

## **EXECUTIVE SUMMARY OF THE CHARGES AGAINST JONATHAN GALLAGHER AS ACCUSED BY THE GENERAL CONFERENCE OF SEVENTH-DAY ADVENTIST CHURCH**

### **Introduction:**

On March 17, 2008, Jonathan Gallagher (“Dr. Gallagher”) was summoned to meet with Robert Lemon, Treasurer of the General Conference of the Seventh-Day Adventist Church (“G.C.”). When he arrived at the meeting with Robert Lemon, Bob Kyte, G.C. Legal Counsel was also present together with Eugene Hsu and John Graz. During such meeting, Dr. Gallagher was confronted with a list of charges for fraud and viewing pornography going back three years. He was directed to provide an immediate response. Stunned, Dr. Gallagher told them he was innocent but he was not prepared to explain all of the issues to their satisfaction, Mr. Kyte demanded Dr. Gallagher’s immediate resignation under threat of civil and criminal action for fraud and misuse of General Conference funds for personal use and the downloading and viewing of pornography. Eventually Dr. Gallagher was given three days to prove his innocence. Otherwise, he was advised he must resign with cause and pay back the G.C. \$50,000 of allegedly mis-used funds.

Upon the realization that the G.C. would attempt to terminate him for causes and might also proceed with criminal action as threatened, Dr. Gallagher spoke to Robert H. Ziprick of Ziprick & Cramer, LLP (“Z&C”) to ask for input and eventually assistance. When Bob Ziprick and his partner, Kathleen Cramer became involved he and his partner began to negotiate for additional time in order to respond to the charges. Eventually after Z&C contended that Dr. Gallagher needed time to clear the charges, the G.C. granted Dr. Gallagher 30 days to provide his response. The G.C. set the response date at April 28, 2008.

Z&C was advised by G.C. legal counsel that the G.C. had spent six months to put the charges together against Dr. Gallagher. It is also important to note that at the initial meeting in March, 2008, Dr. Gallagher was confronted by G.C. General Legal Counsel and told that criminal action was a possibility if he failed to resign immediately, an action that may be an ethical violation of the bar.

Subsequently, there were voluminous telephone calls and e-mails between Dr. Gallagher’s legal counsel and the G.C. legal counsel involving such items as securing relevant documents and discussing the merits of the matter. The issue of obtaining the actual documents of the alleged pornography was one of the main issues discussed, notwithstanding that Mr. Kyte as the G.C.’s General Counsel played cat and mouse with such information. The specific details are listed below.

### **How The Investigation Was Triggered:**

The G.C.’s Treasurer Robert Lemon stated in writing that it was the purchase of a Canon Xti Camera by Dr. Gallagher that triggered the investigation of Dr. Gallagher. Later, Mr. Lemon began to investigate information on Dr. Gallagher’s computer as to whether Dr. Gallagher’s U.N. contacts were real people or were made up by him to justify birding trips. In so doing, he became the accuser, the investigator, the judge and jury in this matter. Dr. Gallagher’s counsel was advised that Mr. Lemon was the “tech” who opened and removed the hard drive from Dr. Gallagher’s G.C. computer. It was Mr. Lemon, not the G.C. information technology department (IT), who reviewed

all the materials on the computer and then sent it to Kroll OnTrack, the G.C.'s so-called computer experts, for their review and analysis. According to Mr. Kyte this was done in order to preserve confidentiality in the matter for Dr. Gallagher. During Kroll's review they found that the e-mails from the "contacts" were actually sent from Dr. Gallagher's IP address to himself at his G.C. computer. (More on this later!)

At the same time, Kroll advised Robert Lemon that they had found some pornography on Dr. Gallagher's computer. As such, the G.C.'s General Counsel pursued this matter in order, according to Mr. Kyte, to find out if there was any kiddie porn involved as that would also be a criminal act. If it was downloaded by someone else, it would not be under Dr. Gallagher's control whether or not it was found. The frame up would have included kiddie porn. Absolutely none was found! Mr. Kyte and Mr. Lemon pursued this matter further and learned that there were 64 jpg's (pictures) that had been located on his hard drive, but others had been lost due to their having been deleted and dropped off in unallocated space. According to Kroll, the pornography occurred between June 26, 2006 and July 11, 2007, a period of approximately ten months.

#### **Dr. Gallagher's Attorney's Seek to Obtain the Evidence Re: Alleged Pornography:**

When this information was brought up by Mr. Kyte, Z&C questioned G.C. General Counsel, requesting the dates and time for such alleged activity. Since Kroll had a beginning date and an ending date, Kathleen Cramer wanted to know where these dates were located. Kathleen Cramer was told directly by Bob Kyte that "there are no dates and times available as they were all lost in unallocated space". At the same time, Z&C asked the G.C. General Counsel to have the actual hard drive reviewed by its experts. Such request was denied. The G.C. refused to allow Dr. Gallagher's expert to see the original hard drive, even under G.C. supervision at its Maryland Office. The most they would do is provide what the G.C. claimed was a copy of the hard drive. Obviously, this was of great concern as Dr. Gallagher strongly maintained that he had not downloaded any pornography on to his computer and yet, Mr. Lemon who acted as the in-house "computer expert", had reviewed the computer files and found pornography.

At approximately the same time, the G.C. finally provided Z&C with a copy of the binder given to Dr. Gallagher in mid-March which they stated included all the allegations against him. In reviewing the binder, Z & C noticed that one page had two pictures on it-- one of a woman in a two piece swim suit and another lying down clothed. There was a date and time on each picture. The post-it note on the page stated "this was not given to Dr. Gallagher" and it is "not indicative of the soft or hard core porn on Dr. Gallagher's computer."

Upon finding the date and time on the two pictures, Z&C again confronted Mr. Kyte asking for dates and times of the other various pornographic pictures. Z&C pointed out that since the Kroll Report gave a time frame as to when the pornography was to have taken place, i.e. a beginning date of 9/25/06 and an ending date of 7/11/07, there must be dates and times somewhere. Again, Z&C was told by Mr. Kyte that "no dates or times exist". When Dr. Gallagher's expert received the copies of

the DVD's of the 64 jpg's, (pictures), he was able to determine that the dates of the alleged pornography downloading and viewing was between 7/7/07 and 7/11/07, (a period of six days) and not between 9/25/06 and 7/11/07 as the G.C.'s so-called expert, Kroll OnTrack, stated in its Report.

**The Charges Re: Pornography Discredited:**

During his time at the G.C. as U.N. Liaison, Dr. Gallagher also taught a Sabbath School class in Redlands, California at the home of Dr. Garry and Cherie Kirk. At approximately the same time that the dates and times were found on the "two pictures", alleged to be pornographic, Cherie Kirk recalled that Dr. Gallagher had been in Redlands on the date in question. As such, she was able to locate receipts from COSTCO and from Mu's Restaurant, (a restaurant in Redlands) for the same date and times. At an early telephone call between Bob Ziprick, Kathy Cramer and Bob Kyte, Mr. Kyte stated that he considered Dr. Gallagher to be a good friend and wanted to see him cleared but did not believe that proving his innocence would be possible. Thinking that the G.C. would be relieved that Dr. Gallagher was able to prove that he was not and could not have been involved with downloading pornography on his laptop computer during the times and date in question, Z&C notified the G.C. General Counsel, Mr. Kyte and his Associate Counsel, Dionne Parker, that they had found outside irrefutable evidence that Dr. Gallagher was not and could not have been involved in downloading such pictures on his laptop computer at the time that Kroll determined that a person was doing so. In order to establish that Dr. Gallagher was at COSTCO and at Mu's Restaurant on the dates and times in question, Z & C secured separate Declarations from Cherie Kirk and the owner of Mu's Restaurant that Dr. Gallagher was at COSTCO and MU's restaurant at the date and time in question. The Declarations were signed under penalty of perjury and forwarded to the G.C. General Counsel with the receipts of the proof.

At the same time that this was going on and as part of the series of charges made, Mr. Lemon had accused Dr. Gallagher of purchasing a pornographic DVD, "Original Sin", (with Antonio Banderas and Angelina Jolie) and some candy from Circuit City on his G.C. Corporate Credit Card. Thus, based upon the purchase of the DVD and the pornography on his G.C. Computer, the G.C. presumed that Dr. Gallagher had been involved in pornography. Dr. Gallagher knew that he had not intentionally purchased anything at Circuit City on the day in question, except blank DVD's for back up of the four GC websites he was responsible for maintaining. Z&C spoke to Circuit City's Sales Manager about Dr. Gallagher's recollection that there was some confusion when he was purchasing his blank DVD's. Dr. Gallagher recalled that a rather large women with a child was in front of him who, prior to finishing checking out, ran back to pick up something else. In the midst of this women's transaction, the clerk went ahead and checked out Dr. Gallagher.

Z&C questioned whether this could have caused the discrepancy in the receipt. Z&C went so far as to ask Circuit City if it maintained the sequence of the receipts so that Circuit City could check who the lady was ahead of Dr. Gallagher. Unfortunately, Z&C was told that no such sequence of receipts is kept, even though they have a receipt number on each receipt with the customer's name. Based on this information, Z&C spoke to the Circuit City Manager and was advised that it can happen that

one's charges get mixed up when they are checking out, especially if in this case the clerk did not clear the charges of the woman before beginning Dr. Gallagher's DVD check out. Additionally, Z&C asked and was advised that at no time prior to such date, nor later when Dr. Gallagher purchased something at Circuit City was there ever anything but blank DVD's on the bills. As such, Z&C secured a Declaration under penalty of perjury from the Sales Manager at Circuit City, stating this information as an explanation as to the likelihood that an error had been made at the checkout stand by the clerk in this instance. Upon receipt of the Circuit City Manager's sworn Declaration, Z&C sent a copy to Mr. Kyte advising him of this discovery. It was again hoped that Mr. Kyte would immediately realize that there had been an error and that Dr. Gallagher neither purchased the DVD Original Sin (unrated) nor had he purchased the candy, as alleged. Instead of immediately acknowledging that there was an obvious mistake involved, Mr. Kyte took the position that the "pornography was only a side issue". And, instead of being happy that Z&C had cleared Dr. Gallagher from his having been involved in downloading and viewing pornography on his G.C. computer, Mr. Kyte stated again that the pornography shown to us was only a very small portion of that which had been found on his computer. In other words, the G.C. was not happy at all with what was discovered and, in fact, Mr. Kyte attempted to downplay the significance of the "pornography's" existence once refuted. But prior to it being refuted the General Counsel acted as though the pornography was a major issue of concern.

### **The G.C. "Locates" Previously Lost Evidence:**

Subsequently, after submission of our first Report on April 28, 2008, Mr. Kyte responded on behalf of the G.C. Administration and advised that the problem with the information submitted was that if Dr. Gallagher was actually at COSTCO and Mu's Restaurant as was stated by Cherie Kirk and the Owner of Mu's Restaurant in their Declarations, it would require that the G.C. Administration would have to believe the statements made in such Declarations, implying that they did not accept such Declarations as truthful. In addition, he stated that if Dr. Gallagher was with Dr. Garry and Cherie Kirk at the times in question, then Mrs. Kirk would have had to be declaring in her Declaration that someone else at her house was doing the downloading of the pornography. Apparently, Mr. Kyte was not satisfied with that comment as he went further and stated that if such pornography downloading was taking place while Dr. Gallagher was teaching Sabbath School at Pine Knoll, then some of the persons attending the Sabbath School would have had to have been doing the downloading of the pornography. He subsequently stated he doubted this was the case. Yet, at no time did the G.C. or the G.C.'s expert ever contradict Dr. Gallagher's expert's explanations with any facts to support their ongoing desire to accuse Dr. Gallagher of such behavior. In fact, it was as though each time Z&C was able to knock out one of the G.C.'s allegations by clear and undisputed evidence, they would either come back and state that "it really was not an important issue, but rather just a side issue" or they would change the target.

In the instance of the alleged pornography, once Dr. Gallagher's expert, Ike Iaconis, was able to show that the dates of the 64 jpg's (the pornographic pictures) were actually dated only between July 5, 2007 and July 11, 2007, (as opposed to from 6/25/06 through 7/11/07), amazingly Mr. Kyte

apparently located and forwarded a spreadsheet to Z&C with dates and times listed by each one. Recall that Mr. Kyte had previously stated that there were no dates and times available as they had all been lost in unallocated space. In looking through such materials, all of which were submitted well after the first deadline for a response of April 28, 2008, Dr. Gallagher's expert and Ms. Cramer both discovered that the times and dates available in which Dr. Gallagher was being accused of downloading and viewing pornography were in fact between 7/5/07 and 7/11/07, all dates and times during which Dr. Gallagher was either preparing or teaching at Pine Knoll with others present. Based upon this discovery, it became very clear that Dr. Gallagher was being attacked by the G.C. as the teacher at Pine Knoll, and that just as distressingly, even Pine Knoll or its class attendees were being implicated.

In his review, Mr. Iaconis also discovered that there were no pictures listed for any other dates prior to July 5, 2007. As such, Z & C and Mr. Iaconis were confused as to where the G.C.'s expert, Kroll, found the date of 6/25/06 as the so-called "beginning date of the pornography". As such, we asked for the location of the date of 6/25/06 on the 64 jpg's. In requesting the date, Mr. Kyte became very upset and demanded that instead of having Dr. Gallagher's expert contact the G.C.'s expert directly, as had been set up by Mr. Kyte in the past, now, all of a sudden all requests needed to go through the G.C. General Counsel's Office. Thus, Kathleen Cramer in writing formally asked Mr. Kyte for the information. It took approximately four days for Kroll to come up with an explanation as to where the date had originated. During this time, Kathleen Cramer sent multiple e-mails to Mr. Kyte and Ms. Parker asking for the date. Z&C could not understand why Kroll was taking so long to respond to a very simple question which was: Tell us on which of the 64 jpg's that the date 6/25/06 is listed as was stated in the Kroll Report.

On the fourth day, Z&C finally received a very detailed written response which referred to the ".css file" as the picture with the date of 6/25/06. When this was reviewed by Mr. Iaconis, he advised that this response was "gobbly gook" and made no sense. In fact, he advised that there was no question in his mind that the response was a subterfuge. He also advised that a ".css file" by its very nature has no pictures on it. In addition, he advised that a ".css file" actually was like a housekeeping tool for the computer system itself. Thus, the response from the G.C.'s so-called "Expert" was immediately challenged. No response was ever received from the G.C. regarding this faulty explanation from the G.C.'s so-called "Expert". As such, with the explanations and uncontradicted evidence submitted to the G.C. and based upon our Expert's analysis, the entire issue of the "pornography" was deemed by Z&C as cleared. As such, Dr. Gallagher was cleared of any wrongdoing.

### **The G.C. "Suspends" the Pornography Charges Temporarily:**

Curiously, after Z&C's Second Report, Mr. Kyte stated that the G.C. Administration had decided to accept Dr. Gallagher's explanation in the "most positive light" and he stated that the G.C. would not be pursuing this issue "at this time". But, Mr. Kyte also stated that the G.C. Administration would notify the G.C. Executive Committee that there were items of concern on Dr. Gallagher's computer,

but that he had provided an explanation and the G.C. Administration had decided not to pursue it. Z&C immediately challenged this response from Mr. Kyte and demanded that this issue not be raised at the G.C. Executive Committee because it would severely prejudice the group against Dr. Gallagher as it would be clear to the ministers on such Committee that there must have been some inappropriate activity on his computer. Mr. Kyte refused to respond to such demand. In effect, what Mr. Kyte was trying to do was to “intimate” the pornography issue had been there but that the G.C. had decided not to pursue it further. By so doing, Mr. Kyte was playing “games” by suggesting Dr. Gallagher had a problem, but the G.C. was being kind not to specifically raise it. Mr. Kyte was not intending to drop the issue altogether, notwithstanding the fact that Z&C had very effectively proven beyond any doubt that Dr. Gallagher physically could not have downloaded or viewed pornography on the dates and times in question.

**Alleged Unauthorized Purchase of a Canon Rebel XTi Camera Leads to An Expense Account Review:**

The G.C. Treasurer Robert Lemon used the fact that Dr. Gallagher had purchased a Canon Rebel XTi Camera in the amount of approximately \$2,799.65 from donor funds as the justification for reviewing Dr. Gallagher's expense account and the reimbursements turned in by him. Interestingly, according to the documents given to Dr. Gallagher and Z&C, it was the purchase of such alleged “birding camera” that triggered Mr. Lemon's review. This was based upon the fact that Mr. Lemon stated that he did not originally know that Dr. Gallagher was a “birder” or was using a cover as a tourist birder when he went on the investigatory research trips in his role as Liaison to the U.N. Because Mr. Lemon stated that he could not see why one would need to use a “cover” to do the research trips in the foreign lands or how a cover as a “builder” was necessary, he did not readily understand that the trips were anything other than personal birding trips for Dr. Gallagher, for which he purchased and used the “Camera”. As was pointed out to Mr. Kyte, Dr. Paulsen and Dr. Graz and the individuals in treasury knew full well the details about Dr. Gallagher using a “cover as a tourist birder” for a number of years.

In speaking to Mr. Kyte, Z&C explained that Dr. Gallagher was responsible for assuring the media coverage of a number of meetings, including the one in Cape Town South Africa that only occurs every five years. Mr. Kyte's response was that Dr. Gallagher did not have such responsibility in his Liaison position, but only had that when he was in the Communications Department. Since we knew that Mr. Kyte had no knowledge of such facts, Z&C proceeded to advise Mr. Kyte, by using Dr. Gallagher's current Official G.C. Job Description, that in fact there were multiple requirements of Dr. Gallagher to assure there were photos and other media of the various events presented at the G.C. Additionally, Z&C advised Mr. Kyte that he was “wrong” in that we had multiple e-mails and other demonstrative evidence which proved that Dr. Gallagher was responsible for assuring that appropriate camera's, etc. were needed for use by the Department.

Furthermore, Z&C were able to present to Mr. Kyte the actual receipt for the camera (which had already been previously presented to the Treasury Department at their request), as well as a written

approval from the G.C. Treasury Department for the purchase by Dr. Gallagher of the camera. Interestingly, once this information was presented, the issue of the camera was never raised again, although Z & C were never advised that the issue was resolved to the G.C.'s satisfaction. As far as the evidence presented was concerned, Dr. Gallagher was cleared of this charge as well.

**Alleged Lack of Documentation, Alleged Phony E-mails and Alleged Non-Existent Contacts:**

The last item of concern of the G.C. had to do with Mr. Lemon and the G.C.'s "so-called" Expert determining that the e-mails sent from five individuals who were deemed to be "contacts" for connecting in the various countries to do the "research projects" were bogus. In other words, the G.C. General Counsel's Office, Mr. Lemon and Kroll their expert, determined that the e-mails used by Dr. Gallagher as evidence of his trips and the monies needed for such trips were actually sent from Dr. Gallagher to himself at the G.C. Office and not from the "Contacts". Further, they determined that since they were not able to locate the individuals by return e-mails and could not locate them at the United Nations where the letterhead they used stated they were from Dr. Gallagher had to be lying about their existence. Thus, the G.C. allege that Dr. Gallagher's entire effort conducting independent research as to religious liberty conditions was considered a fabrication by him. The names of the persons in question were Ricardo Hoffman (the main contact), Jens Jensen, Geye Abasingh, Lars Svenson and Ole E. Larssen.

Please recall that the G.C. had over six months to try and locate these individuals, but were unable to do so in such time frame. In fact, the G.C, Mr. Lemon and Mr. Kyte stated in writing that these individuals do not exist. Yet, when Z&C set about to find such individuals, they were able to do so. In fact, Donalyn Fillmore, actually found one of the individuals, Jens Jensen by searching the Web. Why the G.C. could not find these individuals may have had more to do with its desire to not find them than its inability to do so, given the time and resources available to the G.C.

Originally, no one was aware of such individuals when the U.N. was contacted through normal channels by Z&C. Yet, because Z&C persevered in attempting to locate the contacts, as increasing evidence convinced Z&C that Dr. Gallagher was telling the truth, Z&C was able to locate the names of each person. The first individual, Ricardo Hoffman, was a real challenge. It was first thought that Richard Hoffman from Catholic Relief Services (currently in Brazil) may have actually been "Ricardo" Hoffman. Apparently, at least according to Mr. Kyte, this was not the case as when Mr. Kyte spoke to Mr. Hoffman in Brazil, after being informed of his existence by Z&C, he stated that he was not such person, had not been stationed in Mexico, did not speak Spanish and had never signed his name as "Ricardo". What was fascinating to Z&C was that Mr. Kyte actually believed that these individuals, all of whom had deliberately made themselves impossible to find, who kept themselves under cover, and who did not want to be contacted again by Dr. Gallagher after he was forced by Jan Paulsen to drop out of the "human rights research program", would actually "own up" to being the "contacts" when Mr. Kyte called them.

Thus, based on Mr. Kyte's assertion, Z&C continued to look for Ricardo Hoffman and eventually

found “Augusto Ricardo Hoffman Bion”, a linguist fluent in Spanish who had worked in Oaxaca Mexico and was connected with another company who worked directly with the indigenous peoples in Peru and Mexico. Z&C presented the information and the details of the connections to the U.N. of Mr. Bion. When asked whether the G.C. contacted him, Z&C received no reply. In fact, Z&C was advised by Mr. Kyte that the G.C.’s “insurance company” had advised that the G.C. should not provide us with any further information due to our so-called threat of a defamation action if the G.C. persisted in this regard. Interestingly, Mr. Kyte apparently failed to grasp the fact that Z&C is aware that the G.C.’s General Counsel is the individual who is responsible for giving advice to the G.C. insurance company and the fact that the G.C. is at least partly self-insured. Each of the four other individuals, besides Mr. Hoffman, were all located and connected with the United Nations Office of High Commissioner for Human Rights. Yet, the G.C. failed to acknowledge that the individuals found were likely the same individuals who had communicated by e-mail with Dr. Gallagher. It was becoming quite obvious that the G.C. never wanted the five individuals to exist.

The issue of the e-mail I.P. addresses was also of great concern to the G.C. According to the G.C., Dr. Gallagher had actually sent e-mails from the five individual contacts to himself and then forwarded them on to the G.C. to be printed as receipts and proof of the need for funds and/or reimbursement. Interestingly, Dr. Gallagher admitted that he had in fact received the e-mails from the “contacts”, routed them through Quick Silver and/or Tor, and then retyped them before he sent them on to the G.C. for printing. Z&C explained to the G.C. that on one of his earliest trips to Geneva, Mr. Hoffman notified Dr. Gallagher that a technician from the U.N. would be coming to the meeting to secure his laptop computer in order to place certain software programs, such as Tor and Quick Silver on it for security reasons. He was advised that the U.N. technician would then return the computer to him that very day. This occurred even though Dr. Gallagher was never instructed on how to use the various software systems. He was simply told that this process was needed in order for there to be plausible deniability for the “contacts” as they were at great physical risk if he were to expose their assisting various “research projects”.

### **The G.C.’s Failure to Recognize the Need for Cover In the U.N. Work is Naïve:**

It is of importance to point out that the G.C.’s Associate Legal Counsel, Dionne Parker, in a very condescending and unbelieving manner, advised that there was no need for Dr. Gallagher to go in to these various countries under cover as a “tourist birder”, since “ADRA never had to do any such thing”. The implication from Ms. Parker was that Dr. Gallagher was lying about his trips being for legitimate business purposes, and that they were rather was nothing more than “birding” trips for his personal gain” at the expense of the donors and the G.C. Since it was clear that Ms. Parker had no knowledge of the actual facts of what Dr. Gallagher needed to do in order to secure the “research information” from the various persons whom he interviewed, we used the Myanmar disaster as an example. In effect, we explained that if the Myanmar military rulers would not even allow humanitarian aid to its own population after the most recent disaster, it should be clear that they would not allow anyone into their country to ask its inhabitants about “religious freedom”. The G.C. legal office never accepted that the U.N. needed to obtain religious liberty intelligence under cover.

The arrogance and lack of knowledge of the General Counsel's Office Attorneys was appalling and naive.

**Dr. Gallagher's Role Supported By Independent Witnesses:**

Since it was impossible for Dr. Gallagher to prove that the "contacts" actually had sent the e-mails to him and since Mr. Kyte, Ms. Parker and Mr. Lemon did not believe that these individuals existed or that Dr. Gallagher was doing anything but taking personal "birding" trips to these various countries over the past three years, Dr. Gallagher tried to contact the U.N. Special Rapporteur for Religious Freedom, Asthma Jahangir, in Pakistan. In so doing, her assistant sent Dr. Gallagher's e-mail on to Michael Wiener, Office of the High Commissioner for Human Rights, Special Procedures Division, Palace of Nations, U.N., Geneva. In response to the request for confirmation of his involvement with the U.N. and his involvement in the various "research trips", Michael Wiener sent the following e-mail message:

"Dear Mr. Gallagher, Many thanks for your message which the Special Rapporteur has forwarded to me. Of course we do receive documents and research work from the Seventh-day Adventist Church and the International Religious Liberty Association. In fact, the "Guiding Principles Regarding Student Rights to Wear or Display Religious Symbols: prepared by the board of IRLA experts has been quoted in the Special Rapporteurs report E/CN 4/2006/5. We are also aware of other initiatives and onsite visits; please continue to send any pertinent information or updates. Best regards, Michael Wiener." **(Emphasis Added).**

While Mr. Wiener was not expansive on his explanation of Dr. Gallagher's involvement with the U.N., still he made it clear that the U.N. was "aware of other initiatives and onsite visits" and he asked that Dr. Gallagher "continue to send any pertinent information" on to them. Common sense would suggest that if the U.N. was concerned about obtaining information regarding religious freedom from countries of concern, it could not go into such countries in an overt manner as the government or military would dictate to whom the U.N. personnel could speak. They also would want to be certain that the one's to whom the U.N. personnel spoke would be supportive of their regime. Thus, it made perfect sense that Dr. Gallagher would go in as a "tourist" to such countries somewhat "under cover" as a "birder". Obviously, it would have made no sense for Dr. Gallagher to go into such countries as something that he knew nothing about. How would he justify his cover if he were asked and he knew nothing about his cover?

Z&C also provided Mr. Kyte and the G.C. with further evidence of the fact that the U.N. Special Rapporteur for Religion Freedom, Asthma Jahangir (an attorney in Pakistan), knew of and relied upon research reports from NGO's who go into the various countries to obtain first hand information from the persons who live in the countries. Specifically, Ms. Jahangir was asked a question by a Reporter during an interview. The specifics follow:

**RFE/RI:** Have you also received reports about Sufis in Iran? There have been a number of reports about them being harassed and persecuted by the government. **Jahangir:** I have very few reports about Sufis in Iran. I would also like to say...in the kind of mandate that we are running sometimes there may be huge problems somewhere but we may not get allegations because civil society in that part of the world or that country is not strong enough, does not have the independence and courage to send these allegations or may not be aware. So this mandate is very much also **dependent on our research** in a way, yet we cannot act on our research alone, we have to only act and send communications to a government on allegations that we receive from victims, from NGO's, and that too are very reliable sources." (**Emphasis Added**).

We included the article in which this interview question was asked of Ms. Jahangir with our Report to Mr. Kyte. Just as in the past, we received no response from Mr. Kyte. Still there is no question that both Mr. Wiener's e-mail and Ms. Jahangir's interview statement confirms that the U.N. does use and is actually dependent upon research trip information that they receive from NGO's and individuals like Dr. Gallagher.

### **The E-Mails Allegation is Refuted:**

After Z&C was able to explain in great detail why Dr. Gallagher had to maintain a cover when he went into the countries on "research trips", and was able to further explain in detail who the "contacts" were and where they were located, including providing their actual connections to the U.N., Dr. Gallagher's attorneys turned their sights to the alleged falsified "e-mails". Specifically, the G.C. was alleging that Dr. Gallagher sent the e-mails to himself and was intending to defraud the G.C. of monies. The G.C. argued that certain of the receipts that Dr. Gallagher turned in for reimbursement came from e-mails that he received from Ricardo Hoffman, Lars Svensson, Ole Larson, Jens Jenson and Geye Abasingh ("contacts"). It is interesting to note that the G.C. Finance Department accepted the e-mails and the receipts turned in by Dr. Gallagher over the years as evidence of his legitimate activity and for purposes of reimbursement. Allegedly because of an audit (of which Z&C we requested a copy of the auditor's letter to substantiate the concerns of Mr. Lemon which was never provided to Z&C), Mr. Lemon became involved and saw what he termed unsubstantiated receipts from Dr. Gallagher. In looking further, Mr. Lemon determined that the receipts from the "contacts" were actually sent by Dr. Gallagher from his home computer (or his wife's or his son's computer) to his laptop at the G.C. Based upon his "finding", Mr. Lemon determined that Dr. Gallagher was committing fraud and lying about the reasons for his trips. Having said this, it should be noted that Dr. Gallagher believed he had a long-standing understanding with the treasury department that receipt for the research trips would be necessarily be on a different basis because of the confidential nature of the trips. This had been discussed from the beginning, and each trip had been approved and paid.

In Z&C's response to the G.C., we had already explained that Dr. Gallagher did send the e-mails in question to himself as he was instructed to do by Ricardo Hoffman at the meeting in Geneva. Yet, Mr. Lemon, Mr. Kyte, Ms. Parker and Kroll had determined that the so-called plausible deniability for the U.N. and the contacts were not credible. As we pointed out to the G.C., they were relying upon a so-called "expert" in Kroll whom we had already discredited in a number of instances, including regarding the dates of the pornography and the .css file. In essence, we then referred the G.C. Administration to a web page cite for TOR to explain why it was used by the U.N. Geneva officials in this instance. We cited the following explanation:

"Non-governmental organizations (NGO's) use Tor to allow their workers to connect to their home website while they're in a foreign country, without notifying everybody nearby that they're working with that organization." (<https://www.torproject.org/overview.html.en>)

We also advised G.C. Administration that not only do NGO's use Tor to protect their location, but so does the U.S. Navy and law enforcement. Specifically, we provided the following quote: "law enforcement uses Tor for visiting or surveilling web sites without leaving government IP addresses in their web logs..." We also advised the G.C. that an article regarding Tor at <https://www.torproject.org/torusers.html.en> stated that "Human rights activities use Tor to anonymously report abuses from danger zones...Even though they are within the law, it does not mean they are safe." (Information regarding TOR and its web sites were provided by Ryan Fillmore).

Finally, we explained in detail that Dr. Gallagher was instructed to complete a number of steps to shield the true identity of his "contacts" at the U.N. from disclosure to other individuals. He was advised that all possible steps needed to be taken in order to protect the contacts safety and to ensure the "contacts" were untraceable from anyone receiving copies of the communications. Thus, once Dr. Gallagher received an e-mail from any of the "contacts", he simply routed it through what he thought was the appropriate software mechanism and then he re-typed the e-mails and sent it on to his G.C. Computer. Such requirement dealt with the "contacts" safety. Effectively, the G.C. Administration was advised that the primary purpose for this secretive process was to preserve the anonymity of the sender(s) from disclosure. Its stated goal was to prevent anyone from back-tracking the message to any individual prior to Dr. Gallagher. As Attorney Ryan Fillmore so aptly stated, "it is effectively designed to convey content, without conveying identity". The G.C. has never accepted the fact that the U.N. uses means such as described by Dr. Gallagher to protect its sources although ample evidence supports Dr. Gallagher's explanation as to how the U.N. operated.

### **Dr. Gallagher's Resignation:**

Although the G.C. never stated what they did not believe or what they did not accept as truthful on behalf of Dr. Gallagher, nevertheless, after reading our last Report on June 11, 2008, Mr. Kyte simply stated that the G.C. Administration was going to move forward with taking the matter to the G.C. Executive Committee. Since Z&C was convinced that it had provided undisputed significant

evidence to support the position that Dr. Gallagher had presented originally over the three year period and had significantly enhanced the defense of his actions, it was determined that rather than allow the G.C. to terminate Dr. Gallagher for cause, Dr. Gallagher should provide a written detailed resignation to the G.C. Administration without cause as there was no question that Z&C had unequivocally cleared Dr. Gallagher **of all the charges** against him. Also, Dr. Gallagher had stated from the beginning that once he was cleared, he would resign without cause as he did not wish to stay where he was not trusted or wanted, and in protest at not being allowed to defend himself by being present at the Executive Committee. Dr. Gallagher resigned on June 13, 2008.

**The G.C.'s Sloppy Investigation, Failure to Follow Through, Erroneous Conclusions, Lack of Due Process:**

It is important to note that the G.C. did not follow its own policy or ethical standards with respect to addressing an issue of great concern with its longtime employee, Dr. Gallagher. Each time Z&C refuted a charge, the target moved. The original investigation was done by Mr. Lemon, the main individual in the G.C. who would benefit by removing Dr. Gallagher from his position as it was the Finance Department that apparently failed to follow through and secure all appropriate receipts from Dr. Gallagher prior to reimbursement. If the auditors raised a concern with Mr. Lemon's oversight of his department and its staff, once Dr. Gallagher was terminated, Mr. Lemon could then assert that although all of his receipts were not accounted for, nevertheless Dr. Gallagher was terminated for allegedly failing to provide the receipts to support the payments. In effect, Mr. Lemon would then have an excuse for his failure to provide appropriate oversight for his department.

Additionally, it is also significant that in its report in which all the charges were allegedly laid out, the Finance Department staff who prepared the materials against Dr. Gallagher failed to accurately list all of the items in question as they apparently did not want to spend the time or were unclear as to the charges. Further, in presenting the charges, the Finance Department actually used a document from what they stated to be the "Canary Islands" related to a trip to "Madeira, August 5-12, 1998". Yet, the Trip Report actually stated it was written in 1996, not 1998. Mr. Lemon used this "report" at the G.C. as evidence of the fact that Dr. Gallagher supposedly went on birding trips and wrote a report of the same and this proved that his trips in his then current position with the G.C. were all just personal birding trips. What was significant was not only that Madeira was not in the Canary Islands, but rather in Portugal and that Dr. and Mrs. Gallagher had actually taken this trip as a family PRIOR to Dr. Gallagher even being employed by the G.C. The misuse of such "evidence" by the G.C. should be a matter of extreme concern to every church leader and member.

Clearly, Mr. Kyte and Mr. Lemon were out of their element in addressing and reviewing the items which were presented by Z&C as voluminous and uncontradicted evidence clearing Dr. Gallagher of all charges. It is troubling, they not only failed to acknowledge resolution of issues when cleared, but Mr. Kyte, Mr. Lemon and the rest of the G.C. Administration never even bothered to acknowledge the multiple letters presented from Ambassador Robert Seiple of America's First Freedom, Judith Hertz of Interreligious Affairs of Reform Judaism in North America, W. Cole

Durham, Jr. of BYU, Dr. Colon of ADRA, Matt Cherry of the U.N., and Dr. Antonius Kireopoulos of Faith and Order Interfaith Relations, not to mention Mr. Wiener of the U.N. in Geneva. In each such letter, Dr. Gallagher received high praise for his work in Religious Freedom and Liberty, for his untiring dedication to his work on behalf of the SDA Church as an NGO, and for his compassion and responsiveness to the specific individuals whom he interviewed in the various countries as approved and accepted by the U.N. under the auspices of research projects. Z&C actually sent to the G.C. redacted research reports for the Phillippines and other countries. The only response received from the G.C. was that the e-mail from Mr. Wiener of the U.N. was not specific enough, although they recognized he had high praise for Dr. Gallagher. Sadly, high praise for his work could not be understood by the G.C. Administration to reflect Dr. Gallagher's excellent work as a researcher in the counties where he was sent. Attached are copies of these letters of support.

**Conclusion:**

In conclusion, Z&C provided multiple Reports to the G.C. of evidence clearing Dr. Gallagher of the outrageous and ludicrous charges alleged against him. There is no question that if Dr. Gallagher had intended to defraud the G.C. and/or the donors, he certainly could have done it in a much more plausible manner. Instead, what Dr. Gallagher did was comply with his job description, give credit to the SDA Church for its desire to work in the area of Religious Freedom and Liberty, worked tirelessly to assist the U.N. in helping peoples who were denied their Religion Freedoms in foreign countries, and set about working to bring the right to worship God to those who are deprived of practicing such right. Unfortunately, what Dr. Gallagher got for his service, dedication and effort in the area of religious freedom were absurd and false charges of defrauding the very entity which he was committed to serving. There was no due process in this matter whatsoever. Due process affords one an opportunity to address and confront his accuser and it allows for an unbiased review of the charges by someone other than the accuser serving as judge and jury. At best, this was a kangaroo court designed for and intended to discredit the credentials of Dr. Gallagher and to persecute him for exercising his own religious beliefs by the G.C. Administration for his involvement in teaching Sabbath School Classes in Redlands.

In case there is any question regarding Dr. Gallagher's behavior as it relates to the SDA Church and his fulfillment of his job duties and responsibilities, Z&C stands firm in its documented position that in any legitimate organization, Dr. Gallagher's name would have been cleared and the G.C.'s efforts to disgrace and defame him as well as his involvement with Pine Knoll would have resulted in a clear victory for Dr. Gallagher and sanctions against the accusers.

**Respectfully Submitted by:** Ziprick & Cramer, LLP on July 8, 2008

Enclosure: Chart of Charges & Response to Clear Dr. Gallagher  
Attachments: Letters of Support

