Position Opening:
Death-Qualified Counsel for Appointment as Conflict Counsel in 9/11 Conspiracy Case

The Military Commissions Defense Organization (MCDO) invites applications for appointment as conflict counsel for Mr. Walid Bin ‘Attash in United States v. Mohammad, et al. (a.k.a. “the 9/11 case”), a capital case currently in pretrial proceedings in a Guantanamo Bay military commission. Mr. Bin ‘Attash’s learned counsel (and lead counsel) has requested the appointment of conflict counsel to advise Mr. Bin ‘Attash about certain matters that have arisen in the case. Duration of the appointment is indeterminate but will remain operative until the underlying conflict has been fully resolved. To be eligible, candidates for this position must be “learned in the law applicable to capital cases” within the meaning of 18 U.S.C. § 3005. To receive consideration, applicants should be exceptionally skilled and experienced in the defense of capital cases, preferably federal and/or complex multi-defendant cases. Further, the applicant must be available to begin to work on this case in a full-time capacity as soon as possible. Applicants must also be eligible to receive a Top Secret security clearance (a current security clearance is not required).

Given that MCDO offices are located in Arlington, Virginia and the applicant may need to spend considerable time in Arlington, strong consideration will be given to applicants who are willing to relocate to the DC area or are located such that regular travel to and from the DC area can be accomplished easily.

Time is of the essence, so if interested please submit a c.v.; cover letter; two writing samples on capital issues; proof of US citizenship (e.g. certified true copy of passport, birth certificate, or certificate of naturalization); a certificate of good standing; a statement detailing any sanctions or disciplinary action, pending or final, to which the applicant has been subject, whether by a court, bar, or other competent government authority, for misconduct of any kind; a statement expressing willingness to submit to a background investigation; and references as soon as possible via e-mail to Adam Thurschwell, adam.m.thurschwell.civ@mail.mil. Applications will be reviewed and considered on a rolling basis. Applicants receiving final consideration will be provided an Affidavit and Agreement by Civilian Defense Counsel (Regulation for Trial by Military Commission Form 9-2) and other documentation required to become a member of the military commission Civilian Counsel Pool. This form and additional information must be returned in a timely fashion in order to be eligible to be selected for this position.

Background

The 9/11 case is a joint prosecution of five accused. It is as challenging to defend as any criminal case in United States history. Apart from the notoriety of the crime, the accused are all non-citizens with varying degrees of proficiency in English, who were held incommunicado and tortured for years by the United States government before being brought to trial. The scope of the required investigation, both guilt/innocence and mitigation, is international and to date has required defense team travel to various overseas locations. Because the clients are detained and proceedings are being conducted at Naval Station Guantanamo Bay (NSGB), regular – usually monthly – travel to Guantanamo is required. The quantity of classified information involved in
the case is unprecedented and has significantly slowed and complicated the proceedings. The arraignment in this case took place in 2012; trial is not yet scheduled.

**Minimum experience**

- Significant experience as lead counsel representing defendants in complex capital cases, including trying, as lead counsel, at least two capital cases through to sentencing verdict.

- Alternatively, prior experience as lead counsel in no fewer than nine jury trials of serious and complex cases which were tried to completion, as well as prior experience as lead counsel or co-counsel in at least one case in which the death penalty was sought. In addition, of the nine jury trials which were tried to completion, the attorney should have been lead counsel in at least three cases in which the charge was murder or aggravated murder; or alternatively, of the nine jury trials, at least one was a murder or aggravated murder trial and an additional five were felony jury trials.

**Helpful experience**

- Experience with foreign non-English-speaking clients.
- Experience with overseas investigation.
- Experience leading large, multidisciplinary capital defense teams.
- Experience with classified discovery and evidence.
- Experience with clients who have been subjected to torture.
- Experience with or knowledge of the regular military justice (courts-martial) system.
- Familiarity with international law generally and the law of war in particular.

**Terms and compensation**

By regulation, military commission learned counsel are compensated at the current hourly rate applicable to federally-appointed learned counsel, which is currently $202/hour. To date, the Convening Authority has routinely authorized 2000 hours of work for each learned counsel at the outset of each contract year and has authorized additional hours when requested. Duration of appointment is not known at this time. Travel, including airfare, lodging and meals, is compensated at the federal per diem rates based upon location.