

**ZIONIST ORGANIZATION OF AMERICA
STANDWITHUS
SIMON WIESENTHAL CENTER (CAMPUS OUTREACH)
SCHOLARS FOR PEACE IN THE MIDDLE EAST
LOUIS D. BRANDEIS CENTER FOR HUMAN RIGHTS UNDER LAW
LAWFARE PROJECT
AMERICAN CENTER FOR LAW AND JUSTICE
AMERICAN ASSOCIATION OF JEWISH LAWYERS AND JURISTS
AMCHA INITIATIVE**

December 4, 2015

VIA EMAIL AND FIRST-CLASS MAIL

Dr. Mark S. Schlissel
President, University of Michigan
503 Thompson Street
Ann Arbor, MI 48109-1340

Dear President Schlissel:

We are national advocacy and educational organizations who urge you to intervene in an unlawful witch hunt against Jesse Arm, a sophomore at the University of Michigan and a Central Student Government (CSG) representative. Members of the campus group “Students Allied for Freedom and Equality” (SAFE) instigated a vendetta against Mr. Arm and called for his removal from his position in the student government simply because he exercised his right to free speech and objected to the timing, taste and appropriateness of SAFE’s anti-Israel display in the center of the campus on November 19th, which was set up on the very day that two terrorist attacks occurred in Israel, killing five people. Rather than reject SAFE’s unlawful demand and affirm Mr. Arm’s right to speak and to protest, the CSG became complicit in SAFE’s vendetta, forcing Mr. Arm to appear before the CSG’s ethics committee to determine whether punitive measures should be taken against him simply because he voiced his objection to SAFE’s actions.

The persecution of Mr. Arm must be stopped immediately for two reasons: First, it is causing enormous damage, pain and suffering to Mr. Arm himself. Second – and we believe this is SAFE’s intention – it is sending the wrong and dangerous message to other students at the University: that they should think twice before exercising their own free speech rights especially when it comes to supporting Israel, because groups like SAFE may target them, try to tarnish their reputations, and seek to silence them.

We therefore urge you to: (1) notify SAFE and CSG that Mr. Arm cannot be penalized for the exercise of his constitutional right to free speech, and that Mr. Arm's exchange with SAFE members on November 19th cannot jeopardize his service as a CSG representative; (2) notify CSG that its ethics investigation of Mr. Arm is unlawful and must be terminated immediately; (3) require that CSG and SAFE issue a full apology to Mr. Arm, which should include their acknowledgment that they acted wrongly and in violation of Mr. Arm's rights; and (4) issue a statement to the campus community explaining that Mr. Arm exercised his right to free speech on November 19th for which he should never have suffered any adverse consequences, that Mr. Arm's CSG position remains intact, and that every student has the unfettered right to free speech which no student or student group can obstruct or impair.

Factual Background

On November 19th, SAFE constructed two massive walls in the center of the campus supposedly simulating the security fence that Israel was forced to construct to protect its citizens from Palestinian Arab terrorist attacks. Among the images on the walls were a sniper targeting a dove, Arabic writing across the entire map of Israel, and the phrase, "TO EXIST IS TO RESIST" in big red letters. For many individuals, the term "resist" connotes or advocates violence. SAFE students, dressed as Israeli soldiers, stood alongside the walls.

Jesse Arm was deeply upset by SAFE's display because it was set up on the very day that two terrorist attacks occurred in Israel, resulting in the deaths of several innocent civilians, including Ezra Schwartz, an American Jewish student studying in Israel during a "gap year." Ezra Schwartz was Jesse Arm's contemporary; he and Mr. Arm shared many mutual friends. Mr. Arm had actually considered attending the same gap-year program as Ezra Schwartz. As Mr. Arm put it, Ezra Schwartz's story was his story.

Mr. Arm expressed his concern to the SAFE students about the taste, timing and appropriateness of their display. He was visibly upset, but there was nothing aggressive, hateful or harassing about Mr. Arm's conduct. We know this because a SAFE member videotaped the entire incident. The video (attached) shows Mr. Arm speaking in a passionate but respectful manner, even offering his phone number to the leader of SAFE when he had to leave to get to class, so that the two of them could continue their dialogue. Not a single student looks alarmed or upset in the video. One female student in the video casually walks near the camera, smiling.

Despite the evidence, SAFE called for Mr. Arm's dismissal from the CSG, and the CSG obliged this group, calling on the CSG ethics committee to investigate and determine whether Mr. Arm should be dismissed from his student government position. When the ethics committee demanded Mr. Arm's attendance at its meeting last Monday, November 30th, the committee did not inform Mr. Arm of the charges against him or identify his accusers, in violation of his due process rights afforded under Article VIII, Section 8 of the Constitution of the Student Body of

the Ann Arbor Campus of the University of Michigan (the “University Constitution”). Mr. Arm asked for but was denied his right to counsel at the meeting to adjudge his actions, again in violation of the same provision of the University Constitution.

The CSG simply informed Mr. Arm of the following:

It has been recently brought to our attention that there was a verbal altercation on the central campus Diag between a member of the Assembly and members of the student organization SAFE. Several students have voiced concerns that during the altercation the assembly member used aggressive and hateful words and actions. We believe that the ethics committee should investigate this incident and determine if during the purported altercation the assembly member involved exhibited conduct unbecoming of a Central Student Government representative. Additionally, we ask that the ethics committee recommend what actions, if any, should be taken as we move forward as an assembly.

Mr. Arm was effectively compelled to attend the ethics committee meeting; if he declined to go, he risked losing his student government position. At the meeting, he was required to provide information to the committee and pressured to answer questions, so that the committee could determine whether punitive actions should be taken against him.

The actions of SAFE and CSG unlawfully violated Jesse Arm’s free speech rights, and chilled the free speech rights of other students at the University.

SAFE AND CSG Acted Unlawfully, Violating Jesse Arm’s Free Speech Rights and Creating a Chilling Effect on the Free Speech Rights of Other Students

It is indisputable that Jesse Arm, like all students at the University of Michigan, has the right to free speech – the right to debate, to criticize, to protest, and to demonstrate. These are cherished rights, protected under the First Amendment to the U.S. Constitution, the Michigan Constitution (Article I, § 5), and the University Constitution (Article VIII, §1). The University’s policies affirm that every student has the right to free speech, and make every student responsible for complying with the policies and obeying local, state, and federal laws. (See <https://oscr.umich.edu/article/statement-student-rights-and-responsibilities-1#2>.)

By compelling Mr. Arm to endure an investigation that might result in his dismissal from the student government, both SAFE and the CSG are unlawfully penalizing Mr. Arm for exercising his constitutional rights. In addition, both SAFE and CSG are chilling the constitutional rights of other students who support Israel and disagree with SAFE’s anti-Israel views. Thanks to the actions of SAFE and the CSG, all these students now understand that they themselves may be targeted and face serious, damaging consequences if they speak up, express their views, and voice their opposition to the words and actions of those who hate Israel.

It is ironic that SAFE students are responsible for instigating this vendetta against Jesse Arm. In the spring of 2014, this group sponsored an anti-Israel BDS resolution that contributed to creating a hostile campus environment for students. SAFE supporters harassed and intimidated those who exercised their legal right to oppose the BDS resolution, even going so far as to issue violent threats and hurl anti-Semitic slurs like “kikes” and “dirty Jews.” As one student wrote, the campus environment became “frightening,” to the point that some students were afraid to attend their classes because they felt unsafe. (See <http://www.thetower.org/article/staring-down-the-devil-at-the-university-of-michigan/>.) SAFE apparently endorses the concept of “free speech for me, but not for thee.” The University cannot accept or tolerate this kind of double standard; it is crucial that you make it clear to all parties involved – and to the entire university community – that the free speech rights of Jesse Arm and every other student will not and cannot be impaired in any way.

Immediate Action is Required

There are times when students should be given leeway to exercise and explore their authority, to make their own decisions and to learn from their mistakes. This is not one of those times. Please do not wait to see what the CSG does, in the hope that the student government ultimately reaches the right conclusion. Both CSG and SAFE have acted unlawfully already, and caused damage, pain and suffering to Jesse Arm.

To avoid any further damage to Mr. Arm – and to other students who will now think twice about speaking up and exercising their right to free speech, to demonstrate and to protest – we urge you to intervene and ensure that this witch hunt is terminated right away. These are the steps we again urge you to take:

- (1) Notify SAFE that Mr. Arm’s exchange with its members constituted protected speech and cannot be the basis for any challenge to his fitness to serve as a CSG representative;
- (2) Notify CSG that Mr. Arm’s exchange with members of SAFE constituted protected speech and that CSG’s ethics investigation of Mr. Arm’s conduct is terminated effective immediately, and that no adverse action can be taken against him as a result of his verbal exchange with members of SAFE on November 19th;
- (3) Require that SAFE and CSG issue a full apology to Mr. Arm, which must recognize that he was lawfully exercising his free speech rights on November 19th, which should not have placed his student government position in question; and
- (4) Issue a statement to the campus community explaining that Jesse Arm exercised his right to free speech on November 19th which does not and cannot impugn his fitness to serve in the student government, that Mr. Arm’s CSG position remains undisturbed, and that all

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students at the University have the unfettered right to exercise their free speech rights without fear of adverse consequences.

We appreciate your immediate attention to this matter and await your prompt response.

Very truly yours,

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Attachment