

# GLOBAL PEACE & JUSTICE AUCKLAND

[www.gpja.org.nz](http://www.gpja.org.nz)

24 April 2013

David Shearer  
Leader of the Labour Party,  
Member of Parliament for Mount Albert  
[david.shearer@parliament.govt.nz](mailto:david.shearer@parliament.govt.nz)

Dear Mr Shearer,

We are writing to you in the hope of enlisting the support of you and your party in our campaign to persuade the New Zealand Superannuation Fund to divest itself from three Israeli banks (*Bank Hapoalim, Bank Leumi and Mizrahi Tefahot Bank*) and an Israeli petrol company (*Paz Oil*) that operate within Israel's illegal settlements in the Palestinian West Bank. We also wish to highlight the case for divestment from the United States company Caterpillar, which supplies bulldozers to the Israeli army.

Our organisation wrote to Gavin Walker, Chair of the Superfund's Board of Guardians on 4 March 2013 urging that public money be divested away from these companies specifically and Israeli companies in general in line with the international Boycott, Divestment and Sanctions campaign which aims to force Israel to end its occupation of Palestinian territories.

We have attached that letter and the 14 March reply from Adrian Orr, Chief Executive of the Superfund in which the Mr Orr sets out to rebut the case for divestment from these companies.

Your views on the occupation of the West Bank are no doubt informed by your experience working for the United Nations in Palestine and your role as leader of the Labour Party. Your views will of course be held in very high regard and respected in the media and by the Superfund officials.

Russel Norman was able to play a key role securing the Superfund's divestment from corporations involved in nuclear weapons and cluster munitions in 2008. It would be our hope that your public stand on this issue would shine a light on the investments and aid the cause of isolating companies which are involved in perpetuating Israeli settlement expansion.

In September 2011 you wrote, 'New Zealand should support the Palestinians simply because it's right. It won't solve the problem, it won't stop more settlers building on land that's not theirs, but it's an important principle.' We believe that the divestment of the Superfund away from corporations involved in the occupation can help end the expansion of settlements.

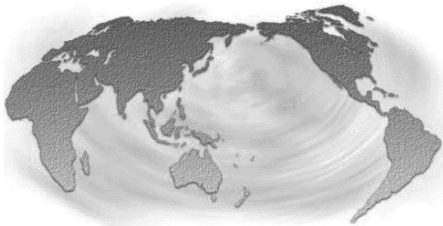
Thus our request Mr Shearer is that you write to Adrian Orr calling for divestment from the three Israeli banks, the Israeli petrol company and Caterpillar. We look forward to your reply and the possibility of discussing this further in the near future.

Kind regards,



John Minto  
Global Peace and Justice Auckland

## Copy of our letter to Superfund



**GLOBAL PEACE & JUSTICE  
AUCKLAND**  
[www.gpja.org.nz](http://www.gpja.org.nz)

4 March 2013

Gavin Walker  
Chair, Board of Guardians  
NZ SuperFund  
P O Box 106607,  
Auckland 1143.

Email: [enquiries@nzsuperfund.co.nz](mailto:enquiries@nzsuperfund.co.nz)

**Dear Gavin Walker and the Board of Guardians,**

*Firstly, congratulations on making the decision in December last year to exclude three companies involved in constructing illegal settlements in occupied Palestine and the construction of the separation barrier.*

We believe that action was in line with the views of the majority of New Zealanders who do not want to see their money being used to prop up the occupation of Palestinian lands in violation of international law and the United Nations.

Your decision comes as the latest in a series of ethical exclusions such as your divestment from Freeport McMoran, Tokyo Electric Power Company, and companies involved in nuclear weapons and cluster munitions. It is essential that the SuperFund continues to ensure that its investments continue to be ethical and to reflect the wishes of the New Zealand public.

As you may be aware Israel is now subject to an international Boycott, Divestment and Sanctions (BDS) campaign because of its blatantly racist treatment of its Arab-Israeli citizens; its brutal military occupation of Palestinian territory; the construction of illegal Jewish-only settlements on Palestinian land and its blockade of the Gaza Strip.

The BDS campaign was launched in 2005 by some 260 Palestinian civil society organisations as the best way for the international community to support the Palestinian struggle for justice and human rights.

In 2009 a collection of NGOs focused on ending the Israeli occupation of Palestinian territories wrote to the Board to seek divestment of the New Zealand Superannuation Fund from corporations specifically engaged in activities that directly support the occupation of Palestinian land.

In light of the recent war on Gaza and the ongoing expansion of Israel's illegal settlements in the Palestinian West Bank we believe it is important that we reiterate our request that the Superannuation Fund divest its monies specifically from all Israeli corporations until the occupation of Palestinian territories ends.

### ***Israeli companies***

We note that as at 30 June 2012 the SuperFund had \$7,678,104 invested in 42 Israeli corporations. These include,

***BANK HAPOALIM:*** Has branches in the illegal West Bank settlements Gilo, Pisgat Ze'ev, Ramot and provides mortgages to houses and building in illegal settlements in the West Bank. Provided finance for at least two settlement constructions. Of course the settlements are a violation of international law.<sup>1</sup>

***BANK LEUMI:*** '(TLV:LUMI) (PINK:BLMIF) is the second largest bank in Israel. According to the Coalition of Women for Peace, it has branches in the following settlements in the West Bank: Ma'ale Edomim, Oranit, Pisgat Ze'ev, Gilo, Kiryat Arba, Katzerin. The bank has partial control over several companies that are involved in the occupation: Paz Oil Company (15%), Super Pharm (18%) and Hot Communication Systems (cable TV) (15%). Super Pharm is an Israeli drugstore chain with branches in the following settlements: Ma'ale Edomim, Pisgat Ze'ev, Gilo. Super Pharm is also one of the owners of Blockbuster in Israel, which has DVD vending machines in the settlements of Ariel, Giv'at Ze'ev, Ma'ale Edomim, and Sha'arei Tikva. Bank Leumi is also one of the banks lending money to the Citypass Consortium, which is building a tramway to connect Jerusalem with illegal settlements in the West Bank.'<sup>2</sup>

***MIZRAHI TEFAHOT BANK :***'(TLV:MZTF) has branches in the illegal settlements of Alon Shvut and Karnei Shomron, in the West Bank.'<sup>3</sup>

***PAZ OIL:*** '(TLV:PZOL) has gas stations in West Bank settlements including Ma'ale Edomim, Kiryat Arba, Pisgat Ze'ev, Gilo, Karnei Shomron and Ofra. Subsidiary company PazGas is supplying cooking gas to West Bank settlements including Ma'ale Edomim and the settlement outpost of Havat Maon.'<sup>4</sup>

To summarise, we believe it is unacceptable that the SuperFund is investing money with corporations that finance and operate in Israeli-only settlements on stolen land in the West Bank in violation of international law. The majority of New Zealanders would be horrified to know that their money is being given to banks which finance the construction of these settlements which violate Article 49 of the Fourth Geneva Convention.

Hans van den Broek, former Minister of Foreign Affairs of the Netherlands, wrote last year, "Almost 20 years have passed since the Oslo Accords were signed – and peace in the Middle East seems more remote than ever. That no comprehensive peace has been achieved is due to a number of reasons. The stagnation of the peace process cannot be attributed to a single factor.

However, one of the main reasons – I would say the decisive one – is Israel's incessant settlement policy in the West Bank and East Jerusalem. In recent years, this policy has been preventing the resumption of meaningful peace negotiations. But its negative impact goes much further: it threatens the viability of the two-state solution and thus the very feasibility of peace.

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<sup>1</sup> Adri Nieuwhof, 'Israeli banks entrenched in settlement building', 26 October 2009, available at: <http://electronicintifada.net/content/israeli-banks-entrenched-settlement-building/8507>

<sup>2</sup> Interfaith Peace Initiative, 'Companies Supporting the Israeli Occupation of Palestinian Land', October 2009, available at: <http://www.interfaithpeaceinitiative.com/profitting.pdf>

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

During the past decades, the EU has consistently criticized and condemned the settlement policy. Dozens of official EU statements and positions reaffirm the illegality of the settlements under international law and regard them as major obstacles to peace. Repeatedly, the EU has stressed that it will not recognise any unilateral changes to the pre-1967 borders, including with regard to Jerusalem.

As settlement construction has continued and accelerated, however, we Europeans have failed to move from words to action. So far, we have refrained from deploying our considerable political and economic leverage vis-à-vis Israel to contain developments on the ground that contradict our basic values and that undermine our strategic interests.<sup>5</sup>

We reiterate this concern. New Zealand must also move from words to action by deploying our economic leverage to contain settlement construction.

### ***Caterpillar***

In addition we note the SuperFund has \$2,017,530 invested in Caterpillar Inc. The value of this investment has nearly doubled in the last three years despite the fact that we highlighted to the Board in 2009 that Caterpillar,

Supplies bulldozers to the IDF [Israeli Defence Force]. The IDF uses these to destroy Palestinian homes, orchards and olive groves in the Occupied Territories. They are also used to clear Palestinian land for illegal Israeli settlements, segregated roads and the Separation Wall. Despite years of corporate engagement by investors, Caterpillar is expanding its role in the occupation, recently announcing a joint venture with InRobTech to develop unmanned remote-controlled bulldozers for Israel.

In June 2012 United States retirement fund, Teachers Insurance and Annuity Association – College Retirement Equities Fund, divested \$72 million in shares from Caterpillar in response to requests from New York University faculty opposed to the investment and a campaign by US based group Jewish Voices for Peace.<sup>6</sup>

### ***Divestment***

In the 2009 letter it was noted,

...that the New Zealand Superannuation Fund has obligations in legislation. Specifically, Section 58 of the New Zealand Superannuation and Retirement Income Act 2001, requires the Guardians of the Fund to invest so as to avoid prejudice to New Zealand's reputation as a responsible member of the world community.

Section 61(d) of the Act demands a Statement of Investment Standards and Procedures that provides for ethical investment to avoid prejudice to New Zealand's reputation as a responsible member of the world community.

Moreover, we understand from your statement of Responsible Investment Policy, that the Trust is a founding signatory to the United Nations' Principles for Responsible Investment. In particular we are further told that the Guardians have adopted the United Nations Global Compact, which sets 'core values' for investment using considerations of such matters as human rights. The relevant principles of the UN Global Compact are;

Principle 1. Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2. Make sure they are not complicit in human rights abuses.

Divestment from the corporations listed above would end the New Zealand Superannuation Fund's complicity with the Israeli occupation of Arab lands and Israel's ongoing breaches of international law and violations of human rights therein.

We reiterate our call for divestment from the Superfund in Israeli corporations in general and specifically Caterpillar, which directly profits from the continued conflict in the occupied territories.

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<sup>5</sup> Hans van den Broek, 'Foreword', in *Trading Away Peace: How Europe helps sustain illegal Israeli settlements*, October 2012, available at: <http://www.rightsforum.org/media/doc/tradingawaypeace.pdf>

<sup>6</sup> Cecile Surasky, 'BDS Victory: TIAA – CREF dumps CAT stock', *Jewish Voices for Peace*, 21 June 2012, available at: <http://jewishvoiceforpeace.org/blog/bds-victory-tiaa-cref-dumps-cat-stock>

In light of Israel's recent announcement of new settlements and the latest Gaza conflict it is important that New Zealand ensures that it is not complicit in profiteering from these settlements and this conflict. Divestment would ensure this.

We look forward to hearing from you.

Regards,



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GPJA  
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[johnminto@orcon.net.nz](mailto:johnminto@orcon.net.nz)

## Copy of response from Superfund



14 March 2013

John Minto  
Global Peace & Justice Auckland  
4 Ethel  
Street  
Morningside  
AUCKLAND

By email: [johnminto@orcon.net.nz](mailto:johnminto@orcon.net.nz)

Dear Mr Minto,

Thank you for your letter of 4 March 2013 on behalf of Global Peace & Justice Auckland regarding the New Zealand Superannuation Fund's approach to responsible investment and in particular our equity holdings in Israeli companies. Our Board Chairman Gavin Walker has asked me to respond to you on behalf of the Fund.

Before addressing the specifics of your letter, it may be helpful if we set out some contextual background about the Guardians and our approach to responsible investment (RI).

As you note, RI is part of meeting our investment mandate in our Act<sup>1</sup>. When investing, we are required to avoid prejudicing New Zealand's reputation as a responsible member of the world community, and to apply best-practice portfolio management.

We take these responsibilities seriously and are proud of what we have achieved relative to global benchmarks. The Fund is a founding signatory of the United Nations Principles for Responsible Investment (UNPRI) and one of the few signatories globally to be rated in the top quartile for the implementation of all six of the UN Principles.

Our RI Policy supports the UN Global Compact Principles as an appropriate standard for companies in our global portfolio. Where companies have breached our standards, rather than excluding them from our portfolio, our preference is to utilise our position as shareholders to encourage them to implement improvements in their policies and practices. We prefer to engage with companies because we believe that investors with active RI strategies can play a role in encouraging companies to improve their management of environmental, social and governance issues. We also believe that companies that do so can improve their long-term financial performance. Exclusion is a last resort since shares are simply taken back up by the market.

We may, however, decide to exclude companies for severe breaches of our responsible investments standards, where we consider engagement is unlikely to be effective, due to the context of the company's operations or a lack of responsiveness from the company to the issue.

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<sup>1</sup> New Zealand Superannuation and Retirement Income Act 2001

In deciding whether a company is breaching the Fund's responsible investment standards and how material that breach is, we take account of the proximity and importance of the company's actions to an illegal or unethical activity.

In our recent exclusion decisions in December 2012 relating to the issue of companies operating in the Occupied Palestinian Territories, we draw a distinction between the company being directly and materially involved in an activity versus being a supplier of materials or services in the normal course of business. In doing so, we also consider whether the product or service is integral to the activity and tailor-made, as opposed to being an off-the-shelf substitute or readily replaceable alternative.

In this context we reviewed a number of companies, including Caterpillar, and we remain confident in our process and decisions.

Your comments and the information you have provided have been noted and will be retained as part of our on-going RI research efforts.

Thank you again for your interest in this issue and for the information provided. For further information on our approach to RI please refer to [www.nzsuperfund.co.nz](http://www.nzsuperfund.co.nz).

Yours sincerely



Adrian Orr  
**Chief Executive, New Zealand Superannuation Fund**

CC Gavin Walker, Chairman, Guardians of New Zealand Superannuation