ACLJ
American Center
for Law & Justice
Jay Alan Sekulow, J.D., Ph.D.
Chief Counsel

April 18, 2019

VIA OVERNIGHT DELIVERY SERVICE

Mr. Kevin Hynes
ATTN: Public Affairs Office
[redacted]

Dear Mr. Hynes:

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.[1]

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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. Weinstein in his email to Mr. Sean D. Soucy, dated April 5, 2019,[2] regarding a POW/MIA display in a VA Clinic in Omaha. It is our understanding that Mr. Doucy passed on Mr. Weinstein's email to your office for review. What Mr. Weinstein has, in fact, done is to allege a constitutional violation where none exists. Moreover, if the VA were to comply with his demand, the VA would then be guilty of singling out religious expression for special detriment, a clear violation of the First Amendment. We will explain this below.

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[1]*See, 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).

[2]Email from Michael L. Weinstein, Founder and President, Military Religious Freedom Foundation, to Sean D. Soucy, Secretary to Assoc. Dir., Omaha VA Health Care System (Apr. 5, 2019) [hereinafter Weinstein Email], https://militaryreligiousfreedom.org/press-releases/2019/mrff-demands-bible-removal-omaha-vahcs-4-16-19.pdf.

[redacted]

Review of the Facts

Omaha VA Health Care System (VAHCS) facilities, like many other VA facilities, have erected a POW/MIA memorial in remembrance of veterans who are either POWs or MIAs. Although each memorial may differ slightly from one another, a memorial generally consists of the following: A round table with a white cloth, a red rose, a vase, a slice of lemon, a pinch of salt, a Bible, an inverted glass, and an empty chair.[3] The white cloth symbolizes "the purity of the[] motives" of those "answering the call to serve."[4] The rose is a reminder of the lives of the missing Americans, "and their loved ones and friends who keep the faith while seeking answers."[5] The lemon slice is a reminder of "their bitter fate, captured and missing in a foreign land."[6] The "pinch of salt symbolizes the tears of our missing and their families."[7] The Bible represents "the strength gained through faith to sustain those lost from our country, founded as one nation under God."[8] The inverted glass represents the missing person's "inability to share a toast,"[9] and the empty chair reminds us "they are missing."[10] Note that the Bible is merely part of a number of objects used to convey the message of the display. All other objects in the display have no specific religious meaning. *This fact is significant in determining whether the display of a Bible violates the Establishment Clause of the First Amendment.*

In his email to Mr. Doucy, Mr. Weinstein accuses personnel at your VA facility of violating the Establishment Clause of the First Amendment:

> [A]s it stands now, Sean [i.e., Mr. Doucy], that POW/MIA table, with the quite prominent inclusion of the sectarian Christian bible, clearly elevates the Christian faith to an unfair and unconstitutional position of supremacy, triumphalism, dominance and exclusivity over ALL other faith and no-faith traditions . . . as a State Actor, your VA facility MUST adhere to the U.S. Constitution's No Establishment Clause in the First Amendment of the Bill of Rights . . . .[11]

Accordingly, Mr. Weinstein requested that the Bible be removed "right away."[12] Despite Mr. Weinstein's personal description of what he believes the presence of the Bible signifies—to wit, "supremacy, triumphalism, dominance, and exclusivity"[13]—the mere presence of a Bible in your POW/MIA display did not violate the Establishment Clause of the First Amendment as will be shown in the legal analysis below.

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[3] *Missing Man Table and Honors Ceremony*, THE NAT'L LEAGUE OF POW/MIA FAMILIES (last visited Apr. 17, 2019), https://www.pow-miafamilies.org/missing-man-table-and-honors-ceremony.html.
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] Weinstein Email, *supra* note 2 (capitalized words in the original email).
[12] *Id.*
[13] *Id.*

Determining the Meaning & Reach of the Religion Clauses of the First Amendment

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. 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.[14] 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,"[15] and a "statute providing for the payment of these chaplains was enacted into law on September 22, 1789."[16] Within days of legislating to pay Congressional chaplains from the federal treasury, "final agreement was reached on the language of the Bill of Rights."[17] 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."[18] If the Establishment Clause is not violated when the government pays for legislative chaplains, certainly, then, the placement of an inanimate object (i.e., a symbolic Bible) in the context of a passive display does not violate the Establishment Clause either.

Early national leaders also acted in ways that some today—like Mr. Weinstein and the Military Religious Freedom Foundation (MRFF)—argue expressly violate the Establishment Clause. For example, President George Washington issued proclamations of thanksgiving to Almighty God during his presidency,[19] and President John Adams called for a national day of fasting and prayer.[20] 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.[21] Further, 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

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[14]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).

[15]*Marsh v. Chambers*, 463 U.S. 783, 787–88 (1983).

[16]*Id.* at 788.

[17]*Id.* (citation omitted). The First Amendment is part of the Bill of Rights.

[18]*Id.*; *see also id.* at 790.

[19]*E.g.*, CATHERINE MILLARD, THE REWRITING OF AMERICA'S HISTORY 61–62 (1991).

[20]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).

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

texts to teach reading,[22] and he signed the Articles of War which "[e]arnestly recommended to all officers and soldiers, diligently to attend divine services."[23] 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.[24]

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 *Marsh* Court aptly recognized, actions of the First Congress are "contemporaneous and weighty evidence" of the Constitution's "true meaning."[25] Despite such evidence, however, Mr. Weinstein seems utterly unwilling to tolerably acknowledge our nation's rich historical and religious history.

More recently, the Supreme Court has noted that strict separation between church and state could lead to absurd results. In *Zorach v. Clauson*,[26] 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."[27]

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,"[28] and the location of the line separating church and state must be determined on a case-by-case basis.[29] 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."[30] *Strict* church-state separation has never been required in the United

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[22]JOHN W. WHITEHEAD, THE SECOND AMERICAN REVOLUTION 100 (1982) (citing 1 J. O. WILSON, PUBLIC SCHOOL OF WASHINGTON 5 (1897)).

[23]CHARLES E. RICE, THE SUPREME COURT AND PUBLIC PRAYER: THE NEED FOR RESTRAINT 63–64 (1964).

[24]Act of Mar. 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 Mar. 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").

[25]*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).

[26]343 U.S. 306, 312 (1952).

[27]*Id.* at 312–13; *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").

[28]*Lemon v. Kurtzman*, 403 U.S. 602, 614 (1971).

[29]*Id.*

[30]*Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 2013, 294 (1963) (Brennan, J., concurring).

States and is not required now. Mr. Weinstein fails to understand this, and, once again, incorrectly interprets the First Amendment when he demands that passive religious symbols like the Bible in your POW/MIA display be removed.

Note that the Bible in the POW/MIA display is there to represent "the strength gained through faith to sustain those lost from our country, founded as one nation under God."[31] It is not there to propagate the specific teachings it contains. It is there to symbolize faith, in general, not the Christian faith, in particular. No one is compelled—*or even encouraged*—to read what the book says. No one is compelled—*or encouraged*—to believe what the book teaches. No one is compelled—*or encouraged*—to change one's belief in any way. *The mere presence of the Bible neither actively promotes a particular religious belief nor denigrates any other religion, religious belief or non-belief.* It is no more a constitutional violation than is the presence of our national motto, "In God we trust," on the currency we use to pay our veterans.

In *Marsh v. Chambers*, the Court was dealing with the constitutionality of prayers led by paid legislative chaplains. The Court concluded that chaplain-led prayer 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."[32] *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 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."[33] 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."[34]

This is analogous to the use of a Bible in a POW/MIA display. Just as the Court refused to find unconstitutional prayers said in the Judeo-Christian tradition, Mr. Weinstein is mistaken to claim that the passive display of a Bible, even a "sectarian Christian bible," to use Mr. Weinstein's description, violates the Constitution merely by being present as one of a number of symbolic items in a POW/MIA display. Instead, the presence of the Bible easily falls into the category of "tolerable acknowledgment" of widely held beliefs. *Moreover, the passive presence of a Bible in a display is far less threatening to the Establishment Clause than actually praying aloud in a sectarian manner, which was upheld as fully compliant with the First Amendment.*

The reality is that Mr. Weinstein does not want to acknowledge the fact that the United States is a nation with a robust, yet diverse, religious heritage and that this heritage is reflected throughout our society—*including within the armed forces of the United States and, hence, its veteran*

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[31] *Id.*
[32] *Id.* at 792.
[33] *Marsh*, 463 U.S. at 793.
[34] *Id.* at 794–95 (emphasis added).

population. In *Zorach*, the Supreme Court further noted that "[w]e are a religious people whose institutions presuppose a Supreme Being."[35] Elsewhere, the Supreme Court has held that "[t]he First Amendment's Religion Clauses mean that religious beliefs *and religious expression* are too precious to be either proscribed or prescribed by the [Government]."[36] With respect to government neutrality, a concept which Mr. Weinstein has taken to an illogical level, Justice Goldberg pointed out the following:

> But 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.*[37]

As such, when considering whether the government (what Mr. Weinstein referred to as "a State Actor"[38] in his email) 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 display might feel uncomfortable.
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> *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.*[39]

The men and women using VA facilities are deemed to be "reasonable observers" who understand the *symbolic meaning* of a Bible on the POW/MIA display, despite Mr. Weinstein's claims that the mere presence of a Bible "elevates the Christian faith to an unfair and unconstitutional position of supremacy, triumphalism, dominance and exclusivity over ALL other faith and no-faith traditions."[40] As menacing as Mr. Weinstein's statement may sound, such claims are unfounded and lack any legal basis.

To emphasize this point, in *Town of Greece*, the Supreme Court opined that our "tradition assumes that adult citizens, firm in their own beliefs, can tolerate and perhaps appreciate a ceremonial

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[35]*Zorach*, 343 U.S. at 313.
[36]*Lee v. Weisman*, 505 U.S. 577, 589 (1992) (emphasis added).
[37]*Schempp*, 374 U.S. 203, 306 (1963) (emphasis added).
[38]Weinstein Email, *supra* note 2.
[39]*Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 780 (1995) (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.").
[40]Weinstein Email, *supra* note 2.

prayer delivered by a person of a different faith."[41] Similarly, men and women using VA facilities can likewise tolerate an historical religious symbol, in the context of other, secular, symbols, whose purpose is to honor POWs and MIAs.[42] Moreover, as in *Marsh*, the inclusion of this symbol was not "exploited to proselytize or advance any one, or to disparage any other, faith or belief,"[43] and, as discussed in *Town of Greece*, mere personal offense, as illustrated here by Mr. Weinstein and his supporters, "does not equate to coercion."[44] With respect to this matter, no one was asked to believe or do anything, no one was questioned about his or her faith (or lack thereof), and no one was required to support the symbol. In other words, no one was forced to do, say, or believe anything. *There is simply no constitutional crisis merely because a few veterans encounter a religious symbol of which they personally disapprove in a display or ceremony.*

One must also keep in mind that there are persons and organizations in our Nation—like Mr. Weinstein and the MRFF—which are hypersensitive to religion and religious expression. Accordingly, government officials must studiously avoid blindly reacting to complaints, especially when any reasonable, minimally informed, person knows that no endorsement of religion is intended (as with the POW/MIA display). 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."[45] The court characterized such a hypersensitive response as a form of heckler's veto which the court labeled an "'ignoramus' veto."[46] Yet, the Supreme Court has clearly noted that even government-sponsored displays with religious content are not unconstitutional.

Government-Sponsored Displays With Religious Elements are Not Unconstitutional as Long as the Religious Elements of the Display Are Part of a Larger Display of Secular Elements

The Supreme Court has affirmed that the *government itself* is permitted to display religious symbols on public property under certain conditions without violating the Establishment Clause. In *Lynch v. Donnelly*,[47] the Court upheld the constitutionality of a Christmas holiday display that included a government erected crèche *because it was a part of a larger holiday display in which there were a number of secular symbols*. Courts generally hold that so long as the religious elements of a display are part of a larger display such that the primary effect of the entire display is secular, the display is constitutional.[48] In *Salazar v. Buono*, the Court noted the importance of

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[41] *Town of Greece v. Galloway*, 572 U.S. 565, 584 (2014).
[42] *See, e.g., National POW/MIA Recognition Day Honors Sacrifices of Missing, Imprisoned Soldiers*, MICH. DEP'T OF MIL. & VETERANS AFFAIRS (Sept. 16, 2014), http://www.michigan.gov/dmva/0,4569,7-126--337558--,00.html.
[43] *Town of Greece*, 572 U.S. at 582; *see Marsh*, 463 U.S. at 794–95 (1983).
[44] *Town of Greece*, 572 U.S. at 567.
[45] 980 F.2d 1538, 1553 (6th Cir. 1992).
[46] *Id.*
[47] 465 U.S. 668 (1984).
[48] *Salazar v. Buono*, 130 S. Ct. 1803, 1817-20 (2010) (plurality opinion).

context and purpose of public displays and reiterated that the "goal of avoiding governmental endorsement *does not require eradication of all religious symbols in the public realm.*"[49]

In the POW/MIA Display at issue here, the Bible is the only religious object among a significant number of secular objects. This should be an even easier case to decide than the case of the crèche in a Christmas holiday display for the following reason. The crèche was included in the display in *Lynch* to convey a distinctly *Christian* message, to recognize and celebrate the birth of Jesus Christ, whereas the Bible in the POW/MIA Display was not placed there to convey a uniquely Christian message at all. Rather, it was displayed to symbolize "the strength gained through faith to sustain those lost from our country, founded as one nation under God."[50] The Supreme Court found constitutional the placement of a religious object *with an intentional Christian message* on public property as long as it was part of a larger display of secular items. How much easier to conclude that a religious object on public property surrounded by secular items is constitutional when there is no intentional Christian message as in the POW/MIA Display in Omaha.

Moreover, as the Court held in *Lamb's Chapel*, "[t]he principle that has emerged from our cases 'is that the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others.'" 508 U.S. at 394 (quoting *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 804 (1984)). That includes favoring secular viewpoints over religious viewpoints. Further, as Justice O'Connor noted in *Board of Education v. Mergens*, "[t]he Establishment Clause does not license government to treat religion . . . as subversive of American ideals and therefore *subject to unique disabilities.*"[51] *To single out the only religious item in the display for criticism, as Mr. Weinstein has, is to favor the secular over the non-secular as well as to subject religious expression to unique disabilities, thereby violating the very Establishment Clause he claims to be upholding.*

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 VA staff in Omaha 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-Millenial, Dispensational, Reconstructionist, Dominionist, Fundamentalist, Evangelical Christianity."[52] Moreover, how Mr. Weinstein describes his

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[49] *Id.* (emphasis added); *see also McCreary County v. ACLU of Kentucky*, 545 U.S. 844 (2005); *Van Orden v. Perry*, 545 U.S. 677 (2005) (conducting similar purpose and effect analysis of entire display in Ten Commandments cases).

[50] *Missing Man Table and Honors Ceremony*, THE NAT'L LEAGUE OF POW/MIA FAMILIES (Oct. 9, 2015), http://www.pow-miafamilies.org/events/recognition-day/missing-man-honors-ceremony/.

[51] *Board of Education v. Mergens*, 496 U.S. 226, 248 (1990) (emphasis added).

[52] 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 *Constantine's Sword*. Luchina Fisher, *'Constantine's Sword' Cuts into Anti-Semitism*, ABC NEWS (Apr. 20, 2008),

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 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."[53] 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 . . . .*"[54]

The MRFF finds constitutional violations everywhere. The VA POW/MIA display in Omaha was simply the most recent example. It is also interesting to note that Mr. Weinstein and the MRFF have yet to win a case in court on their skewed view of the Constitution. That alone should be enough to give you pause as you entertain this most recent complaint.

CONCLUSION

Mr. Weinstein's frequent demands invite extreme caution on the part of all persons who receive his letters, lest the recipients become unwitting pawns in Mr. Weinstein's strategy to eviscerate religious expression in the U.S. armed forces, including in VA facilities. Despite Mr. Weinstein's claims to the contrary, the presence of a Bible in your POW/MIA display was fully constitutional. America's veterans are certainly capable of tolerating, and even acknowledging when appropriate, this nation's rich religious heritage.

Accordingly, we strongly and respectfully urge you to disregard Mr. Weinstein's specious demand. Other than stating a generalized offense on the part of some veterans at the mere presence of a single passive Bible in the display, no legally cognizable injury has been raised. Hence, these allegations 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.

Sincerely yours,

Jay Alan Sekulow
Chief Counsel

Robert W. Ash
Senior Counsel

Cc: The Honorable Robert Wilkie, Secretary of Veterans Affairs

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http://abcnews.go.com/Entertainment/story?id=4684837&page=1#.T0QKSIcgdcI. 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.

[53]Brian Kresge, *An Interview with Mikey Weinstein*, JEWS IN GREEN (Aug. 24, 2007), http://jewsingreen.org/2007/08/an-interview-with-mikey-weinstein/.

[54]MICHAEL L. WEINSTEIN & DAVIN SEAY, WITH GOD ON OUR SIDE 129 (2006) (emphasis added).