Dennis Lawsuit:

The Appeals Court Verdict

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ALSO IN THIS ISSUE: THE FLORIDA TRADEMARK LAWSUIT

There was rejoicing in te presidential wing on the third floor of world headquarters on late Thursday, December 17 1998. That day, the Maryland Court of Special Appeals ruled on the Dennis Case in favor of the General Conference.

It was five days before the fourth anniversary of the firing of David Dennis from his 18-year post as Director of the General Conference Auditing Service.

There are twenty strange aspects to this entire case:

1 - On the second business day of the Indianapolis General Conference Session (and the first after he was elected president), Robert Folkenberg tried to stop the reelection of David Dennis. Because it was well-known among faithful workers in high places that Dennis was the only whistle blower remaining in the General Conference, fortunately, they were able to block Folkenberg's attempt. We reported soon afterward that high-placed workers expressed shock that the young president would attempt this.

2 - The following year, David Dennis was one of those who blew the whistle on the laundered money going to Folkenberg for the purchase of his Maryland home and the support of his wife.

3 - In the fall of 1994, Folkenberg used an unproven pretext as an excuse to immediately e-mail to the entire world field of Adventist workers that Dennis was an evil man. This was done without permitting him to defend himself.

4 - After more than 34 years of denominational service, David Dennis was fired in December of that year. Yet, all the while, Folkenberg had refused to meet with him.

5 - Many delegates, soon to enplane for the 1995 Session, were concerned about what had happened. So three weeks before they were slated to arrive at Utrecht, Robert Folkenberg sent a letter to each one. In it, he expressed his concern to have full disclosure of all the issues in the case, following a speedy hearing, so he could then present openly all the documents in question—as soon as the case was settled.

4 - In an effort to reclaim his denominational reputation and reveal what was taking place in church financial circles, Dennis chose to sue. In his and the General Conference's defense, Robert Folkenberg had hired not one, but three high-priced Washington, D.C. law firms. This financial support of several high-priced worldly attorneys greatly esculated the ongoing costs of maintaining the case.

5 - Repeatedly, efforts were made to postpone or otherwise delay the proceedings. This, of course, significantly added to the legal expenses. Three law firms were to be handsomely paid for four years.

6 - Dennis' primary contention was that efforts had been made to blacklist him throughout the de-

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THE ISSUE AND RULING - AS STATED BY JUDGE LOUIS A. BECKER

"*Case:* Robert S. Folkenberg, et. al. v. David D. Dennis, CSA No. 1553, September Term 1997. Unreported Decisoin by Becker, L. (specially assigned). Filed December 17, 1998.

"*Issue:* The First Amendment religion clauses preclude a former minister from maintaining a defamation lawsuit against the church based on statements made by church officials regarding his moral fitness.

"*Ruling:* Indeed, the Constitution bars civil courts from reviewing ecclesiastical governance and disciplinary decisions."

nomination, because he knew too much: As head auditor in the denomination for 18 years, he was aware of a number of financial irregularities on high church levels which needed attention, which, through regular channels, he had earlier tried without success to correct.

7 - The case was supposed to have been first heard by a lower Maryland court. It was obvious that the judge of that court was not favorable to what certain men in the General Conference had done to Dennis and how they had conducted the case.

8 - For this reason, in the case, both sides had agreed to depositions (recorded interviews). Then the General Conference-paid attorneys grilled Dennis, his wife, and his children for eleven days. But—a few days before General Conference officers were to be questioned—they tried to terminate the case. This was a deceptive practice. Not even the judge liked it. The request for termination on "First Amendment grounds" was denied.

9 - Surprisingly, just before the case went to trial, the three law firms appealed the case. Anyone acquainted with normal legal proceedings knows that this is just not done. The case must first be heard by a lower court before it can be appealed to a higher court.

10 - Even more surprising, when the request reached them, the Appeals Court said they would hear the case before it had been considered in the lower court.

11 - Instead of having only appeals judges on the court hearing the case, a trial judge was added to the roster of judges assigned to hear that case.

12 - On May 8, 1998, the case was heard in Annopolis, Maryland. Several others were also heard at about the same time. Decisions on all of them were supposed to have been handed down within three months. Knowledgeable legal observers fully expected the Appeals Court to remand the case back to the lower court for a proper hearing.

13 - But, instead, the other cases were decided within three months,—but no decision was forthcoming on the Dennis case. Month after month passed.

14 - The General Conference announced that, on August 12, President Folkenberg had lunch with Governor Glendening of the State of Maryland, and then spent time conversing with him.

15 - On December 17, 1998, a full nine months after the case was heard, a decision was finally handed down.

16 - The decision reached by the Appeals Court reversed decisions earlier made three times by lower court judges. The courts had earlier recognized that no organization, not even a church, has a right to do what they did to David Dennis—and walk away unscathed.

17 - Strangely enough, it was the "specially appointed" trial judge (Louis Becker), not one of the regular appeals judges, who penned the decision.

18 - This decision stated that the General Conference, because it was a church, had protection from the civil powers—and could safely do what it did to David Dennis—or any other worker in the denomination—because it was a religious organization and not subject to the civil powers!

19 - There are, of course, other cases in the law books which stand as precedents—disproving this remarkable appeals court decision.

20 - It was claimed that the General Conference had "First Amendment protection," which permitted it to conduct itself in any way it wanted to toward its workers, with legal immunity. Other workers will rue the day that decision was handed down.

We have learned that, to date, the General Conference has spent $5 million on its fleet of law firms. It would have been far easier to take the case quickly through the courts; that is, if the General Conference was willing to let everything come out in the open and David Dennis' charges of fiscal mismanagement were incorrect.

The December 1998 issue of *Adventist Review* carried an article by Folkenberg, entitled *"The Sins of the Church."* In it, he appealed to church members "to show forgiveness and mercy" to church leaders and denominational entities when they have been discovered to be guilty of "error, hypocrisy, incompetence, and mismanagement."

That sounds good, but it reminds us of the White House. We are to forgive and forget. After matters have been exposed, we are to forgive and forget. Yet God asks that changes be made, sins be put away, and lives be changed. When necessary, some people need to be fired.

Tolerance is ruining America. Are we going to let it destroy the church as well?

In his *Review* appeal, Folkenberg calls for "patience, love, and kindness to bring about healing, restoration, and harmony." He is essentially asking church members to wait and do nothing. That is what we were asked to do in the early 1980s, when the escapades of Donald Davenport and his "finder's fee" church workers—fleecing elderly Adventists of their life savings—was discovered.

A call to wait and do nothing is an invitation to let the church remain on the downward path. Will not anyone stand up and say, "Thus far thou shalt

go and no further?" Is there no one to step in and put a stop to lowering standards, mishandling funds, and changing beliefs and worship practices?

Nothing was said in the article about Folkenberg's bringing forth all the evidence as soon as the Dennis case was over.

We have followed this civil law suit, *David D. Dennis v. Folkenberg et. al.,* with deep interest for four years. Rather than meeting prayerfully together for a Christian reconciliation with the former auditor who was fired for unproven allegations of misconduct, his integrity has been systematically attacked in workers' meetings, throughout the world field, and via e-mail.

Folkenberg is even attempting to defraud Dennis of his Constitutional rights to establish his innocence in a court of law before a jury. "Religious freedom" should not transcend human rights. An organization should not seek to hide behind church-state separation, when its illegalities are obviously secular in nature.

Having already spent $5 million of church funds delaying the case over the past four years, the highly paid four General Conference law firms tried a desperate ploy and, over the head of Judge Chapin in the lower court,—pushed through a motion to the Maryland Court of Special Appeals.

This appeal was heard on May 8, in Annapolis. At that time, the General Conference-paid attorneys admitted to the claim of defamation,—but urged the judges to dismiss the case because to allow it to continue would might expose a variety of activities and possible abuses of power, on the part of the one serving in the highest elective position in the church.

Three months before the heated November Maryland elections, on August 12, Folkenberg hosted the incumbent governor, Parris Glendening, at a specially arranged General Conference appointment. It so happens that the judges of the Appeals Court are placed in office by the governor—so he knows them all very well.

On December 17, the trial judge, Louis A. Becker, whose position was recorded as "specially assigned" to the case, issued the ruling of the appeals court. In this surprising document, he stated that "the [U.S.] Constitution bars civil courts from reviewing ecclesiastical governance and disciplinary decisions."

The decision of the judge was made known late Thursday to the attorneys representing both sides, who thereupon notified their clients.

By Sabbath morning, e-mail messages were circulating throughout the world field, telling Adventist workers everywhere, that Sabbath, that Folkenberg had won the case.

If Folkenberg definitely and finally wins this case—that is, if this decision is permitted to remain intact—he will not be required to answer a single question, produce a solitary document, nor publicly implicate those who have been involved in a number of improper financial transactions over the past eight years.

It would appear that the whole matter will have been effectively covered up.

But the ongoing tragedy will not end there. Church leadership will thereby have license to punish any employee of its choosing.

Clearly, the real issue of the case was not addressed by the appellate court: Does the U.S. Constitution permit a church to defame an individual? It would appear that Judge Becker, in issuing this decision, did not address the specific issues and charges in the case. A final verdict was obtained without hearing the facts in the case.

Then there is the question as to why a trial judge was especially assigned to this case. We cannot but wonder if there may have been outside interference. Conferring with legal counsel conversant with such matters, we have been told that such may very well have occurred. The whole situation is just too unusual.

What will happen next?

David Dennis has the right to appeal the case higher. One possibility would be to appeal the matter into a federal court, where local state politics could not interfere. Another would be to appeal the matter directly to the Supreme Court.

It is to be expected that, by now, his personal finances would be exhausted. Litigation is always costly. On the General Conference side, there is a bottomless well, filled with tithes and offerings from which to draw. Dennis does not have the advantage of such a storehouse.

Yet for Dennis to lose the case would give the impression that he was, indeed, guilty as charged.

In order to avoid corruption in the church, leaders must be held accountable for their actions. How could the present structure of the Auditing Service in the church ever be expected to fulfill its duty as watchdog, reporting to the members of the church and to its thousands of church workers?

Both in the nation and in the church, truth is being vilified and silenced.

Come quickly, Lord Jesus!

— Vance Ferrell

The Florida Trademark Lawsuit

Yes, the General Conference has started another trademark lawsuit. Here is a brief overview of its beginnings. (For a complete overview of the entire history of these trademark lawsuits, obtain a copy of the present writer's 80-page 1997 book, *The Story of the Trademark Lawsuits*, $7.00+$1.50.)

Raphael Perez is the pastor of two small independent congregations in Florida. The name they selected by which to identify themselves was: *Eternal Gospel SDA Church and Eternal Gospel Church of Laymen Seventh-day Adventist.*

It is quite obvious that such an extended name does not in the least sound like *"Seventh-day Adventist Church."*

Yet the General Conference did not like the fact that there was a group in Florida calling itself *"Seventh-day Adventist,"* which was not in subjection to their authority.

So Vincent Ramik, the Roman Catholic attorney which has represented the General Conference in all its trademark lawsuits since their inception in the mid-1980s, wrote Perez a letter and told him to change the church name—and expunge from it the words, *"SDA"* and *"Seventh-day Adventist."*

For his part, Perez was quite busy holding meetings in his two Hispanic churches (one in West Palm Beach and the other many miles north in Orlando), and broadcasting in Spanish.

Because of the enthusiasm of the two churches, they were able not only to handle the financial load of the broadcasting,—but they also began placing full-page advertisements in various U.S. newspapers.

It was those ads which caught the attention of the General Conference. As we reported earlier, in recent years the General Conference has not had enough money to keep waging war in the trademark courts against small independent congregations, in attempts to put them out of business. The Hawaiian lawsuit alone cost the denomination over $6 million. (Robert Nixon, an in-house GC attorney admitted in writing—which we reprinted—that those expenses were paid from the tithe.)

So it appeared that no more trademark lawsuits were likely. However, because of the newspaper advertisements (which essentially consist of doctrinal studies), church leaders decided they must put a stop to this group.

After a couple letters were sent, on December 3, 1998, a lawsuit was filed in the U.S. District Court in Miami. By terms of the suit, Perez' attorney was required to appear on his behalf on December 23 at the federal courthouse.

Busy with all his activities, Perez managed to hire a trademark attorney who filed an appeal for a delay. A 30-day delay was granted by the court.

In the meantime, Perez met with his church board and voted to change the name of their church to one which was more lawsuit proof:

Eternal Gospel Independent Church of Seventh-day Adventists

Beneath it is this disclaimer:

Not affiliated with the Seventh-day Adventist denomination headquartered in Silver Spring, Maryland, or with any of <u>many</u> other independent Seventh-day Adventist Churches [underlining theirs].

The name has two outstanding qualities which were lacking in the names of earlier small congregations sued by the General Conference:

(1) *"Independent"*—With this word in the title, the church body clearly identifies itself as not connected with the Seventh-day Adventist Church—or any other Adventist or other organization.

(2) *"of Seventh-day Adventists"*—The special term, which Ellen White said we must ever identify ourselves by, has been retained (four statements: *1T 223-224, 2SM 384),*—yet the group is calling itself *"Seventh-day Adventists,"* not *"Seventh-day Adventist Church."* This is helpful in a suit. (The judge in the *Kinship Case* in Los Angeles ruled that people who are not members of the denomination, but consider themselves Adventists, can call themselves *"Seventh-day Adventists"*—but that the term *"Seventh-day Adventist Church"* was not being ruled on. The ruling declared that, to be able to call onself an Adventist, was a First Amendment right.)

In addition, the board voted to place the above disclaimer beneath the church name on all public papers, legal papers, and advertisements—and to notify the General Conference of all this. A typed, six-page letter to this effect was mailed to the General Conference on December 11.

The General Conference has already notified Perez' attorney that they must remove the word *"Adventist"* from their name.

Watch for further developments.

The General Conference is trying, not only to destroy the reputation of the one who once was their only remaining whistle blower, but they are also attempting to stamp out small, apparently helpless little groups who wish to express their faith and worship separately.

— vf