without compensation.

Sec. 2. The appointed officers shall be the executive director, the editor of the *American Quarterly*, and the editor of the *Encyclopedia of American Studies*. The appointed officers shall be designated by the Executive Committee with the ratification of two-thirds of the voting Council members in office who are present at a Council meeting at which a quorum is established.

Sec. 3. The president shall serve a one year term, following a one year term as vice-president. The president shall preside at meetings of the Council, of the Executive Committee, and of the association. The president shall formulate policies and projects for presentation to the Council and to fulfill the chartered obligations and purposes of the association.

Sec. 4. The vice president shall be elected for a one year term followed by a one year term as president. The vice president shall preside at meetings of the Finance Committee. He or she shall be a member of the Council and of the Executive Committee. If the office of the president shall, through any cause, become vacant, the vice president shall thereupon become president for the remainder of the president's term, followed by the normal one year term as president. If the office of vice president shall, through any cause, become vacant, the Council shall elect an interim vice president from Council members. He or she shall be eligible to succeed him/herself.

Sec. 5. The executive director shall be the chief administrative officer of the association. Under the direction of the president and Council, the executive director shall have responsibility for the continuing operations of the association, supervise the work of its committees and staff, assist in the formulation of policies and projects for submission to the Council, execute instructions of the Executive Committee and of the Council, and perform other such duties as the Executive Committee and the Council may direct. The executive director shall serve as Treasurer, and also serve as the association's Secretary of the association. The executive director's term shall be contractual and shall be determined by the Executive Committee. The executive director may be appointed for subsequent consecutive terms as deemed appropriate by the Executive Committee. The executive director's

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For submission guidelines, click [here](#)

Sep. 15 | CFP Framing the "American Century": Wars, Migrations, Social Justice
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Nov. 1 | 2016 Wise Susman Prize
For submission guidelines, click [here](#)

Nov. 1 | 2016 Yasuo Sakakibara Prize
For submission guidelines, click [here](#)

performance shall be reviewed annually by the elected officers in connection with the spring business meeting of the Executive Committee.

Sec. 6. The editor of the *American Quarterly* shall ensure that the *American Quarterly* fulfills its stated aim to aid in giving a sense of direction to studies in the culture of the United States, past and present, and that the *American Quarterly* conducts its affairs in a manner consistent with the aims of the association. The editor of the *American Quarterly* shall serve for a term of five (5) years, which may be renewed for one (1) additional term.

Sec. 7. The editor of the *Encyclopedia of American Studies* shall be concerned with the development and maintenance of the Encyclopedia and shall ensure that it functions as a resource consistent with the aims of the association. The editor of the *Encyclopedia of American Studies* shall serve for a term of five (5) years, which may be renewed for one (1) additional term.

Sec. 8. The appointed officers shall be designated by the Executive Committee with the ratification of two-thirds of the voting members of the Council. They shall receive such compensation as the Executive Committee may determine with ratification by the Council.

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ARTICLE V: Council

Sec. 1. There shall be a Council, constituted as follows:

- (a) The president and the vice president;
- (b) The immediate past president, who shall serve a one-year term;
- (c) Thirteen (13) members elected in a national election by the membership-at-large, five (5) to be elected every first year, and four (4) to be elected every second and third year, serving staggered three (3) year terms;
- (d) Two (2) student members elected in a national election by the membership-at-large, to be elected every first and third year, serving staggered three (3) year terms.
- (e) One member, who is a secondary educator, elected in a national election by the membership-at-large, to be elected every third year, serving a three (3) year term; and
- (f) One international member elected in a national election by the membership-at-large, to be elected every third year, serving a three (3) year term.
- (g) The executive director, the editor of the *American Quarterly*, and the editor of the *Encyclopedia of American Studies*, serving as non-voting members.

Sec. 2. The Council shall serve as the Board of Directors of the association. As such, it shall conduct the business, set fiscal policy, and oversee the general interests of the association. The Council shall fix the amount of dues and the date upon which any change of dues becomes effective. It may appoint such committees as it deems necessary. It shall call a meeting of the association at a time and place it deems appropriate. The Council shall hold at least one (1) business meeting annually, at a time and place to be determined by the Executive Committee, for the election of members to committees, for the approval of the budget, for the consideration of reports and recommendations from the officers and committees, for the discussion of policies and of instructions that should be given to the elected or appointed officers, and for the transaction of other such business as may come before it. It shall report on its deliberations and actions through the publications of the association.

Sec. 3. At all meetings of the Council, the presence of at least a majority of the voting members of the Council in office shall constitute a quorum for the transaction of business.

Sec. 4. Unless otherwise specified in the Bylaws, a majority vote by voting members of the Council who are present at a Council meeting with an established quorum is sufficient to transact business.

Sec. 5. The Council may, at its discretion, fill any vacancy on the Council by designating any member of the association in good standing to serve until his or her successor is elected and qualified.

Sec. 6. Council meetings shall be open to all members of the association.

Sec. 7. To transact the necessary business in the interim between the annual business meetings of the Council, there shall be an Executive Committee comprised of the individuals below:

- (a) The president and the vice president;
- (b) The immediate past president, who shall be an *ex officio* member without voting rights, and who shall serve a one year term; and
- (c) Three (3) voting members of the Council, elected annually by the Council.

The Executive Committee in the conduct of the association's business shall be subject always to the general direction of the Council.

Sec. 8. For the general management of the financial affairs of the association, there shall be a Finance Committee comprised of the individuals below:

- (a) The vice president, serving as chair;
- (b) Three (3) voting members of the Council, elected annually by the Council, and
- (c) The executive director, serving as a non-voting member.

Sec. 9. The Finance Committee shall consider the budget prepared by the executive director and submit it to the Council for approval in accordance with Article V, Section 8, of these Bylaws. The budget shall be available for distribution to the membership of the association at the Council's meeting. A public accountant at the end of the association's fiscal year shall review the financial accounts of the association. The association shall have a June 30 fiscal year-end.

Sec. 10. Council, Executive Committee, and Finance Committee meetings may be held using electronic communication. Members of these committees may participate and act at any meeting through conference call or other electronic communications equipment by means of which all persons participating in the meeting can communicate with each other.

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ARTICLE VI: Nominations and Elections

Sec. 1. There shall be a Nominating Committee, consisting of six members elected in a national election by the membership-at-large for staggered terms of three (3) years, two (2) members to be elected annually. The president shall annually appoint the chair of the Nominating Committee from among the committee's membership for a one year term.

Sec. 2. Annually the executive director shall publish a "nominations announcement" in the June and September issues of the association's newsletter. The announcement shall list all association positions for which elections are to be held in the forthcoming calendar year, and shall invite all members of the association to submit to the chair of the Nominating Committee any recommendations for nominations thereto.

Sec. 3. The Nominating Committee shall nominate candidates for the office of vice president, member of the Council, and members of the Nominating Committee. It shall present two (2) nominees for each elected position. Nominees shall be representative of the diversity of the association's membership. With the exception of the student, international, and the secondary educator positions on the Council, candidates shall be listed in alphabetical order without further distinctions.

Sec. 4. Nominations may also be made by petitions carrying the signatures of at least twenty-five (25) members of the association in good standing and indicating in each case the particular vacancy for which the nomination is intended. The chair of the Nominating Committee must receive nominations by petition at least four (4) weeks before the committee makes its own nominations. The chair shall ascertain that all candidates nominated by the committee or by petition have consented to stand for election.

Sec. 5. The Council may, by resolution, provide for additional nominations to be made for any position where there is a vacancy through death or by resignation of a candidate.

Sec. 6. The chair of the Nominating Committee, or the executive director acting on the Nominating Chair's instructions, shall post an electronic ballot on a secure web server, accessible to the full membership of the association, together with candidates' statements and appropriate biographical material on all nominees. Such ballots shall identify as such all nominations submitted by the Nominating Committee and all nominations submitted by petition. Ballots shall be marked clearly with a due date, and no ballot submitted after the stated due date shall be counted. The right to a secret ballot shall be insured.

Sec. 7. Election shall be by a plurality of the votes cast for each vacancy. The votes shall be counted, sealed, and deposited in the headquarters of the association, where they shall be kept for at least one year. In the case of a tie vote, the choice among the tied candidates shall be made by majority vote of the voting members of the Council.

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ARTICLE VII: Board of Editors

Sec. 1. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Board of Advisory Editors of the *American Quarterly*, to assist the editor on matters of general editorial policy and scholarly orientation. The Advisory Board shall consist of at least twelve (12) members. Only individual members of the association in good standing shall have the right to serve on the Board of Advisory Editors. Their terms shall be for three (3) years and are renewable for one additional term. The executive director shall be an *ex officio* member of the Board of Advisory Editors, without vote.

Sec. 2. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Board of Managing Editors of the *American Quarterly*, to advise the editor about the disposition of manuscripts submitted to the journal. The Managing Board shall consist of at least eight (8) members. Only Individual Members of the association in good standing shall have the right to serve on the Board of Managing Editors. Their terms shall be for three (3) years and are renewable for one additional term. The Editor may, at his or her discretion, designate any member of the association in good standing, to serve pro temp for a one year maximum term as a visiting member of the Board of Managing Editors. The executive director shall be an *ex officio* member of the Board of Managing Editors, without vote.

Sec. 3. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint Associate Editors of the *American Quarterly*, to assist the editor with his or her duties. Only Individual Members of the association in good standing shall have the right to serve as an Associate Editor. The term of the Associate Editor shall be for three (3) years and is renewable for two (2) additional terms.

Sec. 4. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Book Review Editor of the *American Quarterly*, to assist the editor with the book review section of the journal. Only Individual Members of the association in good standing shall have the right to serve as the Book Review Editor. The term of the Book Review Editor shall be for three (3) years and is renewable for two (2) additional terms.

Sec. 5. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint an Exhibition Review Editor of the *American Quarterly*, to assist the editor with the exhibition review section of the journal. Only Individual Members of the association in good standing shall have the right to serve as the Exhibition Review Editor. The term of the Exhibition Review Editor shall be for three (3) years and is renewable for two (2) additional terms.

Sec. 6. All appointments to editorial boards and offices commence on July 1.

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ARTICLE VIII: Committees

Sec. 1. The Council shall appoint such committees as it deems necessary. In order to advance the activities of the association, there shall be both standing committees, as designated by the Bylaws, and *ad hoc* committees, as recommended by the Executive Committee with the approval of the Council. All committees, other than the Executive Committee, are advisory committees and shall function at the discretion of the Council and with the Council as the final supervisor of their activities. At least one Council member shall

serve as a member for each advisory committee.

Sec. 2. In pursuance thereto, the Council shall define the jurisdiction of each committee, shall determine its budget, and shall decide upon its basic policies and procedures.

Sec. 3. The standing committees of the association shall be:

- (a) The International Committee;
- (b) The Committee on Gender and Sexuality Studies;
- (c) The Student's Committee;
- (d) The Minority Scholars' Committee;
- (e) The Committee on American Studies Departments, Programs, and Centers;
- (f) The Committee on Regional Chapters;
- (g) The K-16 Collaboration Committee;
- (h) The Committee on Critical Ethnic Studies;
- (i) The Committee on Graduate Education;
- (j) Program Committee; and
- (k) Site Resource Committee

Sec. 4. All standing and *ad hoc* committees shall report in writing to the executive director at least one month in advance of the annual business meeting of the Council. The executive director shall distribute such reports to the members of the Council and they shall be published in whole or in substance in the American Studies Association Newsletter.

Sec. 5. Close attention shall be given in the composition of all committees to the diversity of the association's membership.

Sec. 6. The Executive Committee shall, at its annual spring business meeting, review all applications and nominations for appointment to the Council and standing committees of the association. An applicant or nominee must be a current member of the association, must have indicated his or her willingness to serve, and must have supplied appropriate information on scholarship, teaching, and university and public service. All appointments shall commence on the first day of the association's fiscal year.

Shortly after the spring business meeting of the Council, the executive director, under the direction of the president, shall prepare a list of appointments that the meeting produces and circulate it among the Council for ratification. If a member of Council objects to an individual, his or her appointment shall be suspended until the Executive Committee has reconvened to consider the objection either by electronic or telephone conference. If a member of Council raises a problem with a category of appointment, the Executive Committee, at its regular meeting on the evening preceding the annual fall business meeting of the Council, shall consider the problem and present the Council with formal recommendations for resolving it.

Sec. 7. Whenever any vacancy shall occur in the membership of a standing committee, the Executive Committee may, at its discretion, designate any member of the association in good standing to serve as a member of the committee in question.

Sec. 8. *Ex officio* members may be appointed to the standing committees by the Executive Committee with the approval of the Council to advise and assist the committee in question.

Sec. 9. A member of the Council, named by the Executive Committee with the approval of the Council, shall serve, *ex officio*, on each standing committee and task force of the association.

Sec. 10. *Ad hoc* committees may be created from time to time by the Executive Committee with the approval of the Council as deemed necessary to carry on the work of the association. The functions of such a committee shall be specified when the committee is designated, and the committee shall cease to exist upon the completion of the task assigned, or, automatically, at the end of a maximum three (3) year period. The Executive Committee with the approval of the Council for maximum three-year terms shall name the chair and members of such a committee. The Executive Committee may at its discretion, fill any vacancy in the membership of an *ad hoc* committee to serve as a committee member *ad interim* until the completion of the committee's tasks or term.

Sec. 11. It is possible to remove a member from a committee if that individual is ineffective, works against the committee, or gives out inaccurate information on behalf of the committee. Discussing and removing committee members should be done under conditions of strict confidentiality. The chair should talk with the ineffective board member. If the majority of the committee is in agreement, the chair should set up a time to discuss the situation. Schedule a leave of absence if there are legitimate reasons for the ineffective behavior. The leave should cover the rest of his or her term or designate a period for the leave, after which the chair should reevaluate the member. The chair may informally ask for a resignation from the member. If the committee member is non-responsive, or fails to resign, then the chair may formally request a resignation his or her resignation.

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ARTICLE IX: Delegates to Other Organizations

Sec. 1. The president of the association shall as appropriate, in consultation with the Executive Committee and the ratification of the Council, appoint delegates to the meetings of various professional organizations.

Sec. 2. The president of the association shall, in consultation with the Executive Committee and with the ratification of the Council, appoint a delegate to the American Council of Learned Societies for a term of four (4) years, with new terms of office commencing January 1.

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ARTICLE X: Conventions

Sec. 1. The Council shall call an annual meeting of the association at a time and place it deems appropriate. To plan and organize an annual meeting, there shall be a Program Committee and a Site Resource Committee.

Sec. 2. The Executive Committee shall select a site for each convention at least three (3) years in advance of the convention date. The Executive Committee shall consider the fiscal condition of the association, our ability to safely meet and freely conduct our business at the convention site, the amount of local and regional support, the adequacy of the conference facilities, the employment practices of conference hotels and vendors, and the proximity of the meeting site to the majority of association members, when selecting future convention sites. The Executive Committee shall, whenever possible, respond to invitations from regional chapters willing to host the convention. The principles involved in the selection of the convention site shall include geographical rotation in order to maximize attendance, diversify participation, and insure a reliable budgetary surplus of convention revenues over expenditures.

Sec. 3. The chair(s) of the Site Resource Committee shall be named by the president-elect, in consultation with the executive director and the members of the Executive Committee, approximately eighteen (18) months in advance of the convention date. The chair(s) shall, in consultation with the president-elect, the executive director, and the program committee chair(s), name the members of the Site Resource Committee.

Sec. 4. The chair(s) of the Program Committee shall be named by the president-elect, in consultation with the executive director and the members of the Executive Committee, approximately eighteen (18) months in advance of the convention date. The chair(s) of the Program Committee, in consultation with the president-elect, the executive director, the members of the Executive Committee, and the chairs of the standing committees of the association shall name the members of the Program Committee. The chair(s) shall name at least nine (9) but no more than twelve (12) Program Committee members. The nominations, together with appropriate biographical material on all nominees, shall be submitted for approval to the Executive Committee at least two months in advance of the annual fall business meeting of the Council. Only members of the association in good standing shall have the right to serve on the Program Committee. Prospective members of the Program Committee must have indicated a willingness to serve and must have supplied appropriate information on scholarship, teaching, and university and public service. The chair(s) when preparing recommendations for Committee members shall choose the best qualified members consistent with reasonable representation of the major fields of American Studies scholarship and the diversity of the association's membership in order to maintain a balance of age, racial, ethnic, regional, and gender participation. When approaching ASA members about possible service on the Program Committee, the chair(s) should make clear that the

Executive Committee votes on the appointments to the Committee.

Sec. 5. The Program Committee shall, in accordance with the *Guide to the Work of the Program Committee*, determine the convention theme, the procedures for evaluating proposals, and the general content of the meeting. One slot shall be reserved for the Council for a general meeting session.

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ARTICLE XI: Regional Chapters

Sec. 1. The Council and officers of the association shall seek to promote the welfare of the regional chapters. The Council and officers of the association shall also encourage the regional chapters to further the objectives of the association and shall support the chapters in this effort.

Sec. 2. Each regional chapter shall have a constitution approved by the Council. The Council shall insure that the constitutions of the regional chapters are consistent with the provisions of the Bylaws of the association. The Council shall also insure that the elections of the regional chapters are conducted openly and fairly.

Sec. 3. The Council shall pay such annual rebates to each regional chapter as it deems appropriate, consistent with the goal of fostering the general health and fiscal stability of both the association and the regional chapters. The Council shall fix the amount of chapter rebates and the date upon which any change of rate becomes effective. The amount shall be based on Individual Member dues received by the American Studies Association during a calendar year.

Sec. 4. A chapter's rebate shall be paid within one month of the executive director's receipt from the appropriate chapter officer of a detailed accounting of the chapter's income and expenditures for the immediately preceding year.

Sec. 5. The executive director shall provide annually without charge to each chapter a list of association members in that chapter.

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ARTICLE XII: Public Issues

Sec. 1. The Executive Committee is empowered to speak for the association on public issues where these directly affect our work as scholars and teachers. Such issues include, but are not restricted to, academic freedom; freedom of access to information; appointments to and policies of granting and funding agencies.

Sec. 2. The Executive Committee is empowered to speak for the association on public issues where these directly affect our ability to safely meet in national or regional conventions, and freely conduct our business. Such issues include, but are not restricted to, the passage or existence of anti-sodomy laws; laws and regulations which restrict freedom of speech, or the availability of abortion (considered as a health measure); or laws and regulations tending to discriminate against particular classes or groups of association members.

Sec. 3. Should an issue arise which, in the opinion of the Executive Committee or Council, seems to require public action, speech or demonstration by the association at a particular annual meeting, the Council shall meet to formulate a response. The Council shall convene an emergency meeting of the membership on the first full day of the annual meeting, to recommend a course of action, and conduct a public discussion of the issue(s); and the vote of two-thirds of those in attendance may approve the recommended action.

Sec. 4. The association may not intervene, directly or indirectly, in any political campaign for or against a candidate for public office. The association may not endorse candidates, contribute to campaigns, raise funds, distribute statements or become involved in any other activities that may be beneficial or detrimental to a candidate.

[Policy on Resolutions, Statements and Letters of Support](#)

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ARTICLE XIII: Association Trust and Development Fund

Sec. 1. The Trust and Development Fund shall have as its main purpose to insure the long-term, financial stability of the association. The Fund may also from time to time make small grants in support of the projects, activities, or prizes of the association.

Sec. 2. The Trust and Development Fund shall be administered by a Board of Trustees. The vice president of the association shall serve as the chair of the Board. The president with the advice and consent of the Council shall appoint five other trustees. No more than two (2) of the appointed trustees shall be currently serving as members of the Council. Each appointed member shall serve a term of five (5) years, except in the case of an appointment to complete an unexpired term. The Fund shall consist of all endowment and trust funds and other such funds as may be assigned to it by the Council, and with appropriate professional advice, the Board of Trustees shall direct the investment of the Fund's resources in a fiscally sound and socially responsible manner. At least once annually, the Board shall publicly issue an official accounting of the Fund's receipts, investments, and expenditures. The Council may, at its pleasure, assign any surpluses from the general operating funds to the Trust and Development Fund. No appropriation shall be made from the Fund's capital except upon the request of at least two-thirds of the voting members of the Council approved by at least four (4) members of the Board of Trustees. The Finance committee of the Council shall meet at least once each year with the Board of Trustees of the association to discuss investment policies and the financial needs of the association.

Sec. 3. The executive director shall deposit all funds contributed to the American Studies Association, its projects, activities, or prizes, in the Trust and Development Fund. All such contributions shall be promptly acknowledged in accordance with Internal Revenue Service rules and regulations for 501(3) (c) tax-exempt organizations.

Sec. 4. The interest and dividend income of the Trust and Development Fund may be used during the fiscal year for the purposes of the association's incorporation to the extent authorized by the Internal Revenue Service and the District of Columbia. No expenditure shall be made from the Fund's principal balance or capital gains. All surpluses at the end of the fiscal year shall be assigned to the Fund's principal balance.

Sec. 5. The fiscal year budget for the Trust and Development Fund shall be available for distribution to the membership of the association at the annual business meeting of the Council. A public accountant at the end of the association's fiscal year shall review the financial accounts of the association. The association shall have a June 30 fiscal year-end.

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ARTICLE XIV: Amendment of the Bylaws

Sec. 1. These Bylaws may be altered, amended, or repealed at any business meeting of the Council by a resolution adopted by two-thirds of the voting Council members in office who are present at a meeting at which a quorum is established, provided that such changes have been set forth in the notice of such meeting mailed to the Council members at least thirty (30) days prior to the meeting.

Last updated: MARCH 2, 2016.

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ARTICLE I: Name and Object

Sec. 1. The name of this society shall be the American Studies Association

Sec. 2. The association is organized exclusively for educational and academic study purposes, including the promotion of meaningful dialogue about the United States across the globe by supporting scholars and scholarship committed to original research, innovative and effective teaching, critical thinking, and public discussion and debate. Except as restricted in the Articles of Incorporation or these Bylaws, the association may engage in any and all lawful activities incidental to the foregoing purposes.

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ARTICLE II: Members and Dues

Sec. 1. The members of the association shall be:

- Individual Members - any person interested in the study of American culture, who meets the required criteria for membership as established by the Council and pays the applicable dues;
- Institutional Members -any cultural or educational non-profit organization interested in the study of American culture, upon the payment of the applicable institutional dues; and
- Honorary Members - any person elected by an affirmative vote of two-thirds of the voting Council members present at a Council meeting at which a quorum is established. Honorary members shall be exempt from the payment

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of dues.

Sec. 2. Any member whose dues are six months in arrears shall be dropped from the rolls. Members who are so dropped may be reinstated at any time by the payment in advance of one year's dues.

Sec. 3. Individual Members in good standing shall have the right to vote and hold office in the association.

Sec. 4. Each Institutional Member shall designate one person to serve as the primary representative of the institution. The primary representative shall have the right to vote and hold office in the association.

Sec. 5. Membership dues shall be determined by the Council. Individual Member dues shall be based on a calendar year, and Institutional Member dues shall be based on the Institutional Member's fiscal year.

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ARTICLE III: Affiliated Societies

Sec. 1. Any society committed to the study of American culture may be admitted to the status of Affiliated Society by an affirmative vote of two-thirds of the voting Council members present at a Council meeting at which a quorum is established.

Sec. 2. An Affiliated Society may terminate its affiliation with the association by announcing its intention to terminate its affiliation at a business meeting of the Council.

Sec. 3. At the next business meeting of the Council, a Society's affiliation with the association

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Sec. 1. The elected officers shall be the president and the president-elect, who shall be elected by the voting members of the association and shall serve without compensation.

Sec. 2. The appointed officers shall be the executive director and the editor of the *American Quarterly*. The appointed officers shall be designated by the Executive Committee with the ratification of two-thirds of the voting Council members in office who are present at a Council meeting at which a quorum is established.

Sec. 3. The president shall serve a one year term, following a one year term as president-elect. The president shall preside at meetings of the Council, of the Executive Committee, and of the association. The president shall formulate policies and projects for presentation to the Council and to fulfill the chartered obligations and purposes of the association.

Sec. 4. The president-elect shall be elected for a one year term followed by a one year term as president. The president-elect shall preside at meetings of the Finance Committee. He or she shall be a member of the Council and of the Executive Committee. If the office of the president shall, through any cause, become vacant, the president-elect shall thereupon become president for the remainder of the president's term, followed by the normal one year term as president. If the office of president-elect shall, through any cause, become vacant, the Council shall elect an interim president-elect from Council members. He or she shall be eligible to succeed him/herself.

Sec. 5. The executive director shall be the chief administrative officer of the association. Under the direction of the president and Council, the executive director shall have responsibility for the continuing operations of the association, supervise the work of its committees and staff, assist in the formulation of policies and projects for submission to the Council, execute instructions of the Executive Committee and of the Council, and perform other such duties as the Executive Committee and the Council may direct. The executive director shall serve as Treasurer, and also serve as the association's Secretary of the association. The executive director's term shall be contractual and shall be determined by the Executive Committee. The executive director may be appointed for subsequent consecutive terms as deemed appropriate by the Executive Committee. The executive director's performance shall be reviewed annually by the elected officers in connection with the spring business meeting of the Executive Committee.



Sec. 6. The editor of the *American Quarterly* shall ensure that the *American Quarterly* fulfills its stated aim to aid in giving a sense of direction to studies in the culture of the United States, past and present, and that the *American Quarterly* conducts its affairs in a manner consistent with the aims of the association. The editor of the *American Quarterly* shall serve for a term of five (5) years, which may be renewed for one (1) additional term.

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ARTICLE V: Council

Sec. 1. There shall be a Council, constituted as follows:

- (a) The president and the president-elect;
- (b) The immediate past president, who shall serve a one-year term;
- (c) Thirteen (13) members elected in a national election by the membership-at-large, five (5) to be elected every first year, and four (4) to be elected every second and third year, serving staggered three (3) year terms;
- (d) Two (2) student members elected in a national election by the membership-at-large, to be elected every first and third year, serving staggered three (3) year terms. For this purpose, student members of the association shall be defined as undergraduate or graduate students officially enrolled, at the beginning of their term, in a degree-granting program.
- (e) One member, who is a secondary educator, elected in a national election by the membership-at-large, to be elected every third year, serving a three (3) year term; and
- (f) One international member elected in a national election by the membership-at-large, to be elected every third year, serving a three (3) year term.
- (g) The executive director and the editor of the *American Quarterly* serving as non-voting members.

Sec. 2. The Council shall serve as the Board of Directors of the association. As such, it shall conduct the business, set fiscal policy, and oversee the general interests of the association. The Council shall fix the amount of dues and the date upon which any change of dues becomes effective. It may appoint such committees as it deems necessary. It shall call a meeting of the association at a time and place it deems appropriate. The Council shall hold at least one (1) business meeting annually, at a time and place to be determined by the Executive Committee, for the election of members to committees, for the approval of the budget, for the consideration of reports and recommendations from the officers and committees, for the discussion of policies and of instructions that should be given to the elected or appointed officers, and for the transaction of other such business as may come before it. It shall report on its deliberations and actions through the publications of the association.

Sec. 3. At all meetings of the Council, the presence of at least a majority of the voting members of the Council in office shall constitute a quorum for the transaction of business.

Sec. 4. Unless otherwise specified in the Bylaws, a majority vote by voting members of the Council who are present at a Council meeting with an established quorum is sufficient to transact business.

Sec. 5. The Council may, at its discretion, fill any vacancy on the Council by designating any member of the association in good standing to serve until his or her successor is elected and qualified.

Sec. 6. Council meetings shall be open to all members of the association.

Sec. 7. To transact the necessary business in the interim between the annual business meetings of the Council, there shall be an Executive Committee comprised of the individuals below:

(a) The president and the president-elect;

(b) The immediate past president, who shall be an *ex officio* member without voting rights, and who shall serve a one year term; and

(c) Three (3) voting members of the Council, elected annually by the Council.

The Executive Committee in the conduct of the association's business shall be subject always to the general direction of the Council.

Sec. 8. For the general management of the financial affairs of the association, there shall be a Finance Committee comprised of the individuals below:

(a) The president-elect, serving as chair;

(b) Three (3) voting members of the Council, elected annually by the Council; and

(c) The executive director, serving as a non-voting member.

Sec. 9. The Finance Committee shall consider the budget prepared by the executive director and submit it to the Council for approval in accordance with Article V, Section 8, of these Bylaws. The budget shall be available for distribution to the membership of the association at the Council's meeting. A public accountant at the end of the association's fiscal year shall review the financial accounts of the association. The association shall have a June 30 fiscal year-end.

Sec. 10. Council, Executive Committee, and Finance Committee meetings may be held using electronic communication. Members of these committees may participate and act at any meeting through conference call or other electronic communications equipment by means of which all persons participating in the meeting can communicate with each other.

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ARTICLE VI: Nominations and Elections

Sec. 1. There shall be a Nominating Committee, consisting of six members elected in a national election by the membership-at-large for staggered terms of three (3) years, two (2) members to be elected annually. The president shall annually appoint the chair of the Nominating Committee from among the committee's membership for a one year term.

Sec. 2. Annually the executive director shall publish a "nominations announcement" in the June and September issues of the association's newsletter. The announcement shall list all association positions for which elections are to be held in the forthcoming calendar year, and shall invite all members of the association to submit to the chair of the Nominating Committee any recommendations for nominations thereto.

Sec. 3. The Nominating Committee shall nominate candidates for the office of president-elect, member of the Council, and members of the Nominating Committee. It shall present two (2) nominees for each elected position. Nominees shall be representative of the diversity of the association's membership. With the exception of the student, international, and the secondary educator positions on the Council, candidates shall be listed in alphabetical order without further distinctions.

Sec. 4. Nominations may also be made by petitions carrying the signatures of at least twenty-five (25) members of the association in good standing and indicating in each case the particular vacancy for which the nomination is intended. The chair of the Nominating Committee must receive nominations by petition at least four (4) weeks before the committee makes its own nominations. The chair shall ascertain that all candidates nominated by the committee or by petition have consented to stand for election.

Sec. 5. The Council may, by resolution, provide for additional nominations to be made for any position where there is a vacancy through death or by resignation of a candidate.

Sec. 6. The chair of the Nominating Committee, or the executive director acting on the Nominating Chair's instructions, shall post an electronic ballot on a secure web server, accessible to the full membership of the association, together with candidates' statements and appropriate biographical material on all nominees. Such ballots shall identify as such all nominations submitted by the Nominating Committee and all nominations submitted by

petition. Ballots shall be marked clearly with a due date, and no ballot submitted after the stated due date shall be counted. The right to a secret ballot shall be insured.

Sec. 7. Election shall be by a plurality of the votes cast for each vacancy. The votes shall be counted, sealed, and deposited in the headquarters of the association, where they shall be kept for at least one year. In the case of a tie vote, the choice among the tied candidates shall be made by majority vote of the voting members of the Council.

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ARTICLE VII: Board of Editors

Sec. 1. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Board of Advisory Editors of the *American Quarterly*, to assist the editor on matters of general editorial policy and scholarly orientation. The Advisory Board shall consist of at least twelve (12) members. Only individual members of the association in good standing shall have the right to serve on the Board of Advisory Editors. Their terms shall be for three (3) years and are renewable for one additional term. The executive director shall be an *ex officio* member of the Board of Advisory Editors, without vote.

Sec. 2. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Board of Managing Editors of the *American Quarterly*, to advise the editor about the disposition of manuscripts submitted to the journal. The Managing Board shall consist of at least eight (8) members. Only Individual Members of the association in good standing shall have the right to serve on the Board of Managing Editors. Their terms shall be for three (3) years and are renewable for one additional term. The Editor may, at his or her discretion, designate any member of the association in good standing, to serve pro temp for a one year maximum term as a visiting member of the Board of Managing Editors. The executive director shall be an *ex officio* member of the Board of Managing Editors, without vote.

Sec. 3. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint Associate Editors of the *American Quarterly*, to assist the editor with his or her duties. Only Individual Members of the association in good standing shall have the right to serve as an Associate Editor. The term of the Associate Editor shall be for three (3) years and is renewable for two (2) additional terms.

Sec. 4. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint a Book Review Editor of the *American Quarterly*, to assist the editor with the book review section of the journal. Only Individual Members of the association in good standing shall have the right to serve as the Book Review Editor. The term of the Book Review Editor shall be for three (3) years and is renewable for two (2) additional terms.

Sec. 5. The Executive Committee shall, upon recommendation by the editor in consultation with the executive director, appoint an Exhibition Review Editor of the *American Quarterly*, to assist the editor with the exhibition review section of the journal. Only Individual Members of the association in good standing shall have the right to serve as the Exhibition Review Editor. The term of the Exhibition Review Editor shall be for three (3) years and is renewable for two (2) additional terms.

Sec. 6. All appointments to editorial boards and offices commence on July 1.

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ARTICLE VIII: Committees

Sec. 1. The Council shall appoint such committees as it deems necessary. In order to advance the activities of the association, there shall be both standing committees, as designated by the Bylaws, and *ad hoc* committees, as recommended by the Executive Committee with the approval of the Council. All committees, other than the Executive Committee, are advisory committees and shall function at the discretion of the Council and with the Council as the final supervisor of their activities. At least one Council member shall serve as a member for each advisory committee.

Sec. 2. In pursuance thereto, the Council shall define the jurisdiction of each committee, shall determine its budget, and shall decide upon its basic policies and procedures.

Sec. 3. The standing committees of the association shall be:

- (a) The International Committee;
- (b) The Committee on Gender and Sexuality Studies;
- (c) The Student's Committee;
- (d) The Minority Scholars' Committee;
- (e) The Committee on American Studies Departments, Programs, and Centers;
- (f) The Committee on Regional Chapters;
- (g) The K-16 Collaboration Committee;
- (h) The Committee on Critical Ethnic Studies;
- (i) The Committee on Graduate Education;
- (j) Program Committee; and
- (k) Site Resource Committee

Sec. 4. All standing and *ad hoc* committees shall report in writing to the executive director at least one month in advance of the annual business meeting of the Council. The executive director shall distribute such reports to the members of the Council and they shall be published in whole or in substance in the American Studies Association Newsletter.

Sec. 5. Close attention shall be given in the composition of all committees to the diversity of the association's membership.

Sec. 6. The Executive Committee shall, at its annual spring business meeting, review all applications and nominations for appointment to the Council and standing committees of the association. An applicant or nominee must be a current member of the association, must have indicated his or her willingness to serve, and must have supplied appropriate information on scholarship, teaching, and university and public service. All appointments shall commence on the first day of the association's fiscal year.

Shortly after the spring business meeting of the Council, the executive director, under the direction of the president, shall prepare a list of appointments that the meeting produces and circulate it among the Council for ratification. If a member of Council objects to an individual, his or her appointment shall be suspended until the Executive Committee has reconvened to consider the objection either by electronic or telephone conference. If a member of Council raises a problem with a category of appointment, the Executive Committee, at its regular meeting on the evening preceding the annual fall business meeting of the Council, shall consider the problem and present the Council with formal recommendations for resolving it.

Sec. 7. Whenever any vacancy shall occur in the membership of a standing committee, the Executive Committee may, at its discretion, designate any member of the association in good standing to serve as a member of the committee in question.

Sec. 8. *Ex officio* members may be appointed to the standing committees by the Executive Committee with the approval of the Council to advise and assist the committee in question.

Sec. 9. A member of the Council, named by the Executive Committee with the approval of the Council, shall serve, *ex officio*, on each standing committee and task force of the association.

Sec. 10. *Ad hoc* committees may be created from time to time by the Executive Committee with the approval of the Council as deemed necessary to carry on the work of the association. The functions of such a committee shall be specified when the committee is designated, and the committee shall cease to exist upon the completion of the task assigned, or, automatically, at the end of a maximum three (3) year period. The Executive Committee with the approval of the Council for maximum three-year terms shall name the chair and members of such a committee. The Executive Committee may at its discretion, fill any vacancy in the membership of an *ad hoc* committee to serve as a committee member *ad interim* until the completion of the committee's tasks or term.

Sec. 11. It is possible to remove a member from a committee if that individual is ineffective, works against the committee, or gives out inaccurate information on behalf of the committee. Discussing and removing committee members should be done under conditions of strict confidentiality. The chair should talk with the ineffective board member. If the majority of the

committee is in agreement, the chair should set up a time to discuss the situation. Schedule a leave of absence if there are legitimate reasons for the ineffective behavior. The leave should cover the rest of his or her term or designate a period for the leave, after which the chair should reevaluate the member. The chair may informally ask for a resignation from the member. If the committee member is non-responsive, or fails to resign, then the chair may formally request a resignation his or her resignation.

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ARTICLE IX: Delegates to Other Organizations

Sec. 1. The president of the association shall as appropriate, in consultation with the Executive Committee and the ratification of the Council, appoint delegates to the meetings of various professional organizations.

Sec. 2. The president of the association shall, in consultation with the Executive Committee and with the ratification of the Council, appoint a delegate to the American Council of Learned Societies for a term of four (4) years, with new terms of office commencing January 1.

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ARTICLE X: Conventions

Sec. 1. The Council shall call an annual meeting of the association at a time and place it deems appropriate. To plan and organize an annual meeting, there shall be a Program Committee and a Site Resource Committee.

Sec. 2. The Executive Committee shall select a site for each convention at least three (3) years in advance of the convention date. The Executive Committee shall consider the fiscal condition of the association, our ability to safely meet and freely conduct our business at the convention site, the amount of local and regional support, the adequacy of the conference facilities, the employment practices of conference hotels and vendors, and the proximity of the meeting site to the majority of association members, when selecting future convention sites. The Executive Committee shall, whenever possible, respond to invitations from regional chapters willing to host the convention. The principles involved in the selection of the convention site shall include geographical rotation in order to maximize attendance, diversify participation, and insure a reliable budgetary surplus of convention revenues over expenditures.

Sec. 3. The chair(s) of the Site Resource Committee shall be named by the president-elect, in consultation with the executive director and the members of the Executive Committee, approximately eighteen (18) months in advance of the convention date. The chair(s) shall, in consultation with the president-elect, the executive director, and the program committee chair(s), name the members of the Site Resource Committee.

Sec. 4. The chair(s) of the Program Committee shall be named by the president-elect, in consultation with the executive director and the members of the Executive Committee, approximately eighteen (18) months in advance of the convention date. The chair(s) of the Program Committee, in consultation with the president-elect, the executive director, the members of the Executive Committee, and the chairs of the standing committees of the association shall name the members of the Program Committee. The chair(s) shall name at least nine (9) but no more than twelve (12) Program Committee members. The nominations, together with appropriate biographical material on all nominees, shall be submitted for approval to the Executive Committee at least two months in advance of the annual fall business meeting of the Council. Only members of the association in good standing shall have the right to serve on the Program Committee. Prospective members of the Program Committee must have indicated a willingness to serve and must have supplied appropriate information on scholarship, teaching, and university and public service. The chair(s) when preparing recommendations for Committee members shall choose the best qualified members consistent with reasonable representation of the major fields of American Studies scholarship and the diversity of the association's membership in order to maintain a balance of age, racial, ethnic, regional, and gender participation. When approaching ASA members about possible service on the Program Committee, the chair(s) should make clear that the Executive Committee votes on the appointments to the Committee.

Sec. 5. The Program Committee shall, in accordance with the *Guide to the Work of the Program Committee*, determine the convention theme, the procedures for evaluating

proposals, and the general content of the meeting. One slot shall be reserved for the Council for a general meeting session.

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ARTICLE XI: Regional Chapters

Sec. 1. The Council and officers of the association shall seek to promote the welfare of the regional chapters. The Council and officers of the association shall also encourage the regional chapters to further the objectives of the association and shall support the chapters in this effort.

Sec. 2. Each regional chapter shall have a constitution approved by the Council. The Council shall insure that the constitutions of the regional chapters are consistent with the provisions of the Bylaws of the association. The Council shall also insure that the elections of the regional chapters are conducted openly and fairly.

Sec. 3. The Council shall pay such annual rebates to each regional chapter as it deems appropriate, consistent with the goal of fostering the general health and fiscal stability of both the association and the regional chapters. The Council shall fix the amount of chapter rebates and the date upon which any change of rate becomes effective. The amount shall be based on Individual Member dues received by the American Studies Association during a calendar year.

Sec. 4. A chapter's rebate shall be paid within one month of the executive director's receipt from the appropriate chapter officer of a detailed accounting of the chapter's income and expenditures for the immediately preceding year.

Sec. 5. The executive director shall provide annually without charge to each chapter a list of association members in that chapter.

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ARTICLE XII: Public Issues

Sec. 1. The Executive Committee is empowered to speak for the association on public issues where these directly affect our work as scholars and teachers. Such issues include, but are not restricted to, academic freedom; freedom of access to information; appointments to and policies of granting and funding agencies.

Sec. 2. The Executive Committee is empowered to speak for the association on public issues where these directly affect our ability to safely meet in national or regional conventions, and freely conduct our business. Such issues include, but are not restricted to, the passage or existence of anti-sodomy laws; laws and regulations which restrict freedom of speech, or the availability of abortion (considered as a health measure); or laws and regulations tending to discriminate against particular classes or groups of association members.

Sec. 3. Should an issue arise which, in the opinion of the Executive Committee or Council, seems to require public action, speech or demonstration by the association at a particular annual meeting, the Council shall meet to formulate a response. The Council shall convene an emergency meeting of the membership on the first full day of the annual meeting, to recommend a course of action, and conduct a public discussion of the issue(s); and the vote of two-thirds of those in attendance may approve the recommended action.

Sec. 4. The association may not intervene, directly or indirectly, in any political campaign for or against a candidate for public office. The association may not endorse candidates, contribute to campaigns, raise funds, distribute statements or become involved in any other activities that may be beneficial or detrimental to a candidate.

[Policy on Resolutions, Statements and Letters of Support](#)

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ARTICLE XIII: Association Trust and Development Fund

Sec. 1. The Trust and Development Fund shall have as its main purpose to insure the long-term, financial stability of the association. The Fund may also from time to time make grants in support of the projects, activities, or prizes of the association.

Sec. 2. The Trust and Development Fund shall be administered by a Board of Trustees. The president elect of the association shall serve as the chair of the Board. The president with the advice and consent of the Council shall appoint five other trustees. No more than two (2) of the appointed trustees shall be currently serving as members of the Council. Each appointed member shall serve a term of five (5) years, except in the case of an appointment to complete an unexpired term. The Fund shall consist of all endowment and trust funds and other such funds as may be assigned to it by the Council, and with appropriate professional advice, the Board of Trustees shall direct the investment of the Fund's resources in a fiscally sound and socially responsible manner. At least once annually, the Board shall publicly issue an official accounting of the Fund's receipts, investments, and expenditures. The Council may, at its pleasure, assign any surpluses from the general operating funds to the Trust and Development Fund. No appropriation shall be made from the Fund's capital except upon the request of at least two-thirds of the voting members of the Council approved by at least four (4) members of the Board of Trustees. The Finance committee of the Council shall meet at least once each year with the Board of Trustees of the association to discuss investment policies and the financial needs of the association.

Sec. 3. The executive director shall deposit all funds contributed to the American Studies Association, its projects, activities, or prizes, in the Trust and Development Fund. All such contributions shall be promptly acknowledged in accordance with Internal Revenue Service rules and regulations for 501(3) (c) tax-exempt organizations.

Sec. 4. The interest and dividend income of the Trust and Development Fund may be used during the fiscal year for the purposes of the association's incorporation to the extent authorized by the Internal Revenue Service and the District of Columbia. The Trustees may spend each year a maximum of 4% of the monthly average of Fund's assets from the preceding year. All surpluses at the end of the fiscal year shall be assigned to the Fund's principal balance.

Sec. 5. The fiscal year budget for the Trust and Development Fund shall be available for distribution to the membership of the association at the annual business meeting of the Council. A public accountant at the end of the association's fiscal year shall review the financial accounts of the association. The association shall have a June 30 fiscal year-end.

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ARTICLE XIV: Amendment of the Bylaws

Sec. 1. These Bylaws may be altered, amended, or repealed at any business meeting of the Council by a resolution adopted by two-thirds of the voting Council members in office who are present at a meeting at which a quorum is established, provided that such changes have been set forth in the notice of such meeting mailed to the Council members at least thirty (30) days prior to the meeting.

Last updated: NOVEMBER 17, 2016.

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Superior Court of the District of Columbia

CIVIL DIVISION

Civil Actions Branch

500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001

Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

Case Number 2019 CA 001712 B

CHANDAN REDDY

Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within seven (7) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Jennifer Gross

Name of Plaintiff's Attorney

7315 Wisconsin Avenue Suite 400 West

Address

Bethesda, MD 20814

(301) 349-1302

Telephone

如需翻译, 请打电话 (202) 879-4828

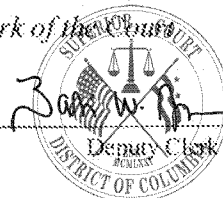
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Clerk of the Court



By

Date

03/19/2019

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-279-5100) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

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CIVIL DIVISION

Civil Actions Branch

500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001

Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

SUNAINA MAIRA

Defendant

Case Number 2019 CA 001712 B

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

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Jennifer Gross

Name of Plaintiff's Attorney

7315 Wisconsin Avenue Suite 400 West

Address Bethesda, MD 20814

(301) 349-1302

Telephone

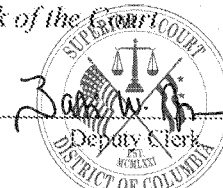
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Clerk of the Court



By

03/19/2019

Date

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

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SIMON BRONNER, et al.

Plaintiff

vs.

Lisa Duggan

Defendant

Case Number 2019 CA 001712 B

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

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Jennifer Gross

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7315 Wisconsin Avenue Suite 400 West

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Telephone

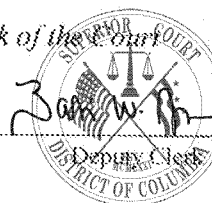
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Clerk of the Court



By

Date

03/19/2019

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Superior Court of the District of Columbia

CIVIL DIVISION

Civil Actions Branch

500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001

Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

CURTIS MAREZ

Defendant

Case Number 2019 CA 001712 B

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

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Jennifer Gross

Name of Plaintiff's Attorney

7315 Wisconsin Avenue Suite 400 West

Address

Bethesda, MD 20814

(301) 349-1302

Telephone

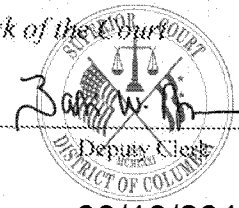
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Superior Court of the District of Columbia

CIVIL DIVISION

Civil Actions Branch

500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001

Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

NEFERTI TADIAR

Defendant

Case Number 2019 CA 001712 B

SUMMONS

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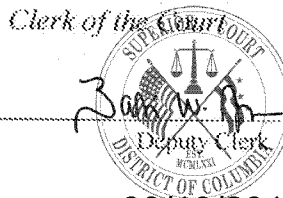
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Superior Court of the District of Columbia

CIVIL DIVISION

Civil Actions Branch

500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001

Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

THE AMERICAN STUDIES ASSOCIATION

Defendant

Case Number 2019 CA 001712 B

SUMMONS

To the above named Defendant:

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Name of Plaintiff's Attorney

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Address

Bethesda, MD 20814

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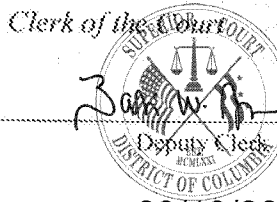
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Superior Court of the District of Columbia

CIVIL DIVISION

Civil Actions Branch

500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001

Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

JOHN STEPHENS

Defendant

Case Number 2019 CA 001712 B

SUMMONS

To the above named Defendant:

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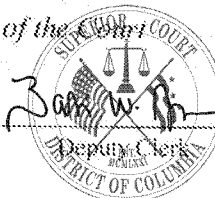
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번역용 전화사건, (202) 879-4828번 전화주세요

የአገልግሎት ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

Clerk of the Superior Court



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Superior Court of the District of Columbia

CIVIL DIVISION

Civil Actions Branch

500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001

Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

STEVEN SALAITA

Defendant

Case Number 2019 CA 001712 B

SUMMONS

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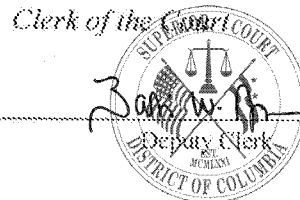
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Superior Court of the District of Columbia

CIVIL DIVISION

Civil Actions Branch

500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001

Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

J. KEHAULANI KAUNANUI

Defendant

Case Number 2019 CA 001712 B

SUMMONS

To the above named Defendant:

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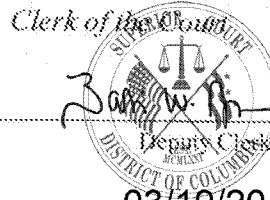
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 Telephone: (202) 879-1133 Website: www.dccourts.gov

SIMON BRONNER, et al.

Plaintiff

vs.

JASBIR PUAR

Defendant

Case Number 2019 CA 001712 B

SUMMONS

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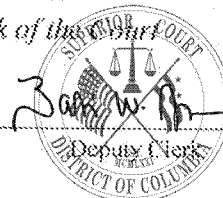
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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION
Civil Actions Branch
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Telephone: (202) 879-1133 • Website: www.dccourts.gov

SIMON BRONNER et al

Vs.

C.A. No. 2019 CA 001712 B

THE AMERICAN STUDIES ASSOCIATION et al

INITIAL ORDER AND ADDENDUM

Pursuant to D.C. Code § 11-906 and District of Columbia Superior Court Rule of Civil Procedure (“Super. Ct. Civ. R.”) 40-I, it is hereby **ORDERED** as follows:

(1) Effective this date, this case has assigned to the individual calendar designated below. All future filings in this case shall bear the calendar number and the judge’s name beneath the case number in the caption. On filing any motion or paper related thereto, one copy (for the judge) must be delivered to the Clerk along with the original.

(2) Within 60 days of the filing of the complaint, plaintiff must file proof of serving on each defendant: copies of the summons, the complaint, and this Initial Order and Addendum. As to any defendant for whom such proof of service has not been filed, the Complaint will be dismissed without prejudice for want of prosecution unless the time for serving the defendant has been extended as provided in Super. Ct. Civ. R. 4(m).

(3) Within 21 days of service as described above, except as otherwise noted in Super. Ct. Civ. R. 12, each defendant must respond to the complaint by filing an answer or other responsive pleading. As to the defendant who has failed to respond, a default and judgment will be entered unless the time to respond has been extended as provided in Super. Ct. Civ. R. 55(a).

(4) At the time and place noted below, all counsel and unrepresented parties shall appear before the assigned judge at an initial scheduling and settlement conference to discuss the possibilities of settlement and to establish a schedule for the completion of all proceedings, including, normally, either mediation, case evaluation, or arbitration. Counsel shall discuss with their clients **prior** to the conference whether the clients are agreeable to binding or non-binding arbitration. **This order is the only notice that parties and counsel will receive concerning this Conference.**

(5) Upon advice that the date noted below is inconvenient for any party or counsel, the Quality Review Branch (202) 879-1750 may continue the Conference **once**, with the consent of all parties, to either of the two succeeding Fridays. Request must be made not less than seven business days before the scheduling conference date.

No other continuance of the conference will be granted except upon motion for good cause shown.

(6) Parties are responsible for obtaining and complying with all requirements of the General Order for Civil cases, each judge’s Supplement to the General Order and the General Mediation Order. Copies of these orders are available in the Courtroom and on the Court’s website <http://www.dccourts.gov/>.

Chief Judge Robert E. Morin

Case Assigned to: Judge ROBERT R RIGSBY

Date: March 18, 2019

Initial Conference: 10:00 am, Friday, June 14, 2019

Location: Courtroom 201

500 Indiana Avenue N.W.

WASHINGTON, DC 20001

ADDENDUM TO INITIAL ORDER AFFECTING ALL MEDICAL MALPRACTICE CASES

In accordance with the Medical Malpractice Proceedings Act of 2006, D.C. Code § 16-2801, et seq. (2007 Winter Supp.), "[a]fter an action is filed in the court against a healthcare provider alleging medical malpractice, the court shall require the parties to enter into mediation, without discovery or, if all parties agree[,] with only limited discovery that will not interfere with the completion of mediation within 30 days of the Initial Scheduling and Settlement Conference ("ISSC"), prior to any further litigation in an effort to reach a settlement agreement. The early mediation schedule shall be included in the Scheduling Order following the ISSC. Unless all parties agree, the stay of discovery shall not be more than 30 days after the ISSC." D.C. Code § 16-2821.

To ensure compliance with this legislation, on or before the date of the ISSC, the Court will notify all attorneys and *pro se* parties of the date and time of the early mediation session and the name of the assigned mediator. Information about the early mediation date also is available over the internet at <https://www.dccourts.gov/pa/>. To facilitate this process, all counsel and *pro se* parties in every medical malpractice case are required to confer, jointly complete and sign an EARLY MEDIATION FORM, which must be filed no later than ten (10) calendar days prior to the ISSC. D.C. Code § 16-2825 Two separate Early Mediation Forms are available. Both forms may be obtained at www.dccourts.gov/medmalmediation. One form is to be used for early mediation with a mediator from the multi-door medical malpractice mediator roster; the second form is to be used for early mediation with a private mediator. Both forms also are available in the Multi-Door Dispute Resolution Office, Suite 2900, 410 E Street, N.W. Plaintiff's counsel is responsible for eFiling the form and is required to e-mail a courtesy copy to earlymedmal@dcsc.gov. *Pro se* Plaintiffs who elect not to eFile may file by hand in the Multi-Door Dispute Resolution Office.

A roster of medical malpractice mediators available through the Court's Multi-Door Dispute Resolution Division, with biographical information about each mediator, can be found at www.dccourts.gov/medmalmediation/mediatorprofiles. All individuals on the roster are judges or lawyers with at least 10 years of significant experience in medical malpractice litigation. D.C. Code § 16-2823(a). If the parties cannot agree on a mediator, the Court will appoint one. D.C. Code § 16-2823(b).

The following persons are required by statute to attend personally the Early Mediation Conference: (1) all parties; (2) for parties that are not individuals, a representative with settlement authority; (3) in cases involving an insurance company, a representative of the company with settlement authority; and (4) attorneys representing each party with primary responsibility for the case. D.C. Code § 16-2824.

No later than ten (10) days after the early mediation session has terminated, Plaintiff must eFile with the Court a report prepared by the mediator, including a private mediator, regarding: (1) attendance; (2) whether a settlement was reached; or, (3) if a settlement was not reached, any agreements to narrow the scope of the dispute, limit discovery, facilitate future settlement, hold another mediation session, or otherwise reduce the cost and time of trial preparation. D.C. Code § 16-2826. Any Plaintiff who is *pro se* may elect to file the report by hand with the Civil Actions Branch. The forms to be used for early mediation reports are available at www.dccourts.gov/medmalmediation.

Chief Judge Robert E. Morin