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At Part 84 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Brooklyn, New York on the 6th day of November 2017

PRESENT:

HON. CAROLYN E. WADE,

Justice

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Athanaeum Blue & White (R.A.), Inc.,

Plaintiff,

Index No. 519686/16

-against-

DECISION and ORDER

The American Studies Association & The New York Metro American Studies,

Defendants.

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Recitation, as required by CPLR §2219(a), of the papers considered in the review of Defendant's Motion:

<u>Papers</u>	<u>Numbered</u>
Order to Show Cause/Notice of Motion and Affidavits/Affirmations Annexed.....	1 _____
Cross-Motion and Affidavits/Affirmations.....	_____
Answering Affidavits/Affirmations.....	2 _____
Reply Affidavits/Affirmations.....	_____
Memoranda of Law.....	3 _____

Upon the foregoing cited papers, and after oral argument, defendant The American Students Association moves for an Order dismissing the Amended Complaint in its entirety.

The underlying action was commenced by plaintiff Athenaeum Blue & White (R.A.), Inc. ("Plaintiff") against defendants The American Studies Association ("ASA") and The New York Metro American Studies ("NYMASA"), seeking an injunction and damages for alleged violations of the New York City and New York State Human Rights Laws.

In its Amended Complaint, Plaintiff describes itself as an Israeli not-for-profit organization with places of business in New York City and Israel. Plaintiff states that in April 2017, it "successfully joined" ASA, a nonprofit association with its principal place of business in Washington, D.C. (Exhibit "2" of ASA's motion). However, it alleges that ASA's pronouncements on its website, such as its 2013 resolution to boycott Israeli academic institutions, is discriminatory. Plaintiff asserts that the defendant's statements "imply that Israeli institutions are not welcome to attend ASA meetings or otherwise enjoy public accommodations that non-Israeli institutions could enjoy" (paragraph 30). Co-defendant NYMASA is a local chapter of ASA, which holds symposiums, and other events in New York City.

One of ASA's principal arguments is that Plaintiff lacks standing to commence this lawsuit. It avers that Plaintiff, a self-described "Israeli institution," concedes in its pleadings that it was able to join the association, and has not identified an Israeli academic organization that has been denied membership. ASA also notes that Plaintiff does not plead whether it is an academic institution. Moreover, ASA contends that the 2013 resolution concerned Israeli **academic** institutions (i.e. universities and colleges) within Israel (Exhibit "4" of ASA's motion).

To buttress its contentions, ASA makes reference to a document on its website that is linked to its 2013 resolution, which is entitled, “What Does the Boycott of Israel Academic Institutions Mean for ASA?,” which states, *inter alia*:

Israeli academic institutions function as a central part of a system that has denied Palestinians their basic rights. Palestinian students face ongoing discrimination, including the suppression of Palestinian cultural events, and there is sanctioning and ongoing surveillance of Palestinian students and faculty who protest Israeli policies. Israeli universities have been a direct party to the annexation of Palestinian land. Armed soldiers patrol Israeli university campuses, and some have been trained at Israeli universities in techniques to suppress protestors.

The document further states:

ASA understands [sic] boycott as limited to a refusal on the part of the ASA in its official capacities to enter into formal collaborations with Israeli academic institutions, or with scholars who are expressly serving as representatives or ambassadors of those institutions (such as deans, rectors, residents and others), or on behalf of the Israeli government, until Israel ceases to violate human rights and international law.

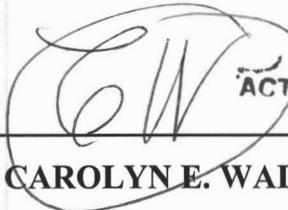
Courts hold that whether a person/entity is a proper party to commence an action is an issue of standing, and when challenged, must be addressed at the outset of any litigation (*Caprer v Nussbaum*, 36 AD3d 176 [2nd Dept 2006]). To establish standing, an association or organization “must show that at least one of its members would have standing to sue [citations omitted]. In other words, [plaintiff] must show that one or more of its members—as distinct from the general public—has suffered an injury in fact, and must demonstrate that the injury falls within the zone of interests protected by the legal authority being invoked” (*Matter of Citizens Emergency Comm. to Preserve Preserv. v. Tierney*, 70 AD3d 576 [1st Dept 2010]). “A general—or even special—interest in the subject matter is insufficient to confer standing, absent an injury

distinct from the public in the particular circumstances of the case” *Id.*

In the instant case, Plaintiff’s Amended Complaint acknowledges that it was accepted as a member of ASA. There are no allegations that any of Plaintiff’s members were denied access to any of the New York programs hosted by ASA. The pleadings are also devoid of claims that Israeli academic institutions were denied membership. Thus, Plaintiff has not established an injury in fact. Moreover, Plaintiff does not plead whether it is an academic institution. Consequently, this Court determines that Plaintiff has not established that it has standing to commence this action.

Accordingly, based upon, ASA’s Motion to Dismiss is **GRANTED**. The Amended Complaint is dismissed against ASA. All remaining contentions are hereby deemed moot.

This constitutes the Decision and Order of the court.



**HON. CAROLYN E. WADE
ACTING SUPREME COURT JUSTICE**

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ACTING SUPREME COURT JUSTICE**

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