



Jay Alan Sekulow, J.D., Ph.D.  
Chief Counsel

April 29, 2016

**VIA OVERNIGHT DELIVERY SERVICE**

Brigadier General Helen G. Pratt  
President, Marine Corps University

Dear General Pratt:

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.<sup>1</sup>

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The purpose of this letter is to respond to and correct the numerous, erroneous, legal and factual arguments made by Mr. Michael L. "Mikey" Weinstein in his email to you, dated April 27, 2016, regarding the upcoming National Day of Prayer (NDP) event scheduled for May 5, 2016.<sup>2</sup> Putting aside for the moment the snarky, condescending, and disrespectful tone of Mr. Weinstein's email (e.g., "Look, General, maybe you just don't get it" and "Nice command climate you have there, ma'am"), Mr. Weinstein simply fails to get the facts and corresponding law right. What Mr. Weinstein has, in fact, done is to allege a number of Constitutional violations where none exists.

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<sup>1</sup>See, e.g., *Pleasant Grove City v. Summum*, 129 S. Ct. 1125 (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. Center 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).

<sup>2</sup>Email from Michael L. "Mikey" Weinstein, Founder and President, Military Religious Freedom Foundation, to Brigadier General Helen G. Pratt, President, Marine Corps Univ. [hereinafter Email from Weinstein], <http://www.militaryreligiousfreedom.org/2016/04/42716-mrff-demand-letter-mrff-demand-to-the-president-of-marine-corps-university/>.

### *Review of the Facts*

Regarding the facts, Mr. Weinstein asserts that you, as President of the Marine Corps University (MCU), are “a serious Constitutional violator” for allegedly violating the Establishment Clause of the First Amendment as well as the No Religious Test for office provisions of Clause 3, Article VI of the Constitution by holding a NDP Prayer Breakfast at which the topic “Prayerful Leadership” will be addressed.

Mr. Weinstein based his allegations on an email drafted by CDR Maurice Buford, CHC, USN, your Command Chaplain, and sent from your Staff Secretary which served to notify MCU students, faculty, and staff of the NDP Prayer Breakfast to be held on May 5 and to invite them to attend “if you [i.e., the addressees] are interested in attending.” Mr. Weinstein also provided a copy of an email from one of the recipients of the invitation who expressed his fear that, *despite the clear language offering the opportunity to attend for those interested in attending*, the event was, in effect, a mandatory event. Assuming that the actual language in the invitation was correct, it was a stretch to conclude that the event is mandatory.

Mr. Weinstein then threatened to file all manner of IG and EEO complaints against you if you do not yield to his demands. Such threats are commonplace in Mr. Weinstein’s demands.

### *Review of the Law*

Mr. Weinstein alleged that the MCU NDP event violates both the Establishment Clause and the No Religious Test Clause. We will dispense first with the alleged violation of Clause 3, Article 6 of the United States Constitution. The Constitutional provision to which Mr. Weinstein refers reads as follows: “[B]ut no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.”<sup>3</sup>

Having accused you and your staff of instituting an unconstitutional “religious test,” the most obvious response to Mr. Weinstein’s allegations—something that he apparently fails to grasp—is that one’s attendance or non-attendance at an NDP Prayer Breakfast is simply not a “test” at all, *much less a religious test for office*. Moreover, Mr. Weinstein utterly fails to show that any Marine who declines to attend the MCU NDP Prayer Breakfast will be denied any office or public trust based on his or her absence. Historically, the religious test prohibition in the U.S. Constitution was to counter at the federal level provisions in state constitutions, a number of which required, for example, that one believe in Jesus Christ to be qualified to serve in public office.<sup>4</sup> There is no evidence of that or anything similar here—simply because no such test is applied in the Marine Corps or at MCU. One’s presence or absence at the MCU NDP Prayer Breakfast will have no effect whatsoever on one’s ability to serve in public office. Mr. Weinstein’s claim to the contrary is ludicrous on its face and indicates a fundamental misunderstanding of the Constitution of the United States.

Moreover, one cannot interpret the Constitution of the United States based on the most hypersensitive and timid amongst us. That one MRFF member “feels threatened” and fears that his or her absence at the Prayer Breakfast may impact his or her “promotion potential” is simply

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<sup>3</sup>U.S. CONST. art. VI, cl. 3.

<sup>4</sup>*See, e.g.,* FRAME OF GOVERNMENT OF PENNSYLVANIA, Laws Agreed Upon in England, art. XXXIV (1682); DEL. CONST. of 1776, art. XXII (1776).

not enough to establish such feelings to be true in any way, shape or form. Accordingly, Mr. Weinstein's allegation that you have subjected your subordinates to a Religious Test is ludicrous on its face and should be rejected outright.

Regarding the allegation that you and your staff have violated the Establishment Clause, that, too, is ludicrous. The First Amendment to the U.S. Constitution reads, in pertinent part: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . ."<sup>5</sup> One of the methods used by the Supreme Court of the United States for interpreting the meaning and legal reach of the First Amendment is to examine how those who drafted and ratified the Amendment acted in light of its express terms. "[T]he Establishment Clause must be interpreted 'by reference to historical practices and understandings.'"<sup>6</sup> One can begin to understand what the Establishment Clause allows (and disallows) by examining what transpired in the earliest years of our Nation during the period when the First Amendment was being drafted and subsequently ratified.<sup>7</sup> For example, "the First Congress, as one of its early items of business, adopted the policy of selecting a chaplain to open each session with prayer,"<sup>8</sup> and a "statute providing for the payment of these chaplains was enacted into law on September 22, 1789."<sup>9</sup> Within days of legislating to pay Congressional chaplains from the federal treasury, "final agreement was reached on the language of the Bill of Rights."<sup>10</sup> As former Chief Justice Burger explained, it "can hardly be thought that in the same week Members of the First Congress voted to appoint and to pay a Chaplain for each House and also voted to approve the draft of the First Amendment for submission to the States, they intended the Establishment Clause to forbid what they had just declared acceptable."<sup>11</sup> If the Establishment Clause is not violated when the government pays for legislative chaplains out of the U.S. Treasury to offer spoken prayers, then it is not violated by the holding of periodic, voluntary prayer breakfasts either.

Early national leaders also acted in ways that some today—like Mr. Weinstein and the MRFF—argue expressly violate the Establishment Clause. For example, President George Washington issued proclamations of thanksgiving to Almighty God during his presidency,<sup>12</sup> and President John Adams called for a national day of fasting and prayer.<sup>13</sup> President Thomas Jefferson—a man often described as a strong defender of strict church-state separation—signed multiple Congressional acts to support Christian missionary activity among the Indians.<sup>14</sup> Further,

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<sup>5</sup>U.S. CONST. amend. I.

<sup>6</sup>*Town of Greece v. Galloway*, 134 S. Ct. 1811, 1819 (2014).

<sup>7</sup>Most agree that, at a minimum, the Establishment Clause was intended to prohibit the creation of a national church for the U.S., such as existed in England. Nevertheless, one must keep in mind that the First Amendment did not preclude individual states from adopting a state church or a state religion. See CARL ZOLLMAN, *AMERICAN CHURCH LAW* 2–4 (2d ed. 1933). In fact, Massachusetts was the last state to disestablish its state church, and it did so of its own accord in 1833, more than forty years after the ratification of the First Amendment. Kelly Olds, *Privatizing the Church: Disestablishment in Connecticut and Massachusetts*, 102 J. POL. ECON. 277, 281–82 (1994).

<sup>8</sup>*Marsh v. Chambers*, 463 U.S. 783, 787–88 (1983).

<sup>9</sup>*Id.* at 788.

<sup>10</sup>*Id.* (citation omitted). The First Amendment is part of the Bill of Rights.

<sup>11</sup>*Id.*; see also *id.* at 790.

<sup>12</sup>E.g., CATHERINE MILLARD, *THE REWRITING OF AMERICA'S HISTORY* 61–62 (1991).

<sup>13</sup>Proclamation of President John Adams (Mar. 6, 1799), in 1 JAMES D. RICHARDSON, *A COMPILATION OF THE MESSAGES AND PAPERS OF THE PRESIDENTS 1789–1897* 284–86 (1899).

<sup>14</sup>See DANIEL L. DRIESBACH, *REAL THREAT AND MERE SHADOW: RELIGIOUS LIBERTY AND THE FIRST AMENDMENT* 127 (1987) (noting that the 1803 treaty with the Kaskaskia Indians included federal funds to

during his presidency, President Jefferson also approved a curriculum for schools in the District of Columbia which used the Bible and a Christian hymnal as the primary texts to teach reading,<sup>15</sup> and he signed the Articles of War which “[e]arnestly recommended to all officers and soldiers, diligently to attend divine services.”<sup>16</sup> Also, once the U.S. Navy was formed, Congress enacted legislation directing the holding of, and attendance at, divine services aboard U.S. Navy ships.<sup>17</sup>

As one honestly examines Governmental acts contemporaneous with the adoption of the First Amendment, it is difficult to deny that, in the early days of our Republic, church and state existed relatively comfortably (and closely) together, with contemporaries of the drafters of the First Amendment showing little concern that such acts violated the Establishment Clause. As the Court in *Marsh v. Chambers* aptly recognized, actions of the First Congress are “contemporaneous and weighty evidence” of the Constitution’s “true meaning.”<sup>18</sup> Moreover, in *Marsh*, the Court held that legislative prayers do not violate the Establishment Clause of the First Amendment.<sup>19</sup> Instead the Court found them to be “a tolerable acknowledgment of beliefs widely held among the people of this country.”<sup>20</sup> Despite such evidence, however, the MRFF seems utterly unwilling to acknowledge and unable to grasp our nation’s rich religious history and how it is reflected in government settings.

The Supreme Court has aptly noted that “this is a religious nation.”<sup>21</sup> Supreme Court Justice Douglas, writing in *Zorach v. Clauson*, clearly and succinctly summarized the place religion holds in our history and the role the government plays in protecting religious expression and freedom:

We are a religious people whose institutions presuppose a Supreme Being. . . . We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma.<sup>22</sup>

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pay a Catholic missionary priest; noting further treaties made with the Wyandotte and Cherokee tribes involving state-supported missionary activity).

<sup>15</sup>JOHN W. WHITEHEAD, *THE SECOND AMERICAN REVOLUTION* 100 (1982) (citing 1 J. O. WILSON, *PUBLIC SCHOOL OF WASHINGTON* 5 (1897)).

<sup>16</sup>CHARLES E. RICE, *THE SUPREME COURT AND PUBLIC PRAYER: THE NEED FOR RESTRAINT* 63–64 (1964).

<sup>17</sup>Act of March 2, 1799, ch. XXIV, 1 Stat. 709 (where Congress enacted legislation requiring commanders of ships with chaplains on board “to take care that divine service be performed twice a day, and the sermon preached on Sundays”); Act of March 23, 1800, ch. XXXIII, 2 Stat. 45 (where Congress directed commanders of ships to require the ship’s crew “to attend at every performance of the worship of God”).

<sup>18</sup>*Marsh*, 463 U.S. at 790 (citation omitted); see also *United States v. Curtiss-Wright Exp. Corp.*, 299 U.S. 304, 328 (1936) (noting that understanding “placed upon the Constitution . . . by the men who were contemporary with its formation” is “almost conclusive”) (citation omitted).

<sup>19</sup>*Marsh*, 463 U.S. at 792.

<sup>20</sup>*Id.*

<sup>21</sup>*Holy Trinity v. United States*, 143 U.S. 457, 470 (1892); see also *Van Orden v. Perry*, 545 U.S. 677, 683 (2005) (plurality opinion) (“[O]ur national life reflects a religious people . . .” (quoting *Schempp* 374 U.S. at 213)); *Lynch v. Donnelly*, 465 U.S. 668, 675 (1984) (“We are a religious people whose institutions presuppose a Supreme Being.” (quoting *Zorach v. Clauson*, 343 U.S. 306, 313 (1952))); *McDaniel v. Paty*, 435 U.S. 618, 638 (1978) (noting “our heritage as a religious people”).

<sup>22</sup>343 U.S. 306, 313–14 (1952) (emphasis added).

Further, the Supreme Court recognized that strict separation between church and state could lead to absurd results. For example, the Court stated that 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.”<sup>23</sup>

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,”<sup>24</sup> and the location of the line separating church and state must be determined on a case-by-case basis.<sup>25</sup> Justice Brennan explained it this way: “The 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.”<sup>26</sup> Strict church-state separation has never been required in the United States and is not required now. Mr. Weinstein fails to understand this, and, as a result, incorrectly interprets the First Amendment.

In *Board of Education v. Mergens*, Justice O’Connor aptly noted that “[t]he Establishment Clause does not license government to treat religion and those who teach or practice it . . . as subversive of American ideals and therefore subject to unique disabilities.”<sup>27</sup> Justice Brennan, in his concurrence in *Schempp*, also recognized that the Religion Clauses required the government to be neutral, not hostile, towards religion: “The State must be steadfastly neutral in all matters of faith, and neither favor nor inhibit religion.”<sup>28</sup>

Further, neutrality does not require excising all religious expression from government fora. In *Marsh v. Chambers*, the Court considered the constitutionality of prayers led by paid legislative chaplains. The Court concluded that chaplain-led prayer, even if such prayer is explicitly Judeo-Christian in form, opening each day’s legislative session “is not . . . an ‘establishment’ of religion,” but rather “a tolerable acknowledgment of beliefs widely held among the people of this country.”<sup>29</sup> *Marsh* refuted the contention that clergy-led, ceremonial prayer violated the Establishment Clause merely because a particular prayer might reference monotheistic terminology or beliefs. In *Marsh*, the Court rejected the argument that selection by the Nebraska legislature of a Presbyterian clergyman who chose to pray in the “Judeo-Christian” tradition violated the Establishment Clause. The Court declared: “We cannot, any more than

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<sup>23</sup>*Id.* at 312–13; *see also id.* at 314 (“[N]o constitutional requirement . . . 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.”).

<sup>24</sup>*Lemon v. Kurtzman*, 403 U.S. 602, 614 (1971).

<sup>25</sup>*Id.*

<sup>26</sup>*Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 294 (1963) (Brennan, J., concurring).

<sup>27</sup>496 U.S. 226, 248 (1990) (emphasis added).

<sup>28</sup>*Schempp*, 374 U.S. at 299 (emphasis added).

<sup>29</sup>*Marsh v. Chambers*, 463 U.S. 783, 792 (1983); accord *Town of Greece v. Galloway*, 134 S. Ct. 1811, 1820 (2014).

Members of the Congresses of this century, perceive any suggestion that choosing a clergy man of one denomination advances the beliefs of a particular church.”<sup>30</sup> The Court noted that “[t]he content of the prayer is not of concern to judges where, *as here*, there is *no indication that the prayer opportunity has been exploited to proselytize or advance any one, or disparage any other, faith or belief.*”<sup>31</sup> Just two years ago, in *Town of Greece v. Galloway*, the Court reaffirmed its holding in *Marsh*, and upheld a practice that included explicitly Christian prayers before town council meetings.<sup>32</sup> The Court noted that “Prayer that reflects beliefs specific to only some creeds can still serve to solemnize the occasion . . . .”<sup>33</sup>

There is one other critical matter that Mr. Weinstein fails to grasp. As a commander, you are the person responsible for the spiritual welfare of your command, not the chaplain. Holding periodic, voluntary prayer breakfasts is one way of attempting to meet the spiritual needs of the men and women you command. Not everyone will desire to avail him or herself of every opportunity presented, but many will. As commander, it is fully appropriate for you to make known such opportunities to members of your command so that they can make informed choices. Merely offering multiple such opportunities does not mean that you are endorsing every word or concept or prayer or that you are endorsing anything at all. Mr. Weinstein’s presumption that you are violating the Establishment Clause is nonsense. As long as the Marines under your command may freely choose to attend or not attend, there is no violation. Only if you were to mandate attendance at a religious event (other than for persons required to perform a specific duty such as serving as an honor guard, for example, at a ceremony like a military funeral), would there be a violation.

#### ***Mr. Weinstein and His Agenda***

Although Mr. Weinstein and his organization have every right to espouse the views they do, it is imperative that you and members of the Marine Corps be aware of who Mr. Weinstein is and what his agenda entails. It is also imperative that you not accept Mr. Weinstein’s charges at face value.

Mr. Weinstein is a self-described opponent of so-called “Dominionist Christians” in the military. He has repeatedly claimed that he is fighting “a subset of Evangelical Christianity that goes by a long technical name . . . Pre-Millennial, Dispensational, Reconstructionist, Dominionist, Fundamentalist, Evangelical Christianity.”<sup>34</sup> Moreover, how Mr. Weinstein describes his organization, the Military Religious Freedom Foundation (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

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<sup>30</sup>*Id.* at 793.

<sup>31</sup>*Id.* at 794-95 (emphasis added).

<sup>32</sup>*Town of Greece*, 134 S. Ct. at 1823-24.

<sup>33</sup>*Id.* at 1823.

<sup>34</sup>Although Mr. Weinstein has frequently said that his attacks are aimed solely at a very small slice of Evangelical Christianity (as described in the foregoing text), that claim is belied by a presentation he gave at the United States Air Force Academy in April 2008 where he attempted to show a portion of a virulently anti-Catholic movie entitled *The Sword of Constantine*. Luchina Fisher, ‘Constantine’s Sword’ Cuts into Anti-Semitism, ABC NEWS (Apr. 20, 2008), <http://abcnews.go.com/Entertainment/story?id=4684837&page=1#.T0QKS1cgccl>. By seeking to attack the Catholic Church as well, Mr. Weinstein demonstrated a broad-based hostility to Christianity, in general, which no U.S. Government official should tolerate.

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.”<sup>35</sup> 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 . . .*”<sup>36</sup> The tone of Mr. Weinstein’s recent letter to you reflects that view.

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. Mr. Weinstein frequently singles out those whose views he dislikes and demands that such persons be “disinvited” from activities sponsored by the military. 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 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*.<sup>37</sup> 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.”<sup>38</sup> Mr. Weinstein’s complaint was not based on what Reverend Graham planned to say at the prayer breakfast, but instead on comments Reverend Graham had made concerning Islam shortly after 9/11—to wit, that he found Islam to be a “very violent religion”—of which Mr. Weinstein disapproved. Claims about other’s bigotry are commonplace with Mr. Weinstein and the MRFF. He has attempted to paint you with the same brush.

Mr. Weinstein’s rhetorical attacks, though predominantly aimed at Christians, are not limited solely to Christians. For example, 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 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 no balls whatsoever. Somehow I think they and the ADL, Abe Foxman, have confused circumcision with castration. . . .”<sup>39</sup> Similarly, in reaction to the advice given by a civilian rabbi to a Jewish chaplain at Hunter Army Airfield with which he disagreed, Mr. Weinstein opined as follows concerning the civilian rabbi:

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<sup>35</sup>Brian Kresge, *An Interview with Mikey Weinstein*, JEWS IN GREEN (Aug. 24, 2007), <http://www.jewsingreen.com/2007/08/an-interview-with-mikey-weinstein/>.

<sup>36</sup>MICHAEL L. WEINSTEIN & DAVIN SEAY, WITH GOD ON OUR SIDE 129 (2006) (emphasis added).

<sup>37</sup>See *About Us*, SAMARITAN’S PURSE, <http://www.samaritanspurse.org/our-ministry/about-us/> (last visited Apr. 28, 2016) (“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.”).

<sup>38</sup>MICHAEL L. WEINSTEIN & DAVIN SEAY, NO SNOWFLAKE IN AN AVALANCHE 169 (2012) (internal citation omitted) [hereinafter NO SNOWFLAKE]; see also *id.* at 165 (quoting 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.”).

<sup>39</sup>Kresge, *supra* note 35.

“Here’s my response to Rabbi Lapp. First of all, that isn’t his name. I’m changing his name officially to Rabbi Lapp-dog. He’s a disgrace as an American citizen. He’s a disgrace as a Jew. If I saw him, I’d spit in his face. The only thing I know that he can do is reflect light, circulate blood and breathe. . . . What he did with Rabbi Goldman, as far as I’m concerned, makes him like a *kapo* in Auschwitz.”<sup>40</sup>

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.<sup>41</sup> 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.”<sup>42</sup> He characterized General Schwartz’s accomplishments as Air Force Chief of Staff as a “gutless legacy.”<sup>43</sup> 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.”<sup>44</sup>

Thus, Mr. Weinstein is rightly known for making bombastic, over-the-top statements about persons of whatever religious stripe 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.

Mr. Weinstein and the MRFF routinely accuse others of making offensive and bigoted comments. He compares 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.”<sup>45</sup> Mr. Weinstein continues: “[W]e’ve lost the Marine Corps, we’ve lost the Army, we’ve lost the Navy and the Air Force.”<sup>46</sup> 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 freedom and tolerance, Mr. Weinstein is in reality a serial purveyor of religious bigotry 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

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<sup>40</sup>*Id.* Calling a Jew a “kapo” is the ultimate insult. “Kapos” were Jews who assisted the Nazis in controlling fellow Jewish inmates in concentration camps. See *Kapos*, JEWISH VIRTUAL LIBR., <http://www.jewishvirtuallibrary.org/jsource/Holocaust/kapos.html> (last visited Feb. 21, 2012).

<sup>41</sup> Mikey Weinstein, *Good Riddance to the Air Force’s Religious Intolerance Enabler in Chief*, TRUTH-OUT (Aug. 1, 2012), <http://truth-out.org/opinion/item/10636-good-riddance-to-the-air-forces-religious-intolerance-enabler-in-chief>.

<sup>42</sup>*Id.*

<sup>43</sup>*Id.*

<sup>44</sup>*Id.*

<sup>45</sup> MIL. RELIGIOUS FREEDOM FOUND., [http://www.militaryreligiousfreedom.org/Media\\_video/festival-of-books/index.html](http://www.militaryreligiousfreedom.org/Media_video/festival-of-books/index.html) (last visited Apr. 28, 2016).

<sup>46</sup> Mikey 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/>).



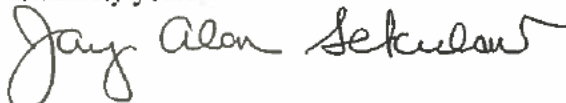
wrong god.”<sup>47</sup> He even asserts: “I know that they will stop at literally nothing to achieve their ends. *That includes mass murder.*”<sup>48</sup> Mr. Weinstein claims that “fundamentalist dominionist Christians are willing to kill to achieve their twisted agenda.”<sup>49</sup> Such assertions are not only outrageous—they are absolutely delusional. Moreover, despite admitting that he has “doubts over the actual existence of God and an even more abiding skepticism about the claims of organized religion,”<sup>50</sup> Mr. Weinstein nonetheless expects all of us to simply accept 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.”<sup>51</sup> 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.*”<sup>52</sup> Such outlandish assertions, bordering on paranoia, are commonplace in Mr. Weinstein’s writings and speeches. He sees religious intrigue wherever he looks. He has now found it at MCU.

### CONCLUSION

Mr. Weinstein’s demands invite extreme caution on the part of every person, like yourself, who becomes a target of his periodic tirades and who receives his periodic demand letters, lest the recipient become an unwitting pawn in Mr. Weinstein’s strategy to eviscerate religious freedom in the Armed Forces. Mr. Weinstein has readily admitted that he values the use of diatribe and embellishment and harangue as tools to get his way, as his recent letter to you amply demonstrates.

In this matter, you must absolutely reject Mr. Weinstein’s imagined Constitutional violations vis-à-vis the MCU NDP Prayer Breakfast. No such violations exist. Yet, be prepared. Once you reject the truth as Mr. Weinstein defines it, you, too, may become an active target of his frequent invective. Should you need our assistance in this matter, please do not hesitate to ask.

Sincerely yours,



Jay Alan Sekulow  
Chief Counsel



Robert W. Ash  
Senior Counsel

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<sup>47</sup>NO SNOWFLAKE, *supra* note 38 at 119 (emphasis added).

<sup>48</sup>*Id.* at 178 (emphasis added).

<sup>49</sup>*Id.* at 179.

<sup>50</sup>*Id.* at 31.

<sup>51</sup>*Id.* at 197 (emphasis added).

<sup>52</sup>*Id.* at 12 (emphasis added).