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April 13, 2009

VIA FEDERAL EXPRESS

Lieutenant General R. Steven Whitcomb
Inspector General
United States Army
Office of the Inspector General
ATTN: SAIG-IN
1700 Army Pentagon
Washington, DC 20310-1700

Hon. Gordon S. Heddell
Acting Inspector General
U.S. Department of Defense
Office of the Inspector General
400 Army Navy Drive
Arlington, VA 22202-4704

Re: Captain Kamaljeet S. Kalsi and Second Lieutenant Tejdeep S. Rattan
Accommodation of Sikh Articles of Faith

Dear Lt. Gen. Whitcomb & Mr. Heddell:

Please be advised that the law firm of McDermott Will & Emery LLP and the Sikh Coalition¹ represent Captain Kamaljeet S. Kalsi and Lieutenant Tejdeep S. Rattan. Pursuant to Army Regulation 600-20, we are writing to file a complaint on their behalf with the United States Army Inspector General and Department of Defense Inspector General.

Captain Kalsi and Second Lieutenant Rattan keep articles of faith as required by their Sikh faith; specifically, they wear turbans and keep their hair unshorn. The two men were both recruited and commissioned – with their Sikh articles of faith – during their respective first years of medical and dental school (2001 and 2006) through the Army's Health Professions Scholarship Program. The U.S. Army is now disputing the ability of both men to serve with their Sikh identity intact. Both Captain Kalsi and Second Lieutenant Rattan made formal requests for accommodation through the chain of command, which were denied. Pursuant to Army Regulation 600-20 § 5-6(h), we appealed the denial of these requests for accommodation on their behalf through the chain of command on April 10, 2009. *See* Kalsi Request for Accommodation (attached as Exhibit A); and Rattan Request for Accommodation (attached as Exhibit B).

¹ By way of background, the Sikh Coalition is a community-based organization that defends civil rights and civil liberties in the United States, educates the broader community about Sikhs and diversity, and fosters civic engagement amongst Sikh-Americans. The Sikh Coalition owes its existence in large part to the effort to combat uninformed discrimination against Sikh Americans after September 11, 2001. Since its inception, the Sikh Coalition has worked with government agencies and the private sector to achieve mutually acceptable solutions that ensure Sikh religious practices are accommodated.

Our purpose in writing is to (1) inform you about the matter; (2) generally underscore the religious significance of the Sikh articles of faith, in particular the turban and the requirement to maintain unshorn hair and beards; and (3) given the long history of Sikhs in the military, specifically request that current military policy be changed so that any Sikh, including these two men, be allowed to serve in any branch of the U.S. military with their articles of faith intact.

I. Captain Kamaljeet S. Kalsi and Second Lieutenant Tejdeep S. Rattan

A. Captain Kamaljeet S. Kalsi

Captain Kalsi is the fourth generation of his family to serve in the military. His forebears served honorably in India's military, and Captain Kalsi joined the U.S. Army with the intent to continue the family tradition.

The U.S. Army recruited Captain Kalsi in 2001 during his first year at Touro University School of Osteopathic Medicine through the Health Professions Scholarship Program (HPSP). Captain Kalsi joined in reliance of the recruiter's indication that the Army would accommodate his Sikh articles of faith. Captain Kalsi promised to serve for four years in active duty and three years in the reserves upon completion of his residency. In exchange, the U.S. Army paid the tuition and fees for Captain Kalsi's remaining three years in medical school, and also provided him with a monthly stipend.

While a medical student, Captain Kalsi prepared for his service by obtaining as many rotations as possible at military hospitals. He consequently rotated multiple times through Keller Army Community Hospital at West Point and Davis Grant Medical Center at Travis Air Force Base. These rotations were in the fields of surgery, radiology, neurology and obstetrics/gynecology. His Sikh articles of faith were **never an impediment** to his service during those rotations.

Captain Kalsi is currently completing his final year of residency in emergency medicine. Consistent with the requirements of HPSP, he is planning to enter into active service at the conclusion of his residency. Specifically, he is planning to join the Officers' Leadership Basic Course in July of 2009.

Nevertheless, in October of 2008, Colonel Ian Wedmore, U.S. Army Emergency Medicine Consultant to the Surgeon General, indicated to Captain Kalsi that the U.S. Army may be unable to accommodate his Sikh articles of faith. Per Colonel Wedmore's instruction, on December 19, 2008 Captain Kalsi wrote to Colonel Powers of the Army Graduate Medical Education Office requesting an accommodation. Colonel Powers sent a letter to Captain Kalsi dated February 5, 2009 indicating that he could not provide an accommodation.

B. Second Lieutenant Tejdeep S. Rattan

Second Lieutenant Rattan was recruited and commissioned by the U.S. Army in 2006 towards the end of his first year of dental school at New York University. He was recruited through the

Army HPSP, and was assured by several Army representatives, including his recruiter, that his Sikh articles of faith would be accommodated. Second Lieutenant Rattan promised to serve for four years in active duty and three years in the reserves, in reliance upon the Army's payment of the tuition and fees for his remaining three years of dental school, plus a monthly stipend.

Second Lieutenant Rattan is currently completing his last year of dental school, and was planning to join the Officers' Leadership Basic Course in July of 2009. On December 16, 2008, Major General Russell Czerw informed him that the U.S. Army would not accommodate his Sikh articles of faith.

II. The Sikh Articles of Faith

By way of background, a brief discussion of the commonly agreed tenets of the Sikh religion are relevant to this matter. If you need further information after reading this letter, please feel free to contact us.

Sikhism is relatively young compared to other major world religions. The founder of the Sikh faith, Guru Nanak, was born in 1469 in Punjab, India. The Sikh religion is monotheistic, believing in one God, all loving, all pervading, and eternal. This God of love is obtained through grace, sought by service to mankind. Guru Nanak rejected the caste system, and declared all human beings, including women, to be equal in rights and responsibilities and ability to reach God. He taught that God was universal to all – not limited to any religion, nation, race, color, or gender.

Consistent with the teachings of the Sikh gurus, Sikhs wear an external uniform to bind them to the beliefs of the religion. Unlike some other faiths where only the clergy maintain religious articles on their person, all Sikhs are required to wear external articles of faith. These articles of faith, such as unshorn hair (*kesh*) and the turban, distinguish a Sikh and have deep spiritual significance.

Maintaining uncut hair is an essential part of the Sikh way of life; one cannot be a practicing Sikh without it. Guru Nanak, the founder of the Sikh faith, started the practice of keeping hair unshorn because keeping it in a natural state is regarded as living in harmony with the will of God. The Sikh Code of Conduct, called the *Rehat Maryada*, outlines the requirements for practicing the Sikh way of life. All Sikhs must follow the guidelines set forth in this document. The *Rehat Maryada* explicitly instructs that if you are a Sikh, you must “[h]ave, on your person, all the time . . . the *keshas* (unshorn hair).” This document prohibits the removal of hair from the body as one of four major taboos. One of the other taboos on this list is adultery. The fact that cutting one's hair is a moral transgression as serious as committing adultery speaks to the immense significance of uncut hair in Sikhism.

The *Rehat Maryada* also mandates that Sikhs wear a turban. Unlike a hat, a turban must always cover a Sikh's head. The turban reminds a Sikh of his or her duty to maintain and uphold the

core beliefs of the Sikh faith, which include working hard and honestly, sharing with needy, and promoting the equality of all humankind. When a Sikh ties a turban, the turban ceases to be just a piece of cloth and becomes one and the same with the Sikh's head. It is a religious commitment without which the believer ceases to be a Sikh.

Historically, uncut hair and turbans have been central features of the Sikh identity. For example, in the 18th century, Sikhs in South Asia were persecuted and forced to convert from their religion; the method of forcing conversions was to remove a Sikh's turban and cut off his hair. Since then, denying a Sikh the right to wear a turban and maintain unshorn hair has symbolized denying that person the right to belong to the Sikh faith, and is perceived as the most humiliating and hurtful physical injury that can be inflicted upon a Sikh.

III. Sikhs' Service in the Military

There are over 26 million Sikhs worldwide and over 500,000 in the United States. For centuries, Sikh soldiers and officers have served in armies across the globe, fought bravely in wars, and have achieved the highest levels of military distinction. Sikhs served as part of the Allied Forces in both World Wars. Sikhs currently serve in the militaries of Great Britain, Canada, and India, and as United Nations peacekeepers, often working hand in hand with U.S. troops in Iraq and Afghanistan. In all cases, Sikhs' turbans, hair, and beards have not been an impediment to their service.

However, Sikh-Americans are markedly absent from the ranks of the United States Armed Forces due to a policy that excludes Sikhs (and observant Jews and Muslims) unless they relinquish the tenets of their faith. Although Sikhs proudly served our country without impediment prior to the Reagan administration (*e.g.*, Sikhs served in the Vietnam War), military policy was changed in 1981 to prohibit exemptions to the uniform requirements for visible articles of faith. For example, this policy currently is codified in the uniform and personal appearance policies in Army Regulation 670-1, in Army Regulation 600-20, and in Department of Defense Instruction 1300.17. While some exceptions have been made for the Jewish yarmulke, the general rule is that turban-wearing Sikhs maintaining unshorn hair and beards are disallowed from serving. This rule has barred most Sikhs from entering the Armed Forces for the past 28 years.

Nonetheless, certain Sikhs have been admitted to the military on an *ad hoc* basis and have served this country for decades while keeping their articles of faith intact. For example, Colonel Gurbhajan Singh, a dentist, served from 1979 until 2007. Colonel Arjinderpal Singh Sekhon, a medical doctor, began serving in 1984 and just recently retired in early 2009. During their entire courses of service, both men maintained their Sikh articles of faith. Indeed, Colonel Sekhon served in the Persian Gulf War and on the faculty of the Army War College with his Sikh articles of faith. Their turbans, hair, and beards were never an impediment to their military duties.

IV. Analysis

Since the military changed its policy, the United States Congress passed the Religious Freedom Restoration Act (“RFRA”). The act, passed in 1993, requires that the federal government not substantially burden a person’s exercise of religion, even if the burden results from a rule of general applicability. *See Gonzales v. O’Centro Espirita Beneficent Uniao Do Vegetal*, 546 U.S. 418, 423 (2006); 42 U.S.C. § 2000bb, *et seq.* The only exception recognized by the statute requires the government to satisfy the compelling interest test in demonstrating that application of the burden to the person is: (1) in furtherance of a compelling government interest; and (2) is the least restrictive means of furthering that compelling governmental interest. 42 U.S.C. § 2000bb.1(b); *see also O’Centro* at 423.

If the U.S. Army refuses to accommodate the Sikh articles of faith of Captain Kalsi and Second Lieutenant Rattan, such a refusal would constitute a burden on their exercise of religion under RFRA. Moreover, it would be impossible for the U.S. Army to show that it has satisfied both prongs of the exception given that it has allowed other Sikh medical professionals to serve for decades with their articles of faith intact – namely, Colonel Singh and Colonel Sekhon.

Outside of complying with the law, there are many good reasons why the U.S. Army should allow Second Lieutenant Rattan to serve with his articles of faith intact. Shutting Sikhs and other devout citizens out of our armed forces not only reinforces the stereotype of these groups as the “other,” but also robs them of an opportunity to integrate into American society. In addition, it is important that our nation’s armed forces reflect the diversity of its population. Given Sikhs’ long and distinguished military history, many Sikhs would certainly embrace the opportunity to enlist.

V. Conclusion

For these reasons, we request that the U.S. Army and other Armed Forces accommodate the Sikh articles of faith of Captain Kalsi and Second Lieutenant Rattan and of all Sikhs, allowing them both to serve while complying with the tenets of his religion.

* * * * *

I can be reached by phone at 202-756-8380 or via email at asidhu@mwe.com to discuss this matter further. You may also contact my co-counsel at the Sikh Coalition, Amardeep Singh and Harsimran Kaur, about this matter. Mr. Singh can be reached by phone at 212-655-3095 ext. 83 and via email at amar@sikhcoalition.org. Ms. Kaur can be reached by phone at 510-659-0900 ext. 92 and via email at harsimran@sikhcoalition.org.

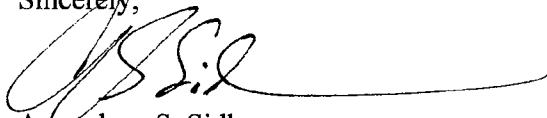
It is my hope that we can amicably resolve this matter in the spirit of tolerance and respect for religious diversity upon which the United States was founded.

Lt. Gen. R. Steven Whitcomb & Hon. Gordon S. Heddell

April 13, 2009

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Sincerely,

A handwritten signature in black ink, appearing to read 'A. Sidhu', with a long horizontal flourish extending to the right.

Arandeep S. Sidhu

Enclosure

cc: Captain Kamaljeet S. Kalsi
Second Lieutenant Tejdeep S. Rattan
Amardeep Singh, Esq., The Sikh Coalition
Harsimran Kaur, Esq., The Sikh Coalition

EXHIBIT A

McDermott Will & Emery

Boston Brussels Chicago Düsseldorf Houston London Los Angeles Miami Milan
Munich New York Orange County Rome San Diego Silicon Valley Washington, D.C.
Strategic alliance with MWE China Law Offices (Shanghai)

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April 10, 2009

VIA FEDERAL EXPRESS

Colonel John M. Power
Medical Corps
Department of the Army
Office of the Surgeon General of the Army
5109 Leesburg Pike
Falls Church, VA 22041

Re: Captain Kamaljeet S. Kalsi – Request for Accommodation

Dear Colonel Power:

Please be advised that the law firm of McDermott Will & Emery LLP and the Sikh Coalition¹ represent Captain Kamaljeet S. Kalsi regarding his request for the U.S. Army to accommodate his Sikh articles of faith. As you know, Captain Kalsi recently submitted a request for accommodation of his religiously mandated Sikh articles of faith (turban, and unshorn hair and beard) to you. This request was denied.

Pursuant to Army Regulation 600-20 § 5-6(h), a commander who disapproves of a request for religious accommodation must afford a soldier the opportunity to appeal the disapproval. Consistent with the regulation, we request that Captain Kalsi be afforded an opportunity to appeal the disapproval of his request for religious accommodation.

Under the cited regulation, a soldier must submit a memorandum regarding his request for accommodation. On behalf of Captain Kalsi, we are submitting the enclosed memorandum pursuant to this provision.

I can be reached by phone at 202-756-8380 or via email at asidhu@mwe.com to discuss this matter further. You may also contact my co-counsel at the Sikh Coalition, Amardeep Singh and Harsimran Kaur, about this matter. Mr. Singh can be reached by phone at 212-655-3095 ext. 83

¹ By way of background, the Sikh Coalition is a community-based organization that defends civil rights and civil liberties in the United States, educates the broader community about Sikhs and diversity, and fosters civic engagement amongst Sikh-Americans. The Sikh Coalition owes its existence in large part to the effort to combat uninformed discrimination against Sikh Americans after September 11, 2001. Since its inception, the Sikh Coalition has worked with government agencies and the private sector to achieve mutually acceptable solutions that ensure Sikh religious practices are accommodated.

Colonel John M. Power

April 10, 2009

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and via email at amar@sikhcoalition.org. Ms. Kaur can be reached by phone at 510-659-0900 ext. 92 and via email at harsimran@sikhcoalition.org.

It is my hope that we can amicably resolve this matter in the spirit of tolerance and respect for religious diversity upon which the United States was founded.

Sincerely,

A handwritten signature in black ink, appearing to read 'A.S. Sidhu', with a long horizontal flourish extending to the right.

Amandeep S. Sidhu

Enclosure

cc: Captain Kamaljeet S. Kalsi
Amardeep Singh, Esq., The Sikh Coalition
Harsimran Kaur, Esq., The Sikh Coalition

McDermott Will & Emery

Washington, DC

MEMORANDUM

Date: April 10, 2009

To: United States Army

From: Amandeep S. Sidhu
Harsimran Kaur, Legal Director
The Sikh Coalition

Re: Appeal of Denial of Religious Accommodation – Captain Kamaljeet S. Kalsi (Unit: HPSP; MOS: Army Medical Corps; SSN: [REDACTED])

I. Introduction

This memorandum is submitted pursuant to Army Regulation 600-20 § 5-6(h) on behalf of Captain Kamaljeet S. Kalsi, who seeks to continue serving in the United States Army while complying with the mandates of his Sikh faith. Specifically, Captain Kalsi wears a turban and keeps his hair unshorn (including facial hair) as required by his Sikh faith. He was recruited and commissioned – with his Sikh articles of faith – in 2001 during his first year of medical school through the Army’s Health Professions Scholarship Program (HPSP).

Eight years after he was commissioned by the U.S. Army, it is now disputing Captain Kalsi’s ability to serve with his Sikh identity intact. The purpose of this memorandum, therefore, is to (1) provide information about Captain Kalsi supporting his appeal of the Army’s denial of his request for religious accommodation; (2) generally underscore the religious significance of the Sikh articles of faith, in particular the turban and the requirement to maintain unshorn hair and beards; and (3) given the long history of Sikhs in the military, specifically request that Captain Kalsi be allowed to serve the U.S. Army with his articles of faith intact.

II. Captain Kamaljeet S. Kalsi

Captain Kalsi is the fourth generation in his family to serve in the military. His forebears served honorably in India’s military, and Captain Kalsi joined the U.S. Army with the intent to continue the family tradition.

The U.S. Army recruited Captain Kalsi in 2001 during his first year at Touro University School of Osteopathic Medicine through the Health Professions Scholarship Program (HPSP). Captain Kalsi joined in reliance of the recruiter’s indication that the Army would accommodate his Sikh articles of faith. Captain Kalsi promised to serve for four years in active duty and three years in the reserves upon completion of his residency. In exchange, the U.S. Army paid the tuition and fees for Captain Kalsi’s remaining three years in medical school, and also provided him with a monthly stipend.

While a medical student, Captain Kalsi prepared for his service by obtaining as many rotations as possible at military hospitals. He consequently rotated multiple times through Keller Army

