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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SPECIALIST DUSTIN CHALKER, and)
MILITARY RELIGIOUS FREEDOM)
FOUNDATION,)
)
Plaintiffs,)
)
vs.) Case 08-CV-2467 KHV/JPO
)
ROBERT GATES, SECRETARY,)
UNITED STATES DEPARTMENT OF DEFENSE,)
)
Defendant.)
_____)

AMENDED COMPLAINT FOR INJUNCTIVE RELIEF

I. Introduction

1. This is a constitutional common law/Bivens action whereby the plaintiffs seek to vindicate rights guaranteed by the Establishment Clause of the First Amendment and Article VI of the Constitution of the United States. The legal issue raised herein is whether the plaintiff, a member of the United States Army, may be required to attend military functions and/or formations that include sectarian Christian prayers.

II. Parties

2. Plaintiff Military Religious Freedom Foundation (MRFF) is a not-for-profit public interest organization that advocates, *inter alia*, that the military recognize and defend the rights of individuals to be free of compulsory religious practices. MRFF has supporters and members that include Plaintiff Dustin Chalker.

3. Plaintiff Specialist Dustin Chalker is an active duty member of the United States Army currently posted at Fort Riley, Kansas. Plaintiff Chalker is a resident of Geary County, Kansas.

4. Defendant Robert Gates is secretary of the United States Department of Defense and has responsibilities for the acts of his subordinates including members of the United States Army.

III. Jurisdiction

5. This case involves rights under the Constitution of the United States and jurisdiction is thereby vested in this court by 28 U.S.C. § 1331.

IV. Venue

6. Venue in this District Court is proper under 28 U.S.C. § 1391(e)(3).

V. Facts

7. Plaintiff Chalker is attached to a unit that is posted at Fort Riley, Kansas. Plaintiff Chalker has served in the United States Army since February 11, 2002. His active duty experience includes a deployment to Iraq. While deployed, plaintiff Chalker was awarded the Combat Medic Badge and the Purple Heart.

8. On May 16, 2008, plaintiff Chalker was required by his chain of command to attend a function described as a barbeque where a Christian sectarian prayer was delivered.

9. On February 7, 2008, plaintiff Chalker was required by his chain of command to attend a change of command ceremony at Fort Riley, Kansas. The change of command ceremony began and ended with a sectarian Christian prayer delivered by the battalion chaplain. Plaintiff has been required by his chain of command to attend other change of command ceremonies that included Christian sectarian prayers.

10. On December 5, 2007, plaintiff Chalker was required by his chain of command to attend a formation upon returning from Iraq where a Christian Sectarian prayer was delivered.

11. Plaintiff Chalker is an atheist and as such does not voluntarily participate in religious services, ceremonies or rituals that are conducted either on or around Fort Riley other military installations to which he is assigned. Plaintiff Chalker has sought relief from mandatory attendance at the subject functions/formations through his chain of command and the equal opportunity process. Neither has yielded satisfactory results.

12. Plaintiff Chalker has sought relief for his claims by invoking an intra-army administrative process. He has exhausted this alternative remedy but has obtained no substantial relief.

13. Plaintiff Chalker's status as an atheist has not caused diminished performance of his duties or the effectiveness of his or others' response to military command.

14. The requirement for plaintiff Dustin Chalker to attend military functions and formations where sectarian Christian prayers are delivered is evidence of a pattern and practice of constitutionally impermissible promotions of religious beliefs within the Department of Defense and the United States Army. Evidence of such patterns and practices includes, but is not limited to:

a) **Mandatory Attendance at U.S.A.F. Base Commander's Sectarian Call.** During March 2008, a program approved by Lt. Gen. Rod Bishop was presented at a commander's call at RAF Lakenheath, England. This commander's call was a mandatory function for an estimated 1,000 service members. The PowerPoint version presentation was emailed to an estimated 4,000-5,000 service members.

The "Spiritual Fitness" part of the presentation, given by Air Force Chaplain Capt. Christian Biscotti, was titled "A New Approach to Suicide Prevention: Developing Purpose-Driven Airmen." This presentation is just one example of the recent shift (since 2005) to basing suicide prevention programs on Christian teachings, the most often used being Rick Warren's "The Purpose Driven Life."

In some cases, including the Lakenheath presentation, creationism is also incorporated. One chart in the Lakenheath presentation, for example, presents "3 Levels of Purpose." For Category I, the "Purpose" is "God Given," the "Ideology" is "Religious," the "Motivation" is "The Love of God," and the example of a person who had this ideology is George Washington. The Category II "Purpose" is "Man Given," with "Philanthropy" as the ideology, "The Love of Man" as the motivation, with Karl Marx as the example. Category III is "Self Given" for purpose, "Humanism" for ideology, "The Love of Self" for motivation, and Charles Darwin as the example.

The slide ends with "Category I is the most beneficial, because if you love God (in a majority of world religions), you'll love man and yourself."

Another slide, titled "Contrasting Theories of Hope, 2 Ultimate Theories Explaining Our Existence," has two columns, the first titled "Chance," and the second "Design," comparing Charles Darwin and "Random/Chaos" to God and "Purpose/Design." Darwin, creationism, and religion are also part of a chart comparing the former Soviet Union to the United States, concluding that "Naturalism/Evolution/Atheism" leads to people being "in bondage" and having "no hope," while theism leads to "People of Freedom" and "People of hope/destiny." After several more slides like these, the presentation continues with a slide titled "Christian's Message," and a slide with an image of a man looking upwards with his hands outstretched and the caption "Please open up both of your hands to receive this powerful tool."

Thirty-four of the slides in the Lakenheath PowerPoint are taken up by Chaplain Biscotti's presentation. Only five slides are given to a presentation on financial information for Air Force personnel, and only six to Lt. Gen. Bishop's presentation on the base's mission and unit readiness.

b) **Religious Book Endorsements and Official Military Emblems on Religious Books.** *Under Orders: A Spiritual Handbook for Military Personnel*, a book by Army chaplain Lt. Col. William McCoy that not only promotes Christianity but insinuates that non-theists are deficient human beings, and that a soldier's lack of spirituality or religion can result in the failure of their unit, carries endorsements from Gen. David Petraeus and Maj. Gen. Mark Hertling, Commander, Multinational Division North, Iraq, on its cover. Gen. Petraeus's endorsement is: "Under Orders should be in every rucksack for those moments when Soldiers need spiritual energy," and Maj. Gen. Hertling's is: "Chaplain Bill McCoy's work is inspirational--it guides soldiers as they struggle with the questions surrounding their service and their faith...a great book for soldiers to read several times throughout their careers, because while the questions he poses will always remain the same, the answers will change with age, experience, and in a deepening conviction." In addition to the endorsements of these prominent officers, *Under Orders* also received a prestigious organizational U.S. military endorsement from the Command and General Staff College (CGSC) at Fort Leavenworth by being awarded the college's "Golden Pen Award."

So Help Me God: A Reflection on the Military Oath, a book

endorsed by Lt. Gen. Van Antwerp, the Commanding General of the Army Corps of Engineers, contains many statements saying, in one way or another, that if someone doesn't swear an oath to God, "they would no longer be bound by God to fulfill the constitutional requirements of the office or the law" making it "all too easy for them to decide that it was acceptable to circumvent the law," leading to "social anarchy and degeneration." Without an appeal to God "people can subscribe to oaths and vows with no intention of abiding by their terms."

So Help Me God, sold in the military PXs, sports all five official U.S. military branch seals on its cover. The official U.S. military seals also appear on a number of Bibles and other Christian books, including the Holman Military Bibles. The Holman Bibles, a different version of which is printed for each branch of the service, contain extraneous material promoting the Officers' Christian Fellowship (OCF), an organization of over 14,000 officers with chapters on virtually every U.S. military installation worldwide. The OCF's stated mission is to "create a spiritually transformed U.S. military, with Ambassadors for Christ in uniform, empowered by the Holy Spirit."

c) **Military Chapels in Iraq and Afghanistan.** Military chapel regulations prohibit the display of the symbols of any particular religion during times when religious services are not in progress. These regulations are ignored on U.S. military bases in Iraq and Afghanistan where numerous chapels have large crosses permanently affixed to their doors and walls, Christian stained glass windows, and other Christian displays that are not, or cannot be, removed when these buildings are used for services of other faiths or for non-religious purposes.

A photo on the Bagram Airfield website, for example, shows Lt. Gen. Roger Brady, Deputy Chief of Staff for Manpower and Personnel, addressing the Airmen of the 455th Air Expeditionary Wing at an all call in the Enduring Faith Chapel, Bagram Airfield, Afghanistan. Behind Lt. Gen. Brady at this mandatory briefing is an open Bible on the altar and a large cross on the wall.

d) **"Free Day Away" Program at Fort Leonard Wood, MO.** An "Event Description" basic training schedule from Fort Leonard Wood, last modified in April 2008, describes "Free Day Away," a program attended by all trainees during their fifth week of training, as follows:

"Soldiers spend the day away from Fort Leonard Wood and training in the town of Lebanon. Free Day Away is designed as a stress relief that helps soldiers return to training re-motivated and rejuvenated."

Omitted from this event description is that this day is actually spent at the Tabernacle Baptist Church, and includes a fundamentalist religious service. All facilities that the trainees are permitted to go to during this free time (a bowling alley, a convenience store, etc.) are owned by the church. Numerous soldiers have reported that they were unaware that this part of their "training" was run by a church until they were being loaded onto the church's buses that came to pick them up, and those who wanted to opt out of the church service once they were there were not permitted to.

In a promotional fund-raising video for the Free Day Away program, part of which was filmed at Fort Leonard Wood and part at the church, basic trainees are interviewed in uniform endorsing the program, in violation of the regulation prohibiting endorsement of a non-federal entity while in uniform.

e) **Army Officer Record Brief (ORB) and Air Force Single Unit Retrieval Format (SURF).** The ORB and the SURF are forms whose primary purpose is to provide information on the career history, education, and special skills of officers. The information contained in these forms is used for job placement, award nominations, applications to military training programs and colleges, etc. The religion of an officer should not be a factor in the career decisions for which these forms are used, yet the Army ORB now contains a block for the officer's religion, and the Air Force's SURF, a new electronic format implemented within the past year, also lists the officer's religion.

f) **Campus Crusade for Christ Military Ministry.** Campus Crusade for Christ (CCC) Military Ministry is a para-church ministry active at all of the largest U.S. military training installations, the service academies, and on ROTC campuses.

At Fort Jackson, the largest Army basic training installation, trainees attending CCC's "God's Basic Training" Bible studies are taught that by joining the military, they've become ministers of God. Fort Jackson is not the only place this is taught. Videos, such as one from CCC's Valor ROTC ministry, contain similar language, i.e. "when you join the military, you've really joined the ministry."

A Valor ministry video titled "God and the Military," originally released in 1997 by Nelson and Hudson Publishing, was re-released on DVD in 2005 for distribution by CCC's Military Ministry, and is currently included in the Military Ministry's "Chaplain's Boxes."

The speaker at the event was Tommy Nelson, Pastor, Denton Bible Church, Denton, TX. Nelson's audience for the filming consisted of Texas A&M cadets and an assortment of officers from the various branches of the military, ranging in rank from Lieutenant to Colonel, all appearing in uniform.

Nelson's presentation opens with the following: "I, a number of years ago, was speaking at the University of North Texas--it happens to be my alma mater, up in Denton, Texas--and I was speaking to an ROTC group up there and when I stepped in I said, 'It's good to be speaking to all you men and women who are in the ministry,' and they all kind of looked at me, and I think they wondered if maybe I had found the wrong room, or if they were in the wrong room, and I assured them that I was speaking to men and women in the ministry, these there were going to be future officers."

The stated mission of CCC's ministries for enlisted personnel is: "Evangelize and Disciple All Enlisted Members of the U.S. Military. Utilize Ministry at each basic training center and beyond. Transform our culture through the U.S. Military."

CCC states the following reason for targeting of basic training installations: "Young recruits are under great pressure as they enter the military at their initial training gateways. The demands of drill instructions push recruits and new cadets to the edge. This is why they are most open to the 'good news.' We target specific locations, like Lackland AFB and Fort Jackson, where large numbers of military members transition early in their career. These sites are excellent locations to pursue our strategic goals."

CCC also frequently states their goal of turning the U.S. military into a force of "government-paid missionaries for Christ." MRFF has compiled numerous examples, such as the two that follow, of the use of this phrase by CCC, and one instance by an Army chaplain speaking, in uniform, at the Dallas Theological Seminary, a school attended by many future military chaplains.

From CCC's Valor ROTC ministry, which has recently entered into a partnership with the with the Officer's

Christian Fellowship (OCF): "The Valor ROTC cadet and midshipman ministry reaches our future military leaders at their initial entry points on college campuses, helps them grow in their faith, then sends them to their first duty assignments throughout the world as 'government-paid missionaries for Christ.'"

In a CCC promotional video filmed at the U.S. Air Force Academy for the academy's "Cru" (short for crusade) program, which featured three Academy cadets and two chaplains, all in uniform, Scott Blum, CCC's director at the academy at the time of the filming, stated that by the time the cadets leave the academy, they are "government-paid missionaries."

g) **National Day of Prayer and Military Flyovers at Religious Events.** All of the following events were listed on the 2008 National Day of Prayer (NDP) Task Force website, meaning that their coordinators, some military and some civilian, agreed to the Task Force's "Statement of Belief" and policy, which prohibits non-Christian involvement in NDP events. In addition to about a dozen NDP Task Force approved events that took place on military installations, there was widespread military participation in church and community NDP Task Force events.

Military flyovers were scheduled for two NDP events in Washington state, one at the Calvary Chapel South ball field in Kent, WA, and the other at the Skagit County event in Mount Vernon, WA, provided by Whidbey Island Naval Station. Neither of these flyovers appears on the official eligible event lists put out by the various branches of the military.

Other examples of military participation in 2008 NDP events include the following: At the State Capitol NDP Prayer Rally in Tallahassee, FL, there was a display of military vehicles in the Capitol Courtyard. Marine Color guards appeared at the NDP Celebration in Bakersfield, CA and the Concert of Prayer in Wheeling, WV. The Niagara Falls Air Reserve Base Honor Guard was at the "Call to the Wall" in Wheatfield, NY. The Luke Air Force Base Honor Guard appeared at the NDP Noon Rally at the Phoenix, AZ. The Fort Huachuca Select Honor Guard appeared at the NDP Service in Patagonia, AZ.

h) **Flag Dipping at Annapolis.** The practice of dipping the American flag before the altar at the U.S. Naval Academy Chapel during the 11 a.m. Sunday Protestant service was stopped in October 2007 by the academy's superintendent, Vice Adm. Jeffrey L. Fowler, who considered it inappropriate. Vice Adm. Flower later reinstated the practice despite the fact that it violates Title 4, Chapter 1, Section 8, of the

U.S. Code, which states that the American flag "should not be dipped to any person or thing."

i) **Participation by Military Personnel in Religious Entertainment Productions and Events.** In July 2008, the Trinity Broadcasting Network (TBN) re-aired a Christian Fourth of July concert special starring Christian pop star Carmen. This was the third airing of this concert special since it was produced in 2003. The special, Carmen's "Red, White, and Blue Spectacular," features pre-taped interview segments and footage of uniformed, active duty military personnel, as well as the participation of uniformed military personnel in the concert itself. MRFF considers roughly twenty minutes of this two-hour special to be in violation of military regulations, the U.S. Code, and the U.S. Constitution.

On June 20, 2008, plaintiff MRFF sent a letter to Secretary of Defense Robert M. Gates demanding an investigation by the DoD Inspector General into the military participation in this special. MRFF cited seven specific segments of the special in this letter, including the opening number of the concert, "People of God." During the performance of this song, a military color guard, comprised of two American flags, along with the flags of the various branches of the military carried by members of their respective branches, enters via the aisles and proceeds to the stage, one American flag and two branch flags on each side. Both American flags are then dipped towards the center of the stage, in violation of Title 4, Chapter 1, Section 8, of the U.S. Code.

In his interview in the TBN concert special with Lt. Gen. Robert L. Van Antwerp (a major general at the time of the filming) appears in uniform. This interview, along with footage of basic trainees, was filmed at Fort Leonard Wood, the base that Lt. Gen. Van Antwerp commanded at the time. In the interview, Lt. Gen. Van Antwerp, introduced as past president of the Officers' Christian Fellowship (OCF), paraphrased the OCF mission, to "create a spiritually transformed U.S. military, with Ambassadors for Christ in uniform, empowered by the Holy Spirit."

In addition to the other violations specific to the concert special, Lt. Gen. Van Antwerp's endorsement of the OCF in his interview violated the same military regulations determined by the DoD Inspector General to have been violated by the U.S. military officers who appeared in the 2004 Campus Crusade for Christ Christian Embassy promotional video, i.e., JER Section 2635.702(b), "Appearance of governmental sanction"; JER Section 3-300.a. on personal participation in

non-federal entities; DoD Directive (DoDD) 1334.1, "Wearing of the Uniform"; Army Regulation (AR) 670-1, "Wear and Appearance of Army Uniforms and Insignia." (See July 20, 2007, DoD Inspector General's report, "Alleged Misconduct by DoD Officials Concerning Christian Embassy.")

Lt. Gen. Van Antwerp, who makes regular appearances at prayer breakfasts and OCF ROTC retreats, has also appeared at large scale events such as the 2003 "Mission San Diego" Billy Graham Crusade, at which he gave his Christian testimony, in uniform, before a crowd of tens of thousands. This event was also broadcast via the Armed Forces Network (AFN) to military personnel all over the world.

The Navigators, a para-church ministry active on many U.S. military bases, holds Summer Missions Programs in conjunction with Spirit West Coast, the largest Christian music festival in California. There are violations regarding military participation in these Christian music festivals, put on by an organization called Operation Worship, including that active duty military personnel are issued actual TDY (temporary duty) orders, arranged by the Navigators, to work at the festivals as volunteers.

On September 10, 2008, the Discovery Channel's Military Channel aired a two-hour program titled "God's Soldier," filmed at Forward Operating Base (FOB) McHenry in Hawijah, Iraq. According to the program's credits, it was "Produced with the full co-operation of the 2-27 Infantry Battalion 'Wolfhounds.'" The co-producer of "God's Soldier" was Jerusalem Productions, a British production company whose "primary aim is to increase understanding and knowledge of the Christian religion and to promote Christian values, via the broadcast media, to as wide an audience as possible." To fulfill its goal of getting non-Christians to watch Christian programming, the company "focuses on those programmes which are broadcast outside designated religious slots and which appeal to an audience which does not necessarily have an active Christian commitment." The program was deceptively advertised as being about "a group of U.S. Army Chaplains from different faiths on a tour of duty in Iraq." There was no "group" of Chaplains or representation of different faiths in this program. The entire two-hour program was about one evangelical Christian chaplain, Capt. Charles Popov. Bible verse text captions, such as "I did not come to bring peace, but the sword" and "Put on the full armor of God so that when the day of evil comes, you may stand your ground," appear between segments, and various violations of military regulations, including the violation of Army chapel regulations and inappropriate promotions of Christianity to

U.S. military personnel, are seen throughout the program. The program also shows the chaplain describing his plan to have the unit's Iraqi Muslim interpreters participate in a nativity pageant at Christmas.

j. **The Army "Strong Bonds" Program.** The present U.S. Government funded Strong Bonds program replaced a decade old, proven program called Building Strong and Ready Families (BSRF), which was a collaboration between the Army Public Health Nurse Corps and the Chaplain Corps. Strong Bonds is now primarily an evangelistic Christian program operating under the guise of a pre-deployment and post-deployment family wellness and marriage training program. Strong Bonds eliminated the physical and mental health education aspects that were a large part of BSRF, creating a chaplain run program consisting almost exclusively of Christian religious retreats. These retreats are typically held at ski lodges, beach resorts, and other attractive vacation spots.

The materials authorized by the Army for Strong Bonds are not religious. However, these authorized materials are only required to be used for a minimal number of the training hours, leaving the remaining mandatory training hours open for other materials selected by the chaplains. In some cases, the authorized materials are completely eliminated, and the retreats are overtly Christian. In other cases, the Prevention and Relationship Enhancement Program (PREP), a secular program on the list of materials authorized for Strong Bonds, is being replaced by chaplains with CPREP, the Christian version of this program.

At a "Strong Bonds" program in Orlando, Florida from February 29, 2008, to March 2, 2008, the following material was distributed to attendees:

1) A camouflage box, titled, "Every Soldier's Battle Kit," and imprinted with the name, New Life Ministries, their phone number, website (<http://www.newlife.com/>), and phrase, "Fighting the battle within." The box contained:

* A Bible, titled, "The Life Recovery Bible;" and four volumes by Shannon Ethridge (website <http://www.shannonethridge.com/>)

* "Every Woman, Every Day," (365 Christian readings and sermons about "sexual purity");

* "Every Woman's Battle," (a book of Christian sermons, and Bible verses to "Discover God's plan for sexual and emotional fulfillment.");

* "Every Woman's Battle Promise Book," (a "daily devotional" of Bible verses to support the reader in a quest for "sexual integrity");

2) "The Five Love Languages," by Pastor Gary Chapman (<http://www.garychapman.org/bio.htm>). "The Five Love Languages" formed the core of the Saturday portion of the Strong Bonds training. The theme of Love Languages is that couples have different communication styles and need to learn each other's style to improve their relationship. The book contains references to Jesus and Bible verses.

* During Strong Bonds, videos were shown of Gary Chapman in which he quoted Bible verses and encouraged the audience to "Love your partner like Jesus loved the church." Chaplain Johnson and Chaplain Kirk repeated that same expression multiple times during Strong Bonds. The Love Languages website, <http://www.fivelovelanguages.com/> describes Gary Chapman as "the leading author in biblical marriage counseling" and states that Chapman's message is that "to enjoy the marriage you have always wanted, we have to be the person Jesus has always wanted us to be."

3) "The Thrill of the Chaste," by Dawn Eden. The author is described on the back cover as "Jewish-born" and throughout the book as a "former agnostic Jew." The book describes in detail how she led a highly promiscuous lifestyle until she had a "born again experience" and "realized for the first time ... that [Jesus] is truly God's son." The book is filled (almost every page) with Bible verses and with the author proselytizing Christianity. Chaplain Johnson recommended the book multiple times during the training.

DoD contracts also show frequent hiring of Christian entertainers and speakers for Strong Bonds retreats.

In March 2007, for example, Fort Wainwright contracted, at a cost of \$38,269, an organization called Unlimited Potential, Inc. to provide "social services" for a Strong Bonds retreat. Unlimited Potential, Inc., is an evangelical baseball ministry with a military ministry whose mission is: "To assist commanders and chaplains in providing religious support to military service members and their families by sharing the life-changing Gospel of Jesus Christ through the medium of baseball..." and "to use our God-given abilities in

baseball to reach those who do not have a personal relationship with Jesus Christ, and to also encourage and challenge those who do." This same ministry has been "Serving Christ Through Baseball" at a number of other Army bases in the United States, including Fort Bragg, Fort Benning, and Fort Drum, as well as many bases overseas.

k) **Anti-Muslim Presentations at U.S. Military Academies, Colleges and Bases.** Anti-Muslim activists, whose credibility as experts in their fields has long been questioned by both the academics and terrorism experts, have been invited to lecture on the subject of terrorism at U.S. Military academies and colleges.

In February, 2008, a group calling itself the "3 ex-Terrorists" appeared at the U.S. Air Force Academy's 50th Annual Academy Assembly, on the topic "Dismantling Terrorism: Developing Actionable Solutions for Today's Plague of Violence." The three members of this group, Walid Shoebat, Zachariah Anani, and Kamal Saleem, all claim to have been Islamic terrorists before converting to evangelical Christianity. Attendance was mandatory for some cadets. The presentations were virulently anti-Muslim screeds during which Christianity is promoted.

In June 2007, Brigitte Gabriel, author of *Because They Hate*, delivered a lecture at the Joint Forces Staff College (JFSC). During this lecture, which was part of the JFSC's Islam elective, Gabriel said, among other things, that American Muslims should not be allowed to hold public office because the Koran tells them to lie, making their oaths of office meaningless, and that American Muslims "are good at nothing but complaining about every single thing." She also instructed the students to call the F.B.I. if they saw a mosque being built in their community, and included derogatory comments such as referring to Dearborn, Michigan as "Dearbornistan" because of the city's large Muslim community. One of the students subjected to these insulting comments was a Muslim American who had been serving in the U.S. Army for sixteen years.

Both Brigitte Gabriel and Walid Shoebat appeared in the 2005 anti-Muslim documentary *Obsession: Radical Islam's War Against the West*. This documentary has been used by the Department of the Navy, and has also been shown at U.S. Army training events. A 2008 presidential campaign edition of this documentary was distributed via DVDs inserted in major newspapers and through the mail to millions of voters in "swing" states, carried the endorsement of Jeffrey H. Norwitz, Professor, U.S. Naval War College, on its packaging.

1) **2008 Army Suicide Prevention Presentation and Manual** The 2008 Army Suicide Prevention Manual, the instruction manual for presenting the Army's "Suicide Awareness for Soldiers 2008" PowerPoint, promotes religion over no religion, Christianity over other religions, and instructs both chaplains and behavioral health providers to promote "religiosity" as a necessary element of suicide prevention. The manual, which recommends that the presenters of the PowerPoint be chaplains, senior NCO chaplain assistants, or behavioral health providers, states that "Chaplains also need to openly advocate behavioral health as a resource," but then adds that "Behavioral health providers need to openly advocate spirituality and religiosity as resiliency factors."

Each slide of the PowerPoint presentation has a script that includes "Talking Points" labeled "General," "Spiritual," and "Behavioral Health." The "spirituality" and "religiosity" parts of this presentation are a new addition in the 2008 version, created by Army Chaplain (LTC) Orman "Wayne" Boyd. They did not appear in the 2007 version.

The spiritual talking point for slide 1 of the presentation, addressing failed relationships as a cause of suicide, is: "Spirituality looks outside of oneself for meaning and provides resiliency for failures in life experiences. Religiosity adds the dimension of a supportive community to help one deal with crises. Both embed themselves in a relationship with God, or a higher power, that provides an everlasting relationship. Bottom line, Soldiers should not base their reason for living in another human being!"

Spiritual talking points for the next three slides are: "Connectivity to the Divine is fundamental to developing resiliency that allows one to deal with disappointments," "Emphasize the importance of spiritual health, connectivity with a faith community, and a relationship with God," and, for a slide that follows a DVD of former football star Terry Bradshaw talking about his battle with depression, "Terry is very open about his faith in God and his relationship with his church. Spirituality is an invaluable ingredient in his battle with this disease."

The talking point for slide 5 is: "Soldiers need to take care of each other and rid any thoughts of survival of the fittest. Almost all religions adhere to some form of Christianity's Golden Rule, or the Categorical Imperative of Immanuel Kant." The script for this slide then gives examples of statements from some other religions that are similar to

Christianity's Golden Rule, but the image on the slide shown at this point depicts a group of silhouetted soldiers with one soldier up in the clouds looking at a large Christian cross. (This same image appears in the 2007 presentation, but without the soldier and cross in the sky. This Christian imagery was apparently added to the image for the 2008 presentation.)

In the script for one of the presentation's last slides, the presenter is instructed to have the audience adopt a word rooted in Christian scripture as a "motto or mantra." The talking point for that slide is: "Emphasize the phrase 'that you persevere, that you stay alive.' This is from a Greek word 'Hupomeno' which is used in Christian scriptures, particularly in the Pauline epistles. It is also used by James, the bishop of Jerusalem, as Jerusalem was in devastation and about to be destroyed. He wanted all Christians, despite the persecutions and violent times, to not lose hope, to keep on enduring. Encourage the audience to repeat this word and use it as a motto or mantra when in difficult times."

This presentation is not only an unconstitutional promotion of Christianity for the soldiers who are mandated to attend it, but for the behavioral health providers and non-Christian chaplains who must present it.

m) **Proselytizing to Muslims in Iraq and Afghanistan**

Numerous detailed accounts of U.S. military personnel proselytizing to Iraqis and Afghans, in direct violation of CENTCOM General Order 1-A, can be found in the publications of various missionary and chaplains' organizations.

Chief Warrant Officer Rene Llanos of the 101st Airborne Division, referring to a special military edition of a Bible study daily devotional published and donated by Bible Pathways Ministries, told *Mission Network News* that "the soldiers who are patrolling and walking the streets are taking along this copy, and they're using it to minister to the local residents," and that his "division is also getting ready to head toward Afghanistan, so there will be copies heading out with the soldiers. "The soldiers are being placed in strategic places with a purpose. They're continuing to spread the Word." The devotional book referred to by CWO Llanos carries official DoD seals on its cover.

Army chaplain Capt. Steve Mickel stated in the newsletter of the International Ministerial Fellowship that he was evangelizing local Iraqis while passing out food in the predominantly Sunni village of Ad Dawr. Capt. Mickel was

clearly aware of the U.S. postal service restrictions on shipping non-Islamic religious materials to military personnel, restrictions put in place to prevent exactly what he was doing, stating, "I am able to give them tracts on how to be saved, printed in Arabic. I wish I had enough Arabic Bibles to give them as well. The issue of mailing Arabic Bibles into Iraq from the U.S. is difficult (given the current postal regulations prohibiting all religious materials contrary to Islam except for personal use of the soldiers)."

The involvement and aid of U.S. military personnel in the evangelizing of Muslims is also documented in television programs produced with the assistance of the military.

"Travel the Road," a popular Christian reality TV series produced by the Trinity Broadcasting Network (TBN), follows the travels of Will Decker and Tim Scott, two "extreme" missionaries as they circle the world fulfilling their mission to "Preach the Gospel to the ends of the earth and encourage the church to be active in the Great Commission." Season 2 of this series ended with three episodes filmed in Afghanistan. For these episodes, the missionaries were permitted to be embedded with U.S. troops. They stayed on U.S. military bases, traveled with a public affairs unit, and accompanied and filmed troops on patrols -- all for the purposes of evangelizing Afghans and producing a television show promoting the Christian religion, including the distribution to Afghan Muslims of New Testaments in the Dari language. In addition to violating CENTCOM General Order 1-A by its facilitation and support of the proselytizing activities of the missionaries, the mere participation by the U.S. Army in the production of this program was contrary to both DoD Public Affairs regulations on military participation in entertainment productions and CENTCOM policies on embeds.

n) **Official Air Force Sponsorship of Evangelical Christian Motocross Ministry** "Team Faith," an evangelical Christian Freestyle Motocross (FMX) ministry, which performs stunt shows at high profile, televised motocross events such as the Toyota AMA Arenacross Series, was officially sponsored by the U.S. Air Force as of 2007. The team's uniforms displayed a logo which was a combination of the U.S. Air Force and Team Faith logos, and the U.S. Air Force logos was also displayed on their motorcycles and ramps. Members of Team Faith, whose mission is "to infiltrate professional racing circuits and other Action Sports events all over the US and Canada" in order to "lead extreme sports athletes to Christ and disciple them so that they will in-turn, lead others involved in or interested in the sport to Christ,"

give their Christian testimony during their performances and travel with "pit pastors" who proselytize to the members of other teams. Air Force sponsorship of this evangelical Christian team was widely publicized on the internet and in motocross magazines.

o) **Anti-Muslim article by Member of Extremist Organization Published in U.S. Air Force Journal** The Fall 2008 issue of the *Air & Space Power Journal* included an article titled "Know Your Enemy," which asserted that the Muslim religion itself is responsible for terrorism, selectively quoting passages from the Qur'an, with commentary added to portray Islamic theology as inherently violent.

The *Air and Space Power Journal* is a quarterly publication described as "the professional flagship publication of the United States Air Force," and carrying the logos of the Department of the Air Force, the Air Education Training Command, and the Air University at Maxwell Air Force Base, and is available on the Maxwell Air Force Base website.

The *Air & Space Power Journal* identified the author of "Know Your Enemy," Col. Thomas E. Snodgrass, USAF (ret.), as the "director, Military Intelligence and Strategy, Society of Americans for National Existence."

The Society of Americans for National Existence (SANE) is an anti-Muslim, white and Christian supremacist organization that emphasizes that the success of the United States was the result of its founding and development by white Protestants. SANE is an extremist organization that has published its own "War Manifesto."

The following are quotes from the SANE website:

"The Society of Americans for National Existence or SANE is what its name declares: a society of sane Americans dedicated to preserving and strengthening America's national existence. By national existence we mean what you normally mean when speaking of such matters. America is a unique people bound together through a commitment to America's Judeo-Christian moral foundation and to an enduring faith and trust in G-d and in His Providence. America's founding, and its greatness was neither accident nor staging ground for some better existence or world state. America was the handiwork of faithful Christians, mostly men, and almost entirely white, who ventured from Europe to create a nation in their image of a country existing as free men under G-d. This constellation of forces existed no where else in the world and resulted in a unique people and nation."

"With the SANE War Manifesto, we need not target all or even any substantial number of the world's Shariah-faithful Muslims. Instead, we target their leadership, their command-and-control centers, and their infrastructure. Will many of them be killed in the war? Of course, and it is intended to be so. Otherwise we can never expect to be victorious. Shariah-adherent Muslims will certainly never abandon historical and traditional Shari'a easily. But given sustained and determined separate-quarantine-search-and-destroy operations, Muslims will have the choice: either reform your own societies or forever be rebuilding them while burying your dead."

"But there is one guiding principle at work in all of this. Any world view, ideology, or -ism that promotes directly or indirectly the elimination of national existence and the establishment of a world state is our foe. So you can know at the start that liberalism (and this includes libertarianism) and Islam are in our sights."

p) **Endorsements of Non-Federal Entities and Promotion of Religious Products by Military Personnel** The following are three separate examples of endorsements by military officers, Chaplains Maj. Todd Kepley, Maj. Oscar Arauco, and LCDR Brian K. Waite, in violation of DoD regulations. Each appeared on video in uniform to endorse a non-federal entity and/or product.

On at least two occasions, the most recent being September 14, 2008, a mass email was sent out to Newsmax.com subscribers on behalf of their sponsor, Campus Crusade for Christ's (CCC) Military Ministry. The purpose of the email, with the subject line "Help Give Bibles to Our Troops," was to solicit donations for Campus Crusade's "Rapid Deployment Kits," which contain a pocket-sized New Testament, a daily devotional, and an evangelistic booklet. The Newsmax.com email contains a photo, copyrighted by CCC, of a uniformed Naval officer handing Bibles to enlisted personnel. A link in the email leads to a webpage containing a Campus Crusade promotional video for the Rapid Deployment Kits. An Army chaplain, Capt. Todd Kepley, (recently promoted to major), appears in uniform in this promotional video, in clear violation the DoD regulation prohibiting the endorsement of a non-federal entity while in uniform.

Maj. Oscar Arauco, Joint Operations Chaplain, Multi-National Corp-Iraq, was interviewed in uniform on video by In Touch Ministries about their new product for our troops, a handheld, solar-powered audio device called the "In Touch

Messenger." The Messenger, launched on Memorial Day weekend 2007, contains 35 sermons from In Touch Ministries founder Dr. Charles Stanley. When asked by the interviewer what his prayer request for the troops would be, Maj. Arauco began his answer, "I would pray that every service member and civilian here would grow closer in a relationship with Jesus Christ. For some folks -- they don't have a clue -- and they'll move a little closer and maybe one day come to Christ." When asked if he was familiar with the teachings of Dr. Stanley, Maj. Arauco said that he was. Dr. Stanley's teachings include many statements on the current wars in Iraq and Afghanistan being opportunities for evangelism, such as: "God has divine reasons for choosing to use war as a vehicle to accomplish His will," and "American foreign policy and military might have opened an opportunity for the Gospel in the land of Abraham, Isaac and Jacob." According to the In Touch Ministries website, 50,000 Messengers have already been sent to U.S. troops, and another 30,000 are on the way. The Messenger is also now being produced in several foreign languages -- including Arabic.

Navy Chaplain LCDR Brian K. Waite has habitually violated DoD regulations endorsing non-federal entities in uniform by his endorsements of Revival Fires Ministries. In late 2007, an investigation of LCDR Waite also revealed that his educational credentials consisted primarily of diploma mill degrees, that he had written a virulently anti-Muslim book in 2002, which was pulled off the market when it was revealed that much of its content was plagiarized and that Waite had faked two of the endorsements on its back cover. The exposure of Waite's Anti-Muslim writings and plagiarism led to the immediate removal of Waite from the Graduate Theological Foundation, a civilian institution where he was the director of a doctoral program in military ministry, instituted at the request of the Navy, but no action against LCDR Waite by the Navy.

Chaplain Waite has a very close association with Revival Fires Ministries and its founder, Dr. Cecil Todd, who clearly holds the same anti-Muslim views expressed by Waite in his book. Waite has appeared in uniform at the ministry's campmeetings for the past three years. Waite's photo and endorsement also currently appear on the ministry website of Cecil Todd's son, Tim Todd, recently appearing next to the younger Todd's statement: "We must let the Muslims, the Hare Krishna's, the Hindu's, the Buddhist's and all other cults and false religions know, 'You are welcome to live in America...but this is a Christian nation...this is God's country! If you don't like our emphasis on Christ, prayer and the Holy Bible, you are free to leave anytime!'" Another statement on

this same page falsely stated that "Our government no longer provides Bibles for our troops! Because of the foolish 'separation of church and state' battle going on in this country, our military stopped this years ago. However, the U.S. military does give a copy of the Koran to all of our soldiers so they can 'know their enemy.' I say we need to give our soldiers a copy of the Bible so they can 'know their savior!!!'"

A video of the most recent Revival Fires campmeeting, held in June 2008 in Branson, Missouri, at which Chaplain Waite appeared in uniform as a featured speaker, was not only religious, but political, including an anti-Muslim sermon titled "America's Worst Nightmare," delivered by Cecil Todd, in which, among other things, then presidential candidate Barack Obama was portrayed as an Islamic terrorist sympathizer. LCDR Waite's photo and endorsement appear on the same Revival Fires website that contained similar sermons containing statements such as "Now -- GOD FORBID -- We have one of our Presidential candidates who was raised a Muslim ... he was trained in a Muslim school -- he will rarely (if ever!) pledge to our flag if he can avoid it," and "Why is Obama pushing so hard to bring our troops home? Why is that so important to him and his supporters? I believe I know why ... the evidence is in, I believe OBAMA IS STILL A MUSLIM IN HIS HEART! He doesn't want his Muslim brothers and sisters killed! In my opinion -- Barack 'Hussein' Obama is posing as a Christian to get your vote!"

Also at issue is the relationship between Revival Fires Ministries and the Pentagon itself. According to a press release from the ministry, Revival Fires, "at the request of the Chief Chaplains of the Pentagon," has been shipping Bibles to Iraq, via military airlift, since 2003, describing the Bible, which carries on its cover the official logos of all branches of the military, as having been "designed and authorized by the Chief Chaplains of the Pentagon." In a recent news item posted on the Revival Fires website about the ministry's "Yellow-Ribbon Rallies," events to raise money for Bibles for the military, Cecil Todd described himself as being "on assignment from the Pentagon," and again stated that the relationship between Revival Fires and the Pentagon was initiated by the Pentagon. In November 2008, MRFF sent a letter to the Secretary of Defense demanding that the DoD Inspector General promptly initiate an investigation into the background and activities of LCDR Waite, and that any existing association between the U.S. military and Revival Fires Ministries be immediately terminated.

p) Constitutionally impermissible support for religious organizations within the military, and those organized by and comprised of members of the military, such as Officers Christian Fellowship and CREDO Spiritual Fitness Divisions, and Military Ministry;

q) Constitutionally impermissible support for private religious organizations that are granted access to military installations, some of which are under DoD contract. These organizations include Military Ministry, Cadence Ministries, Malachi Ministries and Military Community Youth Ministries;

r) Constitutionally impermissible support for official endorsement of private religious organizations by members of the military and/or the Department of Defense. Endorsed organizations include: Christian Embassy, Operation Straight Up, and H.O.P.E. Ministries International;

s) Constitutionally impermissible support for blatant displays of religious symbolism on military garb, fighter aircraft and squadron buildings by the U.S. Air Force 523rd Fighter Squadron;

t) Constitutionally impermissible support for placement of a biblical quotation above the door of the Air and Space Basic Course classroom at Maxwell Air Force Base;

u) Constitutionally impermissible support for illegal use of official military e-mail accounts to send e-mails containing religious rhetoric;

v) Failure of military chain of command and/or EO system to adequately address complaints of constitutionally impermissible promotions of religion. MRFF has received a number of well-documented reports from service members who have unsuccessfully attempted to resolve these issues through their command's EO office and/or Inspector General;

VI. Causes of Action

15. The requirement of the plaintiff Chalker to attend military functions and formations where sectarian Christian prayers are delivered was and is contrary to clearly establish law and has the effect of denying plaintiff Chalker his constitutional

right to be free of sectarian religious practices as guaranteed by the Establishment Clause of the First Amendment. U.S. CONST. Amendment I.

16. Plaintiff Chalker, as an active duty member of the United States Army, has been constructively required by the mandatory attendance at functions/festivities to submit to a religious test as a qualification for his duty as a soldier in the United States Army. Such a test violates plaintiff Chalker's rights under Article 6, Clause 3, of the United States Constitution. U.S. CONST., Article VI, cl. 3.

VII. Remedies

17. Plaintiffs seek an injunction prohibiting the United States Department of Defense and its civilian and military personnel from interfering with the rights of plaintiff Chalker and those similarly situated to be free of compulsory religious practices and to be free of imposition of a religious test.

18. The injunctive relief would specifically prohibit mandatory attendance by plaintiff Chalker and those similarly situated at military functions/formations that include a sectarian prayer.

WHEREFORE, plaintiffs seek injunctive relief as specified above and such other relief as this Court deems appropriate under the circumstances.

Respectfully submitted,

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By: /s/ Robert V. Eye

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Attorneys for Plaintiffs

DESIGNATION OF PLACE OF TRIAL

Plaintiffs designate Kansas City, Kansas as the place of trial of this action.

By: /s/ Robert V. Eye
Robert V. Eye, #10689