

The Folkenberg Fraud Lawsuit:

Robert Folkenberg's Resignation

Second Update

PART ONE OF THREE

A few days ago, we published a four-tract report on this strange development (*The Folkenberg Fraud Lawsuit Part 1-4 [WM_853-856]*).

It dealt with events from the early 1970s, on down to Monday, January 25, 1999. News of this week's high-level committee meetings had not been revealed in the conclusion of that tract set.

Here is additional news which has come to light in this ongoing crisis, in the following several days covered by the present report.

Subhead dates refer to the date of writing, not the timing of events.

Tuesday, January 26, 1999

You will recall that 85% of an \$8 million promissory note turned over to Robert Folkenberg, president of the General Conference, by James Moore, a Sacramento-based land developer, was supposed to have been issued by him to a California-based Catholic organization, *Vicariatus Urbis Foundation* (VUF), in which Moore was involved.

An additional 15% was to be assigned to *Sharing International of Tennessee* (SIT).

Moore later discovered that Folkenberg had not carried out either transfer. The 85% was unaccounted for, and the 15% had been given to the bankruptcy estate of someone named Robert Dolan. These omissions had occurred without informing Moore. In

other words, according to him, he had been robbed of 100% of the \$8 million promissory note. This loss is the basis of Moore's lawsuit. He wants to recover that money.

We have learned more about *Sharing International of Tennessee* (SIT), the nonprofit charitable organization which Folkenberg was involved in.

Someone tried to track down SIT and found that it apparently exists in name only. Although it is registered in Tennessee State, it has no genuine address! Although supposed to be located in

a professional building in Madison, Tennessee, it is not really there. Upon inquiry, it was discovered that SIT used that building as its address, but that it had no office there.

Most recently, SIT's registered Tennessee agent was a man named R.H. Pursell. Further investigation revealed that SIT was chartered in the state from 1974 to 1985, and then renewed in 1987. Its charter expired at the end of 1998, without being renewed.

In 1989, the president of SIT was Robert Folkenberg; Terry Carson was its secretary; and Duane McBride was the treasurer.

In 1990, Folkenberg was elected General Conference president, and Ben Kochenower became SIT president. This explains why Kochenower is listed as one of the defendants on Moore's lawsuit.

According to a General Conference press release, Walter Carson, Folkenberg's close friend and adviser (and an in-house General Conference attorney), has served as a director and legal counsel for SIT.

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It is only because of its extreme historical importance, that we are giving so much detailed attention to this matter. Earlier this week, we prepared a special mailing (*The Folkenberg Fraud Lawsuit [WM_853-856]*), and it is now going out in the mail. This present report will go out in a second special mailing next week. So, as you can see, we have done our best to provide you with a rather full report on this entire crisis.

This present two-part tract set will primarily deal with news received from Monday, January 25, through Friday, January 29, 1999. It appears that there may not be much more significant news until Spring Council, which will convene on March 1.

We have also learned that, not only the *Los Angeles Times* published a story on this case on Sabbath, January 23, but the *Washington Post* and *Sacramento* (California) *Bee* did also. So two

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major newspapers in America, as well as others, have already begun reporting on this.

In addition, a brief Associated Press report was printed in many newspapers on the following day, Sunday, January 24. Here is the news clip in its entirety. Notice that the focus of the meetings is said to be President Folkenberg's business transactions.

"Adventist Chief Facing Probe on Finances, Silver Spring Maryland Leaders of the Seventh-day Adventist Church will hold a special meeting next Monday to examine allegations of improper business transactions by the church president, Robert Folkenberg.

"The committee of 20 church leaders from around the world is scheduled to meet at the Dulles International Airport Marriott Hotel in northern Virginia to review the allegations.

"Folkenberg could not be reached for comment. But his attorney, Joe Reeder, said Folkenberg had requested the meeting.

"Officials of the denomination, which is headquartered here, declined Friday to provide details of the questionable transactions. They came to light after a former business partner of Folkenberg sued him and the church.

"The lawsuit alleged that Folkenberg and others had violated the terms of a business agreement with James E. Moore." *Associated Press release, Sunday, January 24, 1999.*

Although the General Conference is named in the suit, it is not clear whether the church had anything to do with the matter. (From what we earlier published, it appears, of all the General Conference workers, the problem may solely implicate Folkenberg and his associate, Walter Carson, an in-house attorney.)

"Niels-Erik Andreasen . . . said the allegations against Folkenberg `did involve business transactions to some degree, but it is not clear if they involved church funds.'" *Washington Post, January 23, 1999.*

We have learned that the members of the special, small committee (called the ad hoc [*Latin, special purpose*] group or committee), numbering 20 men, plus Robert Nixon, a General Conference in-house attorney, arrived for the 8:30 a.m. meeting at Marriott Hotel with no identification badges. Each one had to provide personal identification to hotel employees in order to enter the meeting room, "Salon D." [The public press had earlier erroneously called it "Salon E."]

The ad hoc committee includes some laypersons, and will meet on Monday and Tuesday; it,

then, will present its findings to the leaders from the world divisions on Wednesday.

"According to an internal church document, the `Special Ad Hoc Group' will spend two days reviewing church-related issues pertaining to the allegations.

"If the [ad hoc] committee, which includes both laity and clergy of the 10 million-member church, determines that the allegations warrant further action, it will make recommendations Wednesday to the church's top governing body." *Washington Post, January 23, 1999.*

This special committee includes at least three people from outside the U.S.

"The special committee, with at least three members from other countries, is charged with examining Folkenberg's ties with Moore and determining what, if anything, should be done about them." *Washington Post, January 26, 1999.*

Neal C. Wilson will not be on that smaller committee.

"A former president of the church, Neal Wilson of Silver Spring, is not on the special committee, but he will be among those at the larger meeting tomorrow [Wednesday]." *Washington Post, January 26, 1999.*

Late Monday, in one interview, Neal C. Wilson said, "There was very little discussion today. Today's [Monday's] business consisted mostly of briefing the committee members on the background of the case," and Folkenberg gave a "reasonably extended statement" of his position on the matter.

Wilson added that the next day (Tuesday), the committee would evaluate the matter, without Folkenberg or any attorneys being present.

So this means both Joe Reeder (Folkenberg's attorney) and Phil Hiroshima (General Conference investigative attorney) made presentations on Monday.

The *Washington Post* article also indicates this.

"On the first day of a two-day inquiry, a special committee of 20 top church officials . . . questioned President Robert S. Folkenberg, who was accompanied by his attorney, said church spokesman Ray Dabrowski." *Washington Post, January 26, 1999.*

We are told that the ad hoc committee was especially concerned about facts which were discovered, after the lawsuit was filed, about Folkenberg's personal dealings.

"Church spokesman Ray Dabrowski said the ad hoc group . . . is going to address or look at

certain aspects that have transpired in the wake of the lawsuit in California . . .

"After the lawsuit was filed, attorneys for the church learned about other allegedly improper business transactions by Folkenberg, according to a church source.

"It is these newer allegations, 'outside the lawsuit,' that are the focus of the committee's review, spokesman Dabrowski said." *Washington Post, January 23, 1999.*

Tomorrow (Wednesday, January 27), the ad hoc committee will present its findings to a meeting of the General Conference Committee, which will include many church leaders from all over the world field. It is known that all division presidents were invited to attend, as well as some other high-placed officials.

Today's edition of the *Washington Post* provides several additional insights into the case:

"Senior officials of the Silver Spring-based Seventh-day Adventist Church yesterday began their inquiry into allegations that the denomination's president maintained improper business contacts with a California businessman after the church had cut ties with him." *Washington Post, January 26, 1999.*

According to the following statement, a fairly reliable report will be given on Wednesday to the General Conference committee by the ad hoc committee:

"The church is giving [the committee members] a lot of freedom and leeway because we'd like them to be independent and to be seen as independent,' said another spokesman, Kermit L. Netteburg." *Washington Post, January 26, 1999.*

The following is revealing, for it shows that church leaders are well-aware of the serious nature of the problem.

"The investigation was set off by the recent discovery of 'a wide variety of documents' that raised questions about Folkenberg's business activities with Sacramento businessman James E. Moore, according to Netteburg.

"The documents came to light as the church was preparing to defend itself in a lawsuit filed by Moore, who alleged that the church, Folkenberg and others had reneged on a 1993 business deal. Top church leaders also learned that Moore had taped telephone conversations between himself and Folkenberg." *Washington Post, January 26, 1999.*

In an interview, Neal C. Wilson said that Folkenberg may decide to resign; but that, according to the current General Conference Constitution, he cannot be forced to resign.

"Reached late Sunday, Wilson said it was too early to know whether Folkenberg should resign.

"Certainly, we'll be looking into it much more carefully and seeing whether, under the circumstances, he has the support and the moral strength to continue to serve the church effectively,' Wilson said." *Washington Post, January 26, 1999.*

Whether or not Folkenberg can be forced to resign (that is, fired) by the full General Conference Committee, when it meets next time (this spring), is a key point.

Upon checking, I just found this in the *General Conference Constitution*, "as revised at the 56th Session held in Utrecht, the Netherlands, June 29 to July 8, 1995" under *Article XIII: Executive Committee*:

"b. The Executive Committee shall also have power to grant or withdraw credentials or licenses, to approve committees, and to employ personnel that may be necessary to execute its work effectively.

"c. The Executive Committee shall have power to effect the retirement, before the expiration of the term for which they have been elected, of persons elected under Article V., sec. 1., of the Constitution who may develop a health condition that prevents them from properly discharging their duties.

"d. The removal from office by the Executive Committee of any person elected under Article V., Sec. 1., of the Constitution or its withdrawal of credentials or licenses shall be by a two-thirds vote of the members present and voting at any regular meeting.

"e. The Executive Committee shall have the power to remove, for cause, members from the Executive Committee or any committee for which it is responsible by a two-thirds vote of the members present and voting at any regular meeting." *General Conference Constitution, Article XIII, Sec. b-e.*

So that clarifies that point. The full Executive Committee (also called the General Conference Committee) normally only meets twice a year, in the spring (March and sometimes April) and in the fall (October and sometimes November).

The General Conference has released a statement that "all counsel [all the defense attorneys] consider the case against the church entities to be frivolous and without merit." That is worded in an interesting way: "the case *against the church* . . . frivolous and without merit." That is not saying that there is not a case against the individuals, including Folkenberg and Carson.

"He [Wilson] said church officials do not believe that any church funds were used improperly by Folkenberg. 'These are not denominational funds [which Moore is suing about], that we know,' Wilson said.

"But, added, after Folkenberg became church president in 1990, he 'should have known better [than] to continue discussions with a man he already knew was unreliable.'

"Folkenberg, 58, has been active in the church since his youth and for many years worked as a missionary in Central America. As president, his salary and benefits are worth about \$50,000 [a year], officials said." *Washington Post, January 26, 1999.*

According to the *Sacramento Bee*, for Saturday, January 23, some church leaders were "demanding" that Folkenberg resign by that weekend.

"Some leaders are already demanding that President Robert H. [sic., S.] Folkenberg step down from his post atop the fast-growing sect, but others want to hear evidence at meetings that begin Monday and weigh the gravity of the case, said Neal Wilson, himself a former president of the world church." *"Washington: Church Meeting on Accusations," Sacramento Bee, January 23, 1999.*

We earlier predicted that there would be a payoff and, if media coverage did not interfere, an attempted cover-up. How does the matter stand at this point?

You will note that, in the data provided in the preceding pages, several facts tend to stand out:

First, church leaders see the problem concerning their president, Robert Folkenberg, as his personal matters; and do not concern the General Conference-caused financial transactions. In other words, Folkenberg and his personal business associates are perceived as the problem, not the General Conference and its official business transactions.

Second, leaders appear genuinely trying to impartially review the matter this week. It would seem that some may be tired of the governance stranglehold which Folkenberg has gained at world headquarters and are willing to let him carry all the blame due him, without their intervention to save him.

Third, they recognize that, even if he does not step down, so much perceptive damage has occurred that the time remaining in his term (close to 18 months, until the summer of 2000) will be largely ineffective if he does remain in office.

Fourth, with three major news sources already on the case and spreading the story, it will be difficult both for Folkenberg to remain in a position of authority, and for the leaders to cover it up as they have been able to do in a number of earlier financial crises.

There is a two-fold problem here, which Folkenberg is unlikely to hurdle: (1) There is too much evidence against him on Moore's tapes and in Hiroshima's documents. (2) The national media are on the story and are telling enough, that it will be more difficult to quiet church members if he remains in power.

Keep in mind that, just now, it is fashionable for the press to dish out, to the public, news stories about major scandals involving well-known public officials and organizations: This very week the Senate is deciding what to do with Bill Clinton; the trial of Henry Lyons, president of the National Baptist Convention, begins in Florida; and the leaders of the Mormon Church (and the International Olympics) are deciding what to do about their own shattered image in the extortion/corruption charges.

Yet the ability of our own church laity to remain complacent in spite of startling news is phenomenal. Just one example: They learned about the 1989 stratospheric pay raises for AHS officials (now at annual salaries of \$250,000 to \$300,000) and yet have never demanded that it stop!

And in this we find yet another of the many parallels to the moral crisis we find in the White House. In spite of a wealth of discoveries, the public which financially supports the government is apathetic about the entire matter.

When a people no longer care about enforcing moral principles in their church or nation, soon they no longer care about their own morals.

We are observing the results of that, both in our church and in our nation.

Wednesday, January 27, 1999

We have learned that James Moore sued the General Conference Corporation, not the General Conference. The "corporation" holds title to the land and buildings; the General Conference employs the workers and carries on the business. Is that ironic retribution? Leaders have filed all the trademark lawsuits in the name of this do-nothing holding organization, which only has one meeting a year.

We have learned that, although James Moore filed the lawsuit on August 21, 1998, he did not

serve the lawsuit papers on any of the defendants until December 28, at which time they were served by certified mail. Upon receiving this notice, church leaders learned they had 30 days, from the date of service, in which to respond.

This would help explain the mystery of why so much investigation was carried out in January by their attorney, Phil Hiroshima, and why the significance of the crisis so quickly exploded on them.

The present writer suspects that the reason for Moore's reticence from 1994 to the end of 1998, was that he kept trying to get Folkenberg to repay

the money without causing a scandal to the denomination. This would explain why he went ahead and filed the suit when he did (the statute of limitations would have run out on August 22, 1998) and why he waited so long to serve notice of the suit. It was because of this reluctance, that Moore was supposed to return to court to show cause why he was not yet served litigation papers on the defendants. He then filed those papers.

There could also be another factor prompting Moore's tardiness to file a suit: His evidence consists not merely of financial papers, but also phone tapes and the tapes could backfire if a court adjudged them to have been obtained illegally.

We have learned that, at the time he became church president, Folkenberg was president of several (!) non-profit corporations with Moore. At that time, he resigned from them, but continued carrying on financial dealings with Moore.

We have just received a copy of an article from yesterday's edition of the *Sacramento Bee*. Here are the special points in it:

Moore had filed the suit without the help of an attorney.

"The plaintiff, James E. Moore, didn't even have an attorney when he filed the lawsuit on his own behalf last year [August 21] in Sacramento County Superior Court." "*Sacramentan's Suit Sends Shock Waves: Seventh-day Adventists accused of fraud*," *Sacramento Bee*, January 26, 1999.

The organization Moore is heavily involved with (*Vicariatus Urbis*) is referred to as Catholic-owned.

"Moore is alleging Folkenberg and the Seventh-day Adventists bilked him and a Roman Catholic foundation he represented out of \$8 million in an El Dorado County land deal in the early 1990s." *Op. cit.*

"The church's Latin American division had

business dealings in the 1980s with Moore and his charitable foundation, which is affiliated with the Catholic Church." "*Washington: Church Meeting on Accusations*," *Sacramento Bee*, January 23, 1999.

We have been told by a special source that *Vicariatus Urbis* is directly connected with the Roman Catholic Church, and that it had both Protestant and Catholic advisers on its board, which included Robert Folkenberg. It was Folkenberg's connections with Moore that prepared the way for him to establish these unusual associations.

We have also learned from that source that James Moore is definitely a Roman Catholic.

If a negotiated out-of-court settlement and gag order occurs within the next week or so, we will never learn the full nature of Folkenberg's activities. Of course, James Moore could divulge that information; but, after he receives several million, he will thereafter be silent.

Church spokesmen continue to say that Folkenberg was acting alone in all these financial dealings, and not with church approval.

"Netteburg said church attorneys believe Moore's allegations are 'frivolous and without merit.' In addition, he said, Folkenberg was acting as a private individual, not a church leader, in any dealings with Moore." *Op. cit.*

We have come to the end of Wednesday; and, to our knowledge, no additional press releases were made this day. *We may learn shortly that, today (Wednesday, January 27), was the fateful day when major decisions were made by our church leaders.* The ad hoc committee met on Monday and Tuesday at Virginia Marriott Motel, and was supposed to have presented its full report to a gathering of division presidents, gathered from around the world, today.

Having received that report, those world leaders will have to make at least five important decisions:

First, do any of the facts presented implicate the General Conference or its entities in the financial dealings discussed in James Moore's lawsuit?

Church spokesmen have repeatedly declared to the press that there is no such involvement. However, it should be noted that Moore specifically alleged that Folkenberg worked, not only with Walter Carson (his friend and attorney, who handled much of his business activities) and Ben Kochenower (who took Folkenberg's place as president of *Sharing International of Tennessee*), but also "50" other men, not all of

whom were presently known by name to Moore. Some of these individuals could be men in the General Conference whom Folkenberg had carry out certain activities for him.

There is no doubt that Moore had gleaned a lot from his phone conversations with Folkenberg.

Second, will our leaders decide to pay off Moore, in order to quickly settle the case out of court?

One would expect this to occur:

Third, what will they do with President Folkenberg?

A two-thirds vote of the entire General Conference Committee (about 150 men) would be required to put him out of office. But that entire committee will not be in attendance at this meeting; only a few division leaders and a few top leaders from North America were there.

It is likely that Folkenberg will be asked to resign; and, if asked, he would be wise to do so. He is all the more likely to do so, if he is threatened with a discharge action.

Will there be enough evidence for a decision by the committee to oust him?

From everything we have so far learned, it seems that there is enough evidence. Hiroshima has heard the 27 hours of phone tapes, very likely taken extensive notes from them, and has amassed a sizeable collection of documents.

Fourth, How much will church leaders tell the church?

It is very likely that if they manage to settle with Moore out of court, and Folkenberg quietly goes away, our leaders will release relatively little information to the membership of the church about the nature of the actual problem.

Fifth, if Folkenberg leaves, who will be selected to replace him?

A source in the Northeast told me today that the talk is that it would be G. Ralph Thompson. He is Secretary of the General Conference, said to be in the line of succession, and known to be a reliable person unlikely to produce surprises as Folkenberg so readily did with new theology, financial schemes, and a monomania for governance.

Thompson is black, and his elevation to the presidency would have the added effect of energizing black

and Hispanic evangelistic programs. Indeed, it would probably help increase third world evangelistic success as well. The denomination would be better perceived as the church of people who have been downtrodden and op-

pressed. Frankly, it would probably produce a very positive, enthusiastic sensation.

We were told this morning that several top General Conference leaders strongly urged Folkenberg to resign over two weeks ago, but he refused. Much of the present and future crisis could more easily have been kept under wraps if he had resigned.

Thursday, January 28, 1999

It appears that we now see the light at the end of the tunnel. A General Conference release, with today's date, shows us what is probably coming.

The leaders have had abundant opportunity, Monday through Wednesday, to discuss the entire matter very likely including all the basic data which Hiroshima uncovered.

Here is a summary of essential points, as released by the General Conference today in a report:

"The Ad Hoc Committee worked for 25 hours over two days, examining the GC president's business affairs and receiving personal explanations from the president."

"That committee's recommendations were then referred to the Administrative Committee, meeting with all the world's Division Presidents."

The "high-level committees met for 32 hours this week."

It was decided that Folkenberg had "misused his office for business advantage."

The committees "found ethical concerns in his business activities including: conflicts of interest, inappropriate business associations, misuse of the office of the presidency for business advantage, and a reluctance to accept the advice of colleagues."

"The Ad Hoc Group concluded that there was no misuse of church funds."

The special committee of top leaders, which met on Tuesday, decided that "the business dealings of the General Conference president should be referred to the full GC Executive Committee."

"The matter was referred to the full Executive Committee because, between General Conference Sessions, only it has the power to make decisions of GC leadership." "Constitutionally, a decision on his fate can only be made by the full GC Executive Committee, which has about 260 members." (That full committee, the full General Conference Committee, only meets twice a year: the Spring Council in March (sometimes in April), and the Annual Council in October (sometimes Novem-

ber).

"The next meeting of the full Executive Committee will start on March 1."

"There could be considerable pressure on the president to resign before the March meeting in order to reduce damage to the church."

Late this afternoon, I learned that the Spring Council was slated for early April, but was moved up to the beginning of the previous month because of this crisis. March 1 will fall on a Monday. Each council meeting begins on a Monday and lasts several days.

It is recommended "that church members pray for both the church and the president. Transcripts of his phone conversations show the president has been enduring a personal crisis beyond what most of us could imagine." It is very likely that the small committee heard significant portions of those phone tapes, and the division officers, meeting on Wednesday, heard at least a small portion of them.

"Robert Folkenberg, the GC president, may [choose to] resign before March, to reduce damage to the church from his business dealings."

"A hearing before a 'jury' of so many people could be highly damaging to the church. It is expected there will be pressure on the GC president to resign before then, to reduce damage to the church."

Elder Folkenberg has clearly lost much of the support of his peers at the General Conference and at many Division offices. This fact would considerably reduce his chances of surviving any motion to remove him from office. It may also save the cost of a special meeting, which would be about \$500,000. Since Spring Councils occur every spring, why should this one involve extra cost? It was slated to convene anyway.

A separate General Conference release, dated January 27, provided additional information.

Regarding the ad hoc committee's work, it said:

"Dr. Neils-Erik Andreasen, chair of the 20-member Special Ad Hoc Group, characterized their two days of deliberation as 'open, candid, amicable, and respectful.' The group spent more than 25 hours hearing statements, reviewing documents, and preparing a report."

Then it told what happened at the Wednesday meeting of the division presidents: (1) The ad hoc group presented its report. (2) Folkenberg spoke. (3) The leaders discussed the matter for seven hours, as well as how it should word its recommendation. (4) They then voted to approve

the written recommendation and refer the matter to the Spring Council.

"Today, after the group reported its findings and its recommendation, Folkenberg presented a statement about the issues. The Administrative Committee spent an additional seven hours discussing the report and its recommendation before deciding that the matter needed to be considered by the full General Conference Executive Committee, which will meet during a rescheduled Spring Meeting, to begin March 1.

"The matter must be referred to the Executive Committee [Spring Council] because it is the only body which, between General Conference sessions, can deal with decisions affecting General Conference elected leadership."

This release revealed that what the leaders learned about Folkenberg's activities were definitely not good!

"The vote to refer came after the Ad Hoc Group summarized the issues and concerns it found after reviewing all the relevant information and documents. The group said that the matters that emerged 'reveal a pattern of widespread personal activities' of the president which give rise to concerns.

"The ethical concerns included conflicts of interest, inappropriate business associations, and misuse of the office of the presidency for business advantages. The group also expressed concern about the potential impact on the world Church as well as the president's reluctance to accept the advice of colleagues."

It sounds like Folkenberg had disregarded earlier advice and warnings from colleagues who knew something of his activities, and that he used his official position for purposes of personal aggrandizement.

According to the January 28 issue of the *Los Angeles Times*, "40 senior leaders . . . came from as far as Korea and Australia" to take part in the Wednesday meeting.

That article also reveals that Moore accuses Folkenberg of "cheating him and a charitable foundation he represented out of \$8 million in promissory notes tied to the development of 1,300 acres of land in El Dorado County in the early 1990s."

"Meeting behind closed doors throughout the day, church leaders prayed for direction on occasion, said church spokesman Kermit L. Netteburg." *"Adventist Leader Gets Brief Reprieve," Los Angeles Times, January 28, 1999.*

"The meeting was held in tight secrecy at a Hyatt Hotel conference room. Attorneys involved

in the case were barred from the room, staff members guarded the door, and an escort led church leaders to phones and restrooms during breaks to avoid interference from outsiders. Members would say little about what went on inside. Folkenberg was invited to the session, but attended only during the morning." *Ibid.*

Implications of the above points:

It is quite obvious that the above wording indicates the brethren are strongly urging Folkenberg to resign.

He may do so soon. We heard word today (from a source not close to the General Conference) that Folkenberg has resigned. We have also heard word (from a much better source) that he has refused to resign, and plans to face down the General Conference Committee in March. We are trying to track down the truth regarding this. More reports keep trickling in, that he has refused to resign.

The leaders have concluded that (1) church funds were not involved in this problem, and (2) Folkenberg carried out these unusual activities on his own, and not in his official capacity as a church leader.

Not one word has been said about a possible loss of church funds, as we earlier reported may have been made. Nor is there any indication that Folkenberg may have filed for bankruptcy.

It is highly significant that absolutely nothing in today's General Conference announcements speaks about who is going to pay the \$8 million! This is a crucial point and for these reasons:

(1) If the General Conference quickly pays \$5 million or so to James Moore, they can more easily hush up the matter as well as keep Hiroshima's collected documents and the 27 hours of phone tapes from being released.

(2) If church leaders do not do so, the news is going to spread and it will be ugly. This will bring the tragedy within our church into the headlines, right up there with the Mormon crisis over the Winter Olympics' extortion and bribery, the National Baptist Convention over President Henry Lyons' fraudulent transactions, and Congress' crisis over Bill Clinton's adulteries and lies.

(3) But how can our church leaders justify paying off Moore when they have openly stated that they were not implicated in the financial dealings? THIS is surfacing as a major problem!

(4) Folkenberg will be unable to repay the millions owed to Moore; and, if it is not repaid, there will be real trouble ahead.

(5) However, it may be possible for church leaders to say that Folkenberg was covered with some kind of "insurance" which will pay it.

Having said that, I did some more checking. It may be that *Article XXI: Indemnification*, in the *General Conference Constitution* may permit the church to pay off Moore. The items in italics may preclude such payment.

First, it may be that the employee has to be sued, in the course of carrying on church work (although that is not actually stated).

Second, the employee cannot be doing anything not in the best interests of the church or anything illegal (which is definitely stated).

"Sec. 1. To the extent permitted by law, the General Conference shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, *because he/she is or was a member of the General Executive Committee or an officer, employee, or agent of the General Conference against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually or reasonably incurred by him/her in connection with such action, suit, or proceeding if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the General Conference, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his/her conduct was unlawful.*

"Sec. 2. This right of indemnification shall be in addition to, and not exclusive of, all other rights to which such member of the Executive Committee or officer may be entitled." *General Conference Constitution, Article XXI: Indemnification, Sec. 1-2 [italics ours].*

But then I came upon the latest news report from the Los Angeles Times. It looks as if a battle is ahead! (1) Folkenberg "has no plans to resign," so the Spring Council will have to hold a full-blown trial! (2) In addition, the church "is hardening its position" and unwilling to settle with Moore out of court. (3) "Rather than settle the case in court," Folkenberg wants a second, full-scale trial this one in a state court!

This could spread the matter wide open to all America, and spill over to the rest of the world!

Frankly, it is very selfish on Folkenberg's part to embroil the denomination in this continuing scandal. He caused the problem,

so he should step downfast.

"A spokesman said Folkenberg is anxiously awaiting the chance to resolve the Moore matter, both in the church and in the courts, and has no plans to resign. Although the church had been discussing a possible financial settlement with Moore through December, it has gone on the offensive in recent weeks, pointing out Moore's criminal history and his bankruptcy.

"Rather than settle the case, Folkenberg wants his day in court, said Folkenberg's spokesman, Bob Keyser. 'Litigation is about to break out,' he said." *Los Angeles Times, January 28, 1999.*

Folkenberg is a driver, and he is not going to stop now even if he has to take the church down with him.

"It was the first time in memory that the 135-year-old church was considering the dismissal of a sitting president, who holds broad powers in the church's hierarchical structure, officials said." *Los Angeles Times, January 28, 1999.*

In the previous set of four tracts (*The Folkenberg Fraud Lawsuit Part 1-4 [WM_853-856]*), plus this set of three tracts (*The Folkenberg Fraud Lawsuit: Second Update [WM_858-860]*), we have provided you with every item of news in over a dozen reports and articles. This event is of such importance, that it deserved 28 pages! However, there will be more to come; especially if Folkenberg decides to go ahead with his plans to fight the matter in court.

If, as the *Los Angeles Times* quotation (above) indicates, he refuses to resign and chooses to fight the California court case, a full-fledged "trial" will have to take place at the Spring Council, and a well-publicized court case will occur in Sacramento.

Add to this the problem that Folkenberg is not able to settle the case out of court. He lacks the funds and, in line with the above quotation, the General Conference is questioning whether to bail out a president which refused counsel, acted on his own (without implicating the church), and is likely to be fired. Because the case is now out in the open, if they did so, they would later have to answer to an irate laity, as to why they had paid millions to Moore.

Because so much is now in the public press, after the March Spring Council, you can expect that the *Review* will print a somewhat extensive explanation of what happened.

Without an out-of-court settlement, the case will probably go to court. Because the General Conference is named in the suit, it will have to

appear. Its defense will primarily be that it had nothing to do with the transactions; and, as soon as they learned about the matter, they investigated it and initiated steps which could lead to the severance of Folkenberg from employment.

For his part, Folkenberg's defense is likely to focus on the possibility that the tapes were illegally made, and therefore should be barred from evidence. He admitted on those tapes that he took the money and did not repay it. Yet, whether or not the tapes are admitted as evidence, would Folkenberg be able to establish that he had repaid the \$8 million? Documents indicate that, in the form of two promissory notes, he took the money.

If the court ruled that Folkenberg owed the \$8 million, would he declare bankruptcy to avoid paying it? It would seem that, if he did not repay the money, he could be cited for criminal action. (If a man stole \$8 million from your house, and was caught, is there not a possibility he might go to jail for theft?)

Friday, January 29, 1999

By Friday afternoon, we had heard of four rumors: Folkenberg was ordered to resign by Sunday, he had been fired, Wilson was now president, and Folkenberg was in prison.

None of these could possibly be true, for Folkenberg remains president until the March meeting, and; at this juncture, only a civil not criminal suit may result, and it has not begun yet.

But we have learned that Robert Folkenberg has been given a leave of absence, so he can go home and be with his family until March. He remains the official president, but Secretary Thompson will carry on in his stead until the Spring Council takes action in the matter. Although they may elect Thompson, they have the authority to elect anyone. (On January 3, 1979, they elected N.C. Wilson, head of the North American Division, to take ailing Robert Pierson's place.)

Vance Ferrell

Sunday morning, January 31, 1999

We thought we would be going to press this morning, but additional data has surfaced.

Our knowledge, no additional newspaper articles have been forthcoming. But an *Adventist Review* news release has arrived, containing two reports. As has been done earlier, we will only mention or quote new information:

The first report is entitled, "World Church Leaders Grapple with Controversy."

"In 1987, he [Moore] was convicted of felony grand theft in an unrelated case." In earlier news releases from all sources, the conviction occurred in 1989.

Phil Hiroshima, the General Conference investigative attorney, is associated with the law firm of Hiroshima, Jacobs, Roth & Lewis of Sacramento, California.

"Meeting at the Hyatt Hotel in Herndon, Virginia, on Wednesday, January 27, the General Conference Administrative Committee (ADCOM) deliberated for about 10 hours." Earlier reports said the Ad Hoc Group met on Monday and Tuesday at the "Dulles International Airport Marriott Hotel in northern Virginia." Apparently, the Wednesday meeting of division presidents was held at a different hotel; probably so reporters would not know the location of the meeting. Of the 10 hours of deliberation, we know that the first three consisted of presentations by Hiroshima and Folkenberg. An earlier press release (page seven, column 2, paragraph 9 of this present three-tract report) also noted that the Wednesday meeting was at a Hyatt hotel.

The forthcoming Spring Council will have 268 members in attendance.

"If the committee votes to change leadership, it will be the first time that a General Conference president has been removed from office in the church's 136-year history."

"Folkenberg maintains that he has not benefited personally from his association with Moore." That could be a significant point in Folkenberg's defense at the March Spring Council.

"Folkenberg . . . has not yet decided whether he will appear at the March 1 meeting of the Executive Committee to give his perspective."

The Ad Hoc Committee only had 19 in attendance, and "included three lay persons, three General Conference departmental directors, three administrators from the North American Division, a pastor, an editor, two union presidents from North America, an associate secretary of the world church, three General Conference vice-presidents, and three

presidents of world divisions of the church."

The Ad Hoc Committee questioned Hiroshima for four hours, after he presented his findings.

"Late in the day, Monday, Folkenberg's attorney, James Prochnow of the Patton Boggs law

firm in Denver, Colorado, made a presentation and Folkenberg himself addressed the group. The next day the group met without attorneys to discuss and evaluate the documents and presentations and to prepare recommendations" to be presented to Division leaders on Wednesday.

"The Ad Hoc group concluded that there had been no misuse of church funds and that no church monies had been at risk." This is another point in Folkenberg's favor, but it does not absolve him from, during his presidency, of taking \$8 million from a man and not repaying it.

The Wednesday ADCOM meeting "included 10 of the 12 division presidents of the world church."

"Folkenberg also made a presentation to ADCOM during its Wednesday morning meeting."

The second of the two reports bears the title, "Caught in the Web," and was written by William G. Johnsson. He was "the editor" who attended the Ad Hoc Committee.

"This week I have been given access to thousands of pages of documents and heard statements as I served on the special committee set up by the church to get at the facts."

"The ad hoc group . . . found no suggestion of immoral conduct, malfeasance, or denial of the fundamental beliefs of the church on Elder Folkenberg's part. No church monies were ever used or invested."

(1) "Immoral conduct:" Admittedly taking millions and not repaying it is not immoral? All Folkenberg had to do was put the 15% and 85% promissory notes where they were supposed to go.

It is an intriguing fact that no church release, to date, has questioned or denied (1) Moore's allegations that he gave the two promissory notes to Folkenberg, and that Folkenberg did not place the notes where he was supposed to; thus keeping the money or placing 15% of it somewhere else, or that (3) Folkenberg admitted in recorded phone conversations (reported in the Los Angeles Times) that he admitted the theft.

(2) "Malfeasance:" "Malfeasance" is defined, in its legal sense, as "performance of a wrong act by a public official." Look it up in your own dictionary, and confirm the fact for yourself. Folkenberg was a church official and performed a wrong act. Although his action did not involve church monies, it greatly injured his church.

(3) "Denial of the fundamental beliefs of the church": Stealing \$8 million from someone is not a denial of the fundamental beliefs of the church? Perhaps the "fundamental beliefs" have

been so doctored over the years that they no longer mention the Ten Commandments, but Folkenberg broke the Eighth Commandment. Folkenberg espouses Jack Sequeira's belief that it is all right to sin, since we were corporately saved at the cross. Does William Johnsson adhere to the same belief?

"Folkenberg was introduced to Moore in 1976, when he was serving the church in Central America." According to Folkenberg, "Moore, who claimed some sort of Adventist connection, offered to help the church in the wake of the devastating earthquake in Guatemala that year. Folkenberg saw in Moore a philanthropist who might benefit the Adventist mission."

Then we are told:

"Moore is an entrepreneur who has involved himself in land deals and other financial ventures. He has been involved with numerous corporations, many of them involving off-shore headquarters, some of them non-profit, some for profit.

"Elder Folkenberg served for a time as chairman of the board of two corporations, but resigned after he was elected General Conference president in 1990. Moore joined the Roman Catholic Church in the 1980s and established at least one corporation to benefit charitable work on behalf of that church." [Would that one corporation be *Vicariatus Urbis Foundation*, to which Folkenberg was supposed to give the 85% promissory note?]

"Moore was convicted of eight counts of fraud in 1987, and was incarcerated from 1989 to January 1, 1992."

[At last we have learned when Moore was released from prison! This was a key point as we seek to put the puzzle together. We know, from page two of the Moore's lawsuit (§ 6), that the two promissory notes were signed in May, 1993. So that occurred after Moore was released from a California prison. According to page 3 (§ 21) in Moore's complaint, he did not learn that Folkenberg had failed to transfer the \$8 million until "on or after" August 21, 1996. This timing bears directly on the next paragraph:]

"During Moore's imprisonment and subsequently, Folkenberg continued to have contacts with him. The relationship between Folkenberg and Moore that over the years had involved friendly, pastoral, and business elements turned ugly in September, 1996. Moore claimed to have suffered financial loss over transactions involving a land deal and blamed Folkenberg for his financial problems."

[If Folkenberg, in truth, had failed to place the \$8 million in promissory notes where he was supposed to, that would indeed be cause for the friendship to turn "ugly." No need to blame financial loss

over "a land deal."]

"Moore further claimed that one of the corporations set up to aid Catholic charities had suffered financially. From this time on, Moore pressured Folkenberg for a financial settlement, threatening to sue Folkenberg and by extension, the General Conference (although the General Conference at no time had any dealings with Moore). Folkenberg, caught in the web, sought to find ways to settle the matter privately as an attempt to shield the church and himself from embarrassment.

"The Ad Hoc group concluded that Folkenberg's dealings with Moore raised significant concerns about possible misuse of office, as well as the potential for such a negative impact on the world church so as to warrant consideration by the church's highest body, the General Conference Executive Committee."

[That is not a correct statement: the church's "highest body" is the General Conference in Session.]

TEXT OF THE VOTE OF THE GENERAL CONFERENCE ADMINISTRATIVE COMMITTEE, WEDNESDAY, JANUARY 27, 1999

"VOTED, To call a meeting of the General Conference Executive Committee at the earliest opportunity to review the church-related issues arising in connection with a lawsuit brought against Robert S. Folkenberg and others by James E. Moore, including the report of the Special Ad Hoc Group, and to express itself on the question of confidence concerning Robert S. Folkenberg's continued leadership as president of the world Church."

RECOMMENDATION OF THE GENERAL CONFERENCE ADMINISTRATIVE COMMITTEE, WEDNESDAY, JANUARY 27, 1999

"Robert Folkenberg, the General Conference president, may resign before March to reduce damage to the church from his business dealings. Constitutionally, a decision on his fate can only be made by the full General Conference Executive Committee, which has about 260 members. A

hearing before a `jury' of so many people could be highly damaging to the church. It is expected there will be pressure on the General Conference president to resign before then to reduce damage to the church. Elder Folkenberg has clearly lost much of the support of his peers at the General Conference and at many Division offices. This would considerably reduce his chances of surviving any motion to remove him from office. It may also save the cost of a special meeting which would be about \$500,000."

More **WAYMARKS** - from
PILGRIMS REST
HCR 77, BOX 38A - BEERSHEBA
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Since most of this occurred after Robert Folkenberg became president of the General Conference, we might properly ask a few QUESTIONS

How involved were Folkenberg's dealings with the Catholic Church?

Why did he continue business relationships with Moore, after the Inter-American Division terminated those contacts at the time of Moore's fraud conviction?

What were his other improper business transactions?

What other non-Adventist organizations did Folkenberg have business relations with?

Why was the \$8 million in promissory notes given to Folkenberg in the first place? Was this done because he was the member of a non-Adventist organizational board at the same time he was General Conference president; or was there some other vested interest in him by Moore or the Catholic Church?

On which organizations did Folkenberg sit as a board member? What were his duties?

What did Folkenberg do with the \$8 million? What urgent need did he have to embezzle those funds?

Or, to say it another way, how could anyone spend \$8 million, with nothing visible to show for it?

The tapes show that Folkenberg was totally unable to repay the admitted theft. Why did not Moore go to court earlier to obtain the money?

Did the investigators, in their research, consider any of the alleged fraudulent activities which David Dennis charged in his affidavits?

Was Folkenberg influenced by his non-Adventist associates, partners, and organizations in some of his church activities?
