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The Honorable Robert Gates
Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

By Mail and Facsimile: (703) 697-8339

Re: Statements by Deputy Assistant Secretary of Defense for Detainee Affairs
Interview with Federal News Service of January 11, 2007

Dear Secretary Gates:

I am writing on behalf of the Association of the Bar of the City of New York¹, to request that you repudiate and investigate statements made by Charles D. Stimson, Deputy Assistant Secretary for Detainee Affairs, aimed at intimidating attorneys who have chosen to represent Guantanamo detainees. In an interview Thursday, Mr. Stimson, singling out large law firms by name, expressed "shock" at attorneys "representing terrorists," and suggested that those firms' corporate clients ought to end their attorney-client relationships. Although we feel confident that the "corporate CEOs" to whom Mr. Stimson referred will ignore his remarks, his statements, made in a radio interview and specifically referencing cooperation with certain media sources, appear to reflect a calculated and coordinated public relations effort.

Every day across this nation, attorneys undertake the highest calling within our legal system, the representation of the accused, innocent and guilty. The entitlement of the accused to a competent defense in the pursuit of justice is fundamental to our free society. The United States Supreme Court has made clear that those detained at Guantanamo are entitled to counsel, and procedures have been established to facilitate that representation. Indeed, while Mr. Stimson presumes that the detainees are "terrorists", the whole purpose of providing representation is to seek to establish a fair process for determining whether the detainees, who are currently being imprisoned indefinitely without charge, are in fact "terrorists" or innocent victims of false or mistaken information wrongfully detained without justification.

¹ The Association is an independent non-governmental organization with a membership of more than 22,000 lawyers, judges, law professors and government officials, principally from New York City, but also from around the United States and from 50 other countries.

Consistent with our nation's highest principles, hundreds of attorneys are carrying out diligent representation of these detainees under the most difficult of circumstances, at great personal sacrifice, thus fulfilling the responsibility of the legal profession to undertake pro bono work. In response, Mr. Stimson expresses "shock" at that representation, not only suggesting that the corporate clients of the involved large firms should rethink their attorney-client relationships, but insinuating that these firms might well be collecting legal fees from terrorist coffers.

There is no way to misunderstand Mr. Stimson's remarks, and we urge you to listen to the interview yourself. The deliberate content and tone of the remarks cannot be mistaken, and smack of a base effort to intimidate counsel. With these calculated statements and by virtue of his position, Mr. Stimson not only smears these attorneys and the important work they do, he also brings discredit to the Department and to this nation.

Given your recent arrival at the Pentagon, we understand that you may not sign off on every public relations initiative. We urge you to investigate whether Mr. Stimson's remarks were authorized by any other officials or are part of a scheme to deprive detainees of counsel as mandated by the Supreme Court. We urge you not only to repudiate them in the strongest possible terms but also to consider what disciplinary measures might be appropriate. The Association questions Mr. Stimson's competence to remain in charge of detention policy. His statements indicate a bias inconsistent with his responsibilities. We therefore urge that you consider removing him from that post and replacing him with someone who is more sensitive to our American traditions of justice and the rule of law.

Respectfully,

A handwritten signature in cursive script that reads "Barry Kamins". The signature is written in dark ink and is positioned below the word "Respectfully,".

Barry Kamins