



February 27, 2020

VIA OVERNIGHT DELIVERY SERVICE

The Honorable Mark T. Esper
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20310

RE: Complaint by Mr. Michael L. "Mikey" Weinstein re AFCCA Hearing at Liberty University

Dear Mr. Secretary:

By way of introduction, the American Center for Law and Justice (ACLJ) is a non-profit organization dedicated to defending constitutional liberties secured by law. ACLJ attorneys have successfully argued numerous free speech and religious freedom cases before the Supreme Court of the United States as well as before lower federal and state courts throughout the United States.¹

Recently you received a demand letter from Mr. Michael L. "Mikey" Weinstein, Founder and President of the Military Religious Freedom Foundation (MRFF). The purpose of this letter is to respond to Mr. Weinstein's letter to you with respect to a recent criminal appeal argued before Air Force Court of Criminal Appeals (AFCCA) judges at Liberty University, a well-known Evangelical Christian university located in Lynchburg, Virginia. The main point of Mr. Weinstein's letter is that the United States military cannot conduct a trial at a private Christian university without violating the First Amendment to the United States Constitution. As will be shown in this letter, such a claim has no basis in law. Mr. Weinstein makes numerous claims that reflect his and his followers' hostility towards Evangelical Christians and their beliefs (see page 7

¹See, e.g., *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept other monuments merely because it has a Ten Commandments monument on its property); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment); *Lamb's Chapel v. Ctr. Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause); *Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569 (1987) (unanimously striking down a public airport's ban on First Amendment activities).



infra for a description of Mr. Weinstein's views). His letter is riddled with misstatements of what the law and Constitution require, pejorative comments about Christians who hold traditional beliefs regarding sexual morality as well as *ad hominem* attacks on persons associated with Liberty University and their beliefs. As will be shown below, Mr. Weinstein's analysis is premised overwhelmingly on innuendo and deep-seated religious prejudice, but not law.

The MRFF Claim Has No Basis in Law

In his letter, Mr. Weinstein makes numerous charges of wrongdoing, but he fails to provide a scintilla of evidence to support his various claims of wrongdoing on the part of the AFCCA judges or the Air Force. For example, after noting that "[r]eligious freedom is part of what has made our nation a beacon of freedom in the world,"² he then opines that religious freedom can be used "to cravenly discriminate against others who disagree with how *fundamentalist religious extremists* see the world,"³ thereby revealing his jaundiced view of Liberty University. He takes grave issue with the fact that Liberty University upholds traditional Biblical morality, to wit, that faculty members "'be a model of biblical lifestyle' and 'uphold the sanctity of permanent marriage between a natural-born man and a natural-born woman as biblically ordained in scripture.'"⁴ With respect to Liberty University's right to uphold such standards, Mr. Weinstein condescends to admit that "they are free to *push this view* on their students as they see fit."⁵ By using the phrase, "push this view," Mr. Weinstein reveals that he views such beliefs as being illegitimate and, hence, must be forced upon students via indoctrination.⁶

Having revealed his bias against what Liberty University stands for, Mr. Weinstein then states that "the United States [G]overnment . . . should have only a Constitutional worldview and a legal tradition that is firmly established upon a foundation of law, not the Christian faith."⁷ We do not disagree with that premise. Yet, it is from that premise that Mr. Weinstein erroneously concludes that, just by hearing an actual appeal at Liberty University, "the AFCCA has either forgotten this truth, or is actively and willfully ignoring it."⁸ This is the point where Mr. Weinstein's argument goes astray. Mr. Weinstein's statement is simply a conclusory remark, wholly without one iota of proof that anything wrongful occurred. Nowhere does Mr. Weinstein show that the judges of the AFCCA did not act wholly in accordance with the Constitution and laws of the United States in what they did while at Liberty University. Nowhere does Mr. Weinstein provide one scintilla of evidence that, just by hearing a case on the university grounds, the judges somehow disregarded the law and acted in accordance with Christian beliefs instead, although his accusation certainly suggests that he believes that's what they did. The conclusion of wrongdoing appears to be

²Letter from Michael L. "Mikey" Weinstein, Founder and President, Military Religious Freedom Foundation, to Mark T. Esper, Secretary of Defense 1 (Feb. 24, 2020) [hereinafter Weinstein Letter] https://www.militaryreligiousfreedom.org/wp-content/uploads/2020/02/MRFF-Letter-re-Liberty-Univ-Law-School-matter_reformatted.pdf.

³*Id.* (emphasis added). It is clear in context that Mr. Weinstein numbers persons at Liberty University as "fundamentalist religious extremists." *Id.*

⁴*Id.* at 2 (quoting the Liberty University Faculty Handbook).

⁵*Id.* (emphasis added).

⁶*Id.* at 1-2 (arguing "while good ideas don't require force and indoctrination, bad ones do" and that Liberty has the right "to push this view on their students").

⁷*Id.* at 2.

⁸*Id.*

predicated on Mr. Weinstein's underlying hostility to Liberty University and the religious beliefs it espouses, to the point where, in Mr. Weinstein's eyes, merely being present on the campus of Liberty University somehow taints the proceeding and violates the Constitution. Not only is that ridiculous on its face, it also wrongly impugns the integrity of the AFCCA judges.

It is clear that Mr. Weinstein and his followers find the traditional Biblical beliefs that Liberty University espouses to be offensive,⁹ but Mr. Weinstein's and his followers' personal views of Liberty University's beliefs do not *ipso facto* mean that AFCCA judges have acted in any way contrary to how they were expected to act as appellate judges. In an attempt to buttress his argument, Mr. Weinstein turned to Air Force Instruction (AFI) 1-1, para. 2-12:

Leaders at all levels must balance constitutional protections for their own free exercise of religion, including individual expressions of religious beliefs, and the constitutional prohibition against governmental establishment of religion. They must ensure their words and actions cannot reasonably be construed to be officially endorsing or disapproving of, or extending preferential treatment for any faith, belief, or absence of belief.

After citing the above, Mr. Weinstein asks: "What confidence can the public have in the fairness and impartiality of military justice in the Air Force when AFCCA judges cannot even follow the basic Air Force doctrinal manual, AFI 1-1?"¹⁰ He responds to his own question: "The answer is simply, 'none!'"¹¹ Yet, once again, other than innuendo and referring to Liberty University as "a bastion of odious discrimination,"¹² he provides not one bit of evidence that any of the judges violated AFI 1-1, much less that they violated their oaths of office as AFCCA judges or did anything else wrong. He simply equates being at Liberty University with wrongdoing. Personal religious prejudice against a particular group of Christians—*whose beliefs enjoy the full protection of the First Amendment*—does not constitute evidence of wrongdoing on the part of either the Christians or third parties. Moreover, to permit persons hostile to religious belief, like Mr. Weinstein and his followers, to determine what may and may not occur based on their skewed view of the Establishment Clause would eviscerate the Constitutional protections of the First Amendment.

The key point in AFI 1-1, para 2-12, relates to *reasonableness*, to wit, that one's words and actions "cannot reasonably be construed" as endorsing and/or extending preferential treatment to Liberty University and its stated beliefs. Accordingly, when considering whether the government has "endorsed" religion (i.e., violated the Establishment Clause), one must keep in mind that

[t]here is always *someone* who, with a particular quantum of knowledge, reasonably *might perceive* a particular action as an endorsement of religion. A State has not made religion relevant to standing . . . simply because a particular viewer of a

⁹*Id.* at 2 (arguing that Liberty University is "a bastion of odious discrimination" that "elevat[es] the Christian faith over all others").

¹⁰*Id.*

¹¹*Id.*

¹²*Id.*

display might feel uncomfortable. *It is for this reason that the reasonable observer in the endorsement inquiry must be deemed aware of the history and context of the community and forum in which the religious [activity] appears.*¹³

The men and women in the U.S. Armed Forces are deemed to be “reasonable observers” who understand that federal courts (including military courts of appeal) periodically conduct actual hearings at universities—*both secular and religiously affiliated*—around the country. That some may object to holding hearings at religiously affiliated universities does not require the government to accommodate their objections. As the Supreme Court of the United States aptly noted in *Lee v. Weisman*: “We do not hold that every state action implicating religion is invalid if one or a few citizens find it offensive. People may take offense at all manner of religious as well as nonreligious messages, but offense alone does not in every case show a violation.”¹⁴

Moreover, as the Supreme Court in *Board of Education of Westside Community Schools v. Mergens* made clear, “[t]he Establishment Clause does not license government to treat religion and those who teach or practice it, simply by virtue of their status as such, as subversive of American ideals and therefore *subject to unique disabilities*.”¹⁵ Arguing that an Evangelical Christian University cannot host an AFCCA hearing because of its sincerely held religious beliefs would single out certain Christians for special detriment in violation of the very Establishment Clause that Mr. Weinstein claims to be protecting. It would also seem to violate AFI 1-1, para 2-12, by “disapproving of . . . any faith [or] belief,” to wit, the faith and belief of Liberty University, which faith and belief are fully protected by the First Amendment.

This bias against Liberty University’s beliefs is further confirmed by one of the former JAG officers Mr. Weinstein quotes. That officer claimed to be “both shocked and outraged”¹⁶ about holding a hearing at Liberty University. He then makes a very revealing admission: “Liberty’s Law School is not just a law school affiliated with a sectarian university, such as Notre Dame. Rather, it is an avowed religious institution . . .”¹⁷ Apparently, in his mind, “avowed religious institutions” are somehow constitutionally suspect. It is ironic that this officer is advocating that the United States Government distinguish between law schools based on their religious affiliation and beliefs—*approving one and disapproving the other*—thereby violating the *Mergen* Court’s prohibition on subjecting certain religious institutions “to unique disabilities”¹⁸ and favoring some religious or non-religious beliefs over others.¹⁹ Despite that officer’s claim that the person who

¹³Capitol Square Review & Advisory Bd. v. Pinette, 515 U.S. 753, 780 (1995) (second and third emphasis added); see also *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 828 (1995) (“It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys. . . . Discrimination against speech because of its message is presumed to be unconstitutional.”).

¹⁴505 U.S. 577, 597 (1992).

¹⁵*Mergens*, 496 U.S. at 248 (emphasis added) (quoting *McDaniel v. Paty*, 435 U.S. 618, 641 (1978) (Brennan, J., concurring in judgment)).

¹⁶Weinstein Letter, *supra* note 2, at 2.

¹⁷*Id.*

¹⁸*Mergens*, 496 U.S. at 248 (quoting *McDaniel v. Paty*, 435 U.S. 618, 641 (1978) (Brennan, J., concurring in judgment)).

¹⁹See, e.g., *Epperson v. Ark.*, 393 U.S. 97, 104 (1968) (“The First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.”).

approved holding the hearing at Liberty University “is ignorant of basic constitutional law,”²⁰ I believe that, in light of the foregoing Supreme Court rulings, the constitutional error is actually his.

Overall, the JAG officers Mr. Weinstein quotes in his letter have made some very troubling statements *vis-à-vis* their understanding of First Amendment law. The person referred to as a “former very senior Air Force JAG,” for example, indirectly and inappropriately criticizes the religious beliefs of Liberty University when he says that, “[i]f Liberty University would like to renounce its advocacy of a one world view of religious liberty and disavow its repudiation of other religious or non-religious views, then the Federal Government could support its law school. Until then, our government and Constitution cannot support Liberty University sponsorship of federal hearings”²¹ That is an absolutely astounding statement. It would premise exercise of constitutional rights on repudiating constitutionally protected beliefs. What is that but an open statement of disapproval of Liberty University’s faith and belief in violation of AFI 1-1, para 2-12, no less. Such a view appears to violate not only AFI 1-1, but also the requirement for neutrality in religious matters. As the Supreme Court aptly noted in *Schempp*,

untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that noninterference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. *Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it.*²²

Further, as the *Zorach* Court noted:

The First Amendment [] does not say that in every and all respects there shall be a separation of Church and State. . . . Otherwise the state and religion would be aliens to each other—hostile, suspicious, and even unfriendly. . . . Municipalities would not be permitted to render police or fire protection to religious groups. Policemen who helped parishioners into their places of worship would violate the Constitution. . . . A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session: “God save the United States and this Honorable Court.”²³

Rather than a bright-line rule, the so-called “wall” separating church and state “is a blurred, indistinct, and variable barrier depending on all the circumstances of a particular relationship,”²⁴

²⁰Weinstein Letter, *supra* note 2, at 3.

²¹*Id.*

²²*Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 306 (1936) (Goldberg, J., concurring) (emphasis added).

²³*Zorach v. Clauson*, 343 U.S. 306, 312–13 (1952); *see also id.* at 314 (noting “no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence”).

²⁴*Lemon v. Kurtzman*, 403 U.S. 602, 614 (1971).

and the location of the line separating church and state must be determined on a case-by-case basis.²⁵

Justice Brennan explained it this way: “[T]he line we must draw between the permissible and the impermissible is one which accords with history and *faithfully reflects the understanding of the Founding Fathers*.”²⁶ Strict church-state separation has never been required in the United States and is not required now.

Another example of questionable application of the First Amendment was made by the person Mr. Weinstein described as “current MRFF client” and “former Navy JAG.”²⁷ That individual, without citing one bit of evidence in support of his conclusion, accused otherwise unidentified “government officials” of “elevat[ing] their private religious views over the Constitution and laws of the United States.”²⁸ Who are such persons and where is the proof that they put private religious views over the Constitution and U.S. law? He argued, further, that under the Constitution, laws, policies, and regulations “we are all equal under the law,”²⁹ failing entirely to note the irony that his basic argument was that Liberty University should be treated differently—i.e., *not* equally—under the law. Finally, in an apparent attempt to counter any suggestion that he was anti-Christian, he self-identified as a Christian who “find[s] my Savior in His words and teachings in the Bible,”³⁰ even as he noted, “I’ve never really understood where the Falwells and Grahams and Bakkers find theirs.”³¹ This latter comment was a clear rebuke of those who believe differently and suggested that the faith of the Falwells, the Grahams, and the Bakkers was somehow suspect. Yet, as the Supreme Court has aptly noted, “religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection.”³² It is not the Government’s role to evaluate the validity of anyone’s religious beliefs.³³

Finally, merely holding an AFCCA hearing on the campus of a religiously affiliated university like Liberty University does not *ipso facto* mean that the judges of that court jettison their oaths of office and substitute religious principles for otherwise binding principles of law. To suggest as Mr. Weinstein does that it does indeed mean just that is ludicrous on its face and does grave disservice to the AFCCA judges by impugning both their integrity and their intelligence.

As you may have noted by the language he uses, Mr. Weinstein is a fan of pejorative descriptives. Note the unhinged language Mr. Weinstein uses in ordering you to take the actions he demands. He claims, *inter alia*, that Liberty University espouses a “repugnant message of fundamentalist Christian triumphalism and exceptionalism,”³⁴ for which the Air Force should “officially and

²⁵*See id.*

²⁶*Schempp*, 374 U.S. at 294 (1963) (Brennan, J., concurring) (emphasis added).

²⁷Weinstein Letter, *supra* note 2, at 3.

²⁸*Id.* at 3.

²⁹*Id.*

³⁰*Id.*

³¹*Id.*

³²*Thomas v. Review Bd. of Ind. Emp’t Sec. Div.*, 450 U.S. 707, 714 (1981).

³³*Hernandez v. Comm’r*, 490 U.S. 680, 699 (1989) (“It is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants’ interpretations of those creeds.”).

³⁴Weinstein Letter, *supra* note 2, at 3.

expeditiously apologize.”³⁵ Then, he seeks “visibl[e] punish[ment]” for all personnel who “played a direct, or even a meaningful indirect, role in this sordid matter of unconstitutional outrage cum fundamentalist Christian supremacy.”³⁶

With respect to the foregoing paragraph and Mr. Weinstein’s demands, one must keep in mind that there are persons and organizations in our Nation—like Mr. Weinstein and the MRFF (including, undoubtedly, some members of the U.S. Air Force and others currently on active duty)—which are hypersensitive to religion and religious expression. Accordingly, leaders must studiously avoid blindly reacting to complaints, especially when any reasonable, minimally informed, person knows that no endorsement of religion is intended.

That principle was clearly enunciated in *Americans United for Separation of Church & State v. City of Grand Rapids*, where the court noted that there are persons in our society who see religious endorsements, “even though a reasonable person, and any minimally informed person, knows that no endorsement is intended.”³⁷ The court characterized such a hypersensitive response as a form of heckler’s veto which the court labeled an “‘ignoramus’ veto.”³⁸ *This matter appears to be just such an instance!* One need not yield to such hypersensitive persons.

The MRFF and Its Agenda

Although Mr. Weinstein and the MRFF have every right to believe and espouse the views they do, it is imperative that you and members of your staff be aware of what the MRFF’s agenda entails. It is also imperative that you not accept such charges at face value. They espouse a skewed view of the Constitution and its guarantees and requirements.

How Mr. Weinstein describes his organization, the MRFF, also says much about his beliefs and how he approaches those with whom he disagrees. He describes the MRFF as follows: “We are a weapon. We’re a militant organization. Our job is to kick ass, take names, lay down a withering field of fire, and leave sucking chest wounds on this unconstitutional heart of darkness, if you will, this imperious fascistic contagion of unconstitutional triumphalism.”³⁹ He has demonstrated open and continuing hostility to Evangelical Christians and their message and admits that he is willing to do whatever it takes to achieve his ends: “*I don’t want to be on the losing side knowing that I didn’t use every last diatribe and embellishment and wild-eyed, hair-on-fire, foaming-at-the-mouth harangue to get my point across . . .*”⁴⁰

A few examples should suffice to demonstrate the nature of Mr. Weinstein’s beliefs and the approach he takes to those with whom he disagrees. For example, in April 2010, Mr. Weinstein demanded that Reverend Franklin Graham be disinvited from being the keynote speaker at the Pentagon National Day of Prayer prayer breakfast. Reverend Graham, son of Evangelist Billy

³⁵*Id.*

³⁶*Id.*

³⁷980 F.2d 1538, 1553 (6th Cir. 1992).

³⁸*Id.*

³⁹Brian Kresge, *An Interview with Mikey Weinstein*, JEW IN GREEN (Aug. 24, 2007), <http://www.jewsingreen.com/2007/08/an-interview-with-mikey-weinstein/>.

⁴⁰MICHAEL WEINSTEIN & DAVIN SEAY, WITH GOD ON OUR SIDE 129 (2006) (emphasis added).

Graham, is a well-known Evangelical religious figure whose ministry, Samaritan's Purse, provides aid to needy persons around the globe, *irrespective of their religious faith*.⁴¹ Mr. Weinstein accused Reverend Graham of being "an Islamophobe, an anti-Muslim bigot, and an international representative of the scourge of fundamentalist Christian supremacy and exceptionalism," primarily because Reverend Graham said, post-9/11, that he believed Islam "to be a very violent religion."⁴² Mr. Weinstein's complaint was not based on what Reverend Graham planned to say at the prayer breakfast, but instead on previous comments Reverend Graham had made concerning Islam of which Mr. Weinstein disapproved. Claims about other's bigotry are commonplace with Mr. Weinstein and the MRFF.

Mr. Weinstein's rhetorical attacks are not limited solely to Christians; he has readily attacked Jews with whom he disagrees as well. For example, Mr. Weinstein attacked the Jewish War Veterans (JWV) and the Anti-Defamation League (ADL) as follows when they did not react as he thought they should have reacted regarding an assault on a Jewish recruit at Fort Benning, Georgia: "The JWV has no spine. . . . They haven't reached out at all, they seem to have absolutely no balls whatsoever. Somehow I think they and the ADL, Abe Foxman, have confused circumcision with castration...."⁴³ Such language and vitriol are the norm in Mr. Weinstein's frequent tirades.

Mr. Weinstein also publicly mocked retiring Air Force Chief of Staff, General Norton A. Schwartz, for failing to accomplish during his tenure in that office everything that Mr. Weinstein had demanded.⁴⁴ Referring to him derisively as "Norty," Mr. Weinstein accused General Schwartz of "unconscionable malfeasance and misfeasance" in office; he also accused General Schwartz of "pitiful acts of betrayal."⁴⁵ He characterized General Schwartz's accomplishments as Air Force Chief of Staff as a "gutless legacy."⁴⁶ Mr. Weinstein continued in like vein throughout his editorial. Near the end, he concluded by saying: "Norty, you're not just a liar. You're a damned liar."⁴⁷

As one can see from the foregoing, Mr. Weinstein is rightly known for making bombastic, over-the-top statements about those who disagree with his views and his personal ideas on what constitutes acceptable speech and conduct under the Constitution and laws of the United States.

⁴¹*See About Us*, SAMARITAN'S PURSE, <https://www.samaritanspurse.org/our-ministry/about-us/> (last visited Feb. 27, 2020) ("The story of the Good Samaritan . . . gives a clear picture of God's desire for us to help those in desperate need wherever we find them. After describing how the Samaritan rescued a hurting man whom others had passed by, Jesus told His hearers, 'Go and do likewise.' . . . For over 40 years, Samaritan's Purse has done our utmost to follow Christ's command by going to the aid of the world's poor, sick, and suffering.").

⁴²MICHAEL WEINSTEIN & DAVIN SEAY, NO SNOWFLAKE IN AN AVALANCHE 165, 169 (2012) (internal citation omitted). Weinstein and Seay quoted Franklin Graham as saying, "[T]here are millions of wonderful Muslim people. And I love them. I have friends that are Muslims and I work in those countries. But I don't agree with the teachings of Islam and I find it to be a very violent religion." *Id.* at 165.

⁴³Kresge, *supra* note 39.

⁴⁴Mikey Weinstein, Opinion, *Good Riddance to the Air Force's Religious Intolerance Enabler in Chief*, TRUTHOUT (Aug. 1, 2012), <http://truth-out.org/opinion/item/10636-good-riddance-to-the-air-forces-religious-intolerance-enabler-in-chief>.

⁴⁵*Id.*

⁴⁶*Id.*

⁴⁷*Id.*

Mr. Weinstein and the MRFF routinely accuse others of making offensive and bigoted comments. Mr. Weinstein, for example has compared Christian believers with whom he disagrees to al-Qaeda and the Taliban: “We’re fighting al-Qaeda, we’re fighting the Taliban, and we’re turning our own military into that exact same thing.”⁴⁸ Mr. Weinstein continued: “[W]e’ve lost the Marine Corps, we’ve lost the Army, we’ve lost the Navy and the Air Force.”⁴⁹ Assuming Mr. Weinstein’s claims to be even remotely true, one wonders where all the forced conversions are that such a view implies.

Despite repeated pious declarations that he is fighting for religious tolerance, Mr. Weinstein is in reality a serial purveyor of religious intolerance who repeatedly propagates the despicable lie that Evangelical and Fundamentalist Christians “would willingly, even eagerly, condemn, ostracize and *even put to death* their fellow citizens for praying to the wrong god.”⁵⁰ He even asserts: “I know that they will stop at literally nothing to achieve their ends. *That includes mass murder.*”⁵¹ Mr. Weinstein claims that “fundamentalist dominionist Christians are willing to kill to achieve their twisted agenda.”⁵² Such assertions are not only outrageous—they are delusional. Finally, despite admitting that he has “doubts over the actual existence of God and an even more abiding skepticism about the claims of organized religion,”⁵³ Mr. Weinstein expects all of us to simply believe that *he* can speak *with authority* about what certain *Christians* believe. For example, *without citing any authoritative source whatsoever*, Mr. Weinstein claims that “Christian fundamentalist dominionists . . . believe that the Bible instructs them *to eradicate all nonbelievers* as a prerequisite for the Second Coming of Christ.”⁵⁴ Elsewhere, once again without citing any authority to back up his statement, he claims that “hardcore fundamentalist Christian elements within every branch of the military [are] intent on creating nothing less than an army of zombie zealots prepared to fight and die *to usher in* the dispensational reign of Jesus Christ on earth.”⁵⁵ Such ludicrous assertions, bordering on paranoia, are commonplace in Mr. Weinstein’s writings and speeches.

CONCLUSION

Mr. Weinstein’s and the MRFF’s frequent demands invite extreme caution on the part of all persons who receive their demand letters, lest the recipients become unwitting pawns in the MRFF’s strategy to eviscerate religious freedom in the U.S. armed forces. Mr. Weinstein has readily admitted that he values the use of diatribe, embellishment, and harangue as tools to get his way. Mr. Weinstein’s specious demands regarding the AFCCA hearing held at Liberty University fit neatly into that mold.

⁴⁸MIL. RELIGIOUS FREEDOM FOUND., http://www.militaryreligiousfreedom.org/Media_video/festival-of-books/index.html (last visited Feb. 27, 2012).

⁴⁹Mikey Weinstein, “Champion of the First Amendment” Award Acceptance Speech at the 29th Annual Convention of the Freedom from Religion Foundation (Oct. 7, 2006) (transcript *available at* <http://www.ffrf.org/publications/freethought-today/articles/The-Christianization-of-the-Military/>).

⁵⁰WEINSTEIN & SEAY, *supra* note 42, at 119 (emphasis added).

⁵¹*Id.* at 178 (emphasis added).

⁵²*Id.* at 179.

⁵³*Id.* at 31.

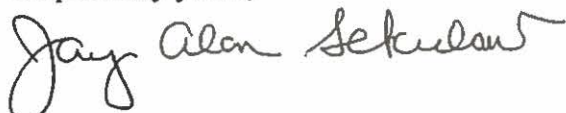
⁵⁴*Id.* at 197 (emphasis added).

⁵⁵*Id.* at 12 (emphasis added).

We strongly and respectfully urge you to disregard Mr. Weinstein's demands. His allegations of wrongdoing are baseless, and they must be treated as such by you.

Should you or any member of your staff desire further information or assistance concerning this matter, please do not hesitate to contact our office. We stand ready to assist you in any way we can.

Respectfully yours,



Jay Alan Sekulow
Chief Counsel



Robert W. Ash
Senior Counsel

Cc: The Honorable Barbara M. Barrett, Secretary of the Air Force
General David L. Goldfein, Air Force Chief of Staff
LtGen Jeffrey A. Rockwell, The Air Force Judge Advocate General