August 9, 2006

The Supreme Court of Texas
Supreme Court Building
201 West 14th Street, Rm. 104
Austin, Texas 78701

Re: No. 06-0527, The Local Church, Living Stream Ministry, ET AL. *v.* Harvest House Publishers, John Ankerberg and John Weldon, Original Proceeding, in the Supreme Court of Texas, Austin, Texas

Brief of *Amicus Curiae* in Support of the Petition for Review of *The Local Church, Living Stream Ministry, ET AL.*

To the Clerk of the Supreme Court of Texas:

Pursuant to Rule 11 of the Texas Rules of Appellate Procedure, Amici submit this letter brief in support of Petitioners The Local Church, Living Stream Ministry, ET AL.'s Petition for Review. Amici submit this amicus brief because of the detrimental effect of publications like the *Encyclopedia of Cults and New Religions* ("ECNR") on religious freedom not only in the United States but in some religiously intolerant societies throughout the world. Submitting Amici:

Ambassador Winston Lord

U.S. Ambassador to the People's Republic of China, 1985-1989, under Presidents Reagan and Bush; Special Assistant to National Security Advisor Henry Kissinger; Assistant Secretary of State, East Asian Policy, 1993-1997;

Ambassador Nicholas Platt

U. S. Ambassador to the Philippines (1987-1991) and Pakistan (1991-1992), under Presidents Reagan and Bush; Foreign Service assignments in Hong Kong, Beijing and Tokyo; China Analyst at the State Department; Member of National Security Council, Asian Affairs; Deputy Assistant Secretary of Defense, Asian Affairs; Assistant Secretary of State for United Nations Affairs; Executive Secretary, Department of State; President of the Asia Society for twelve years;

Ambassador Burton Levin

U.S. Ambassador to Myanmar, 1987-1990, under President Reagan; U.S. Counsel General in Hong Kong, 1981-1986,and former top China expert at the State Department; Visiting Professor of Asian Policy at Carleton College;

Rev. Choo Chee Wai

Chairman of Golden Lampstand Publishing Society, Hong Kong; Minister-in-Charge of Truth Baptist Church, Hong Kong;

Dr. Ed Irons

Director of the Hong Kong Institute for Culture, Commerce and Religion; former Professor at the Beijing University of Science and Technology;

Bette Bao Lord

Author and Human Rights Activist;

Sidney Rittenberg

Translator and Facilitator for Billy Graham in China; Visiting Professor of Chinese Studies at Pacific Lutheran University; lived in China for 35 years, 16 as a political prisoner; Founder and President of Rittenberg Associates, Inc.;

Travis B Bryan, III

Former District Attorney of Brazos County, former Bryan City Councilman, and a practicing attorney in Bryan, Texas;

are individuals and organizations who are for increasing religious freedom in these societies and call the attention of the Court to the likely infringement of these freedoms where, as in this case, allegations of criminal or immoral activities are made against groups with members in these countries where religious freedom is not a given right.

Amici have paid all legal fees and costs associated with this brief. Amicus Curiae's offices are located at multiple locations. *See* Exhibit A for a list of addresses and contact information.

Amici urge this Court to review the January 5, 2006 Appellate Court decision reversing the trial court and granting summary judgment to Defendants. We concur with the arguments advanced by other amici and write separately to emphasize the potential impact of the Court of Appeals' decision in countries outside of the United States.

I. A Brief Overview of the Religious Situation in China.

Beginning with its first annual report in September 1999, the State Department has designated China a "country of particular concern" under the International Religious Freedom Act[1] for "particularly severe violations of religious freedom."[2] That report and subsequent reports detail the Chinese government's actions against Christians and other religious minorities who seek to worship according to their conscience and not within official government procedures.

In recent years, this practice has increasingly fallen upon those religious groups that have not officially registered with the Chinese government. Such groups are broadly labeled as "evil cults,"[3] thereby offering a pretext for the actions taken by the government. The Chinese government looks abroad to help form their definition of a "cult," focusing not on theological but societal threats, such as that posed by Jim Jones and the People's Temple.[4] In a report on cults in the United States issued by China's official *Xinhua News Agency*, cults are said to "not obey the law, they upset social order, and they create a

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[1] Pub. L. No. 105-292, 112 Stat. 27871 (Oct. 27, 1998), codified in part at 22 U.S.C. 6401, et seq. Pursuant to the International Religious Freedom Act of 1998, both the United States Commission on International Religious Freedom and the Department of State are required to publish separate annual reports on religious freedom and persecution.

[2] *See* Department of State, Annual Report on International Religious Freedom, 1999.

[3] *See*, for example, United States Commission on International Religious Freedom, 2006 Annual Report, at 110 ("The campaign against 'evil cults' has, in recent years, expanded beyond the Falun Gong and similar groups to those religious communities that have refused to register and become part of the system of officially-sanctioned religious organizations.... Religious leaders have been imprisoned and followers detained and fined for 'cultist activity'."); Department of State, Annual Report on International Religious Freedom, 2005 ("The Government continued its repression of groups that it categorized as 'cults' in general and of small Christian-based groups and the Falun Gong in particular.").

[4] According to an official 1997 White Paper, the Chinese government justifies their actions in the following way: "[S]ince the 1980's some pernicious organizations have sprung up in certain areas of China which engage in illegal and even criminal activities under the signboard of religion. Some of the heads of these pseudo-religions distort religious doctrines, create heresies, deceive the masses, refuse to obey the State's laws and decrees, and incite people to overthrow the government."

menace to freedom of religion and social stability. Under the pretence of religion, kindness, and being non-political, they participate in political activities. Some of them even practice criminal activities such as tax evasion, fraud, drug dealing, smuggling, assassination, and kidnapping."[5] By adopting a non-theological working definition of the term "cult," and by raising the possibility of damage to their society, the Chinese government has been able to utilize this term as an effective means of classifying groups of concern.

The 2005 State Department Report on International Religious Freedom and other reliable estimates place the total number of Christians in China at between 80 and 130 million persons. Included in this number are the government-sanctioned church members (registered with the "Three-Self Patriotic Movement"), whose number is estimated at approximately 20 to 25 million persons. The remaining number of Christians, 60 to 105 million, are in unregistered, so-called "house churches." These unregistered "house churches" frequently shoulder the "evil cult" label described previously. Furthermore, it is estimated by many knowledgeable China experts that there may be up to one million Local Church members in China included in this number of "house churches." Indeed, some scholars have suggested that the "house church" movement originated with the Local Churches.[6] There is no question that these unregistered "house churches" loosely associated with the Local Churches outside of China are on the radar of the Chinese government and are threatened by the government, or others labeling them as a "cult."

II. The Court of Appeals' Reduction of the Term "Cult" to an "Ecclesiastical" Definition, and its Failure to Address the Secular Understanding of "Cult" as Presented in the *Encyclopedia of Cults and New Religions*, Increases the Threat of Persecution to Christians Residing in Religiously Restrictive Countries who Employ the Term "Cult" in a Secular Sense.

As discussed earlier, the Chinese take their cue as to what constitutes a "cult" by looking toward the West since their understanding is shaped by the non-theological dimensions of cults.[7] When a reputable Christian publisher and ostensibly-credentialed authors publish a reference encyclopedia such as ECNR, that touts itself as authoritative, well-researched, and devoted to helping identify and expose the 57 most dangerous cults in the world, governments such as China will likely pay close attention. Those seeking excuses to persecute religious minorities will find encouragement from the authors of ECNR. In the introduction they boast, "The approach that we have taken in this Encyclopedia is to illustrate as best we can...that the cults do pose a significant threat to society."[8] The so-called "threat to society," as outlined in the Introduction to ECNR, includes criminal allegations ranging from financial fraud to murder and child molestation. Indeed, any government would be derelict if it did not pay close attention to the societal threats posed by the groups identified in ECNR.

Despite the authors' understanding and use of "cults" to mean groups that "do pose a significant threat to society," the Court of Appeals strangely abridged the definition of "cult" to merely a theological designation. In so doing, the Court of Appeals sanitized the term "cult" from its opprobrious operative use in ECNR, and emasculated it of its forceful secular connotation. Having divorced the term "cult" from its actual usage in ECNR, the Court of Appeals concluded that "being labeled a 'cult' is not actionable

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[5] Hu Xiaomin, "Xinhua reports on cults in the United States," Beijing Xinhua Domestic Service.

[6] Alan Hunter and Kim-Kwong Chan, Protestantism in Contemporary China, at 3, n. 3 (Cambridge University Press, 1993) ("The term 'house church' (*jiating jiaohui*) may have originated from the movement founded by Watchman Nee (Ni Tuosheng) in the 1930's, which promoted meetings in private homes led by lay persons."). Watchman Nee is widely recognized as the principal founder of the Local Churches.

[7] *See supra* notes 4 and 5 and accompanying text.

[8] John Weldon and John Ankerberg, Encyclopedia of Cults and New Religions, at xxviii (Harvest House Publishers, 1999).

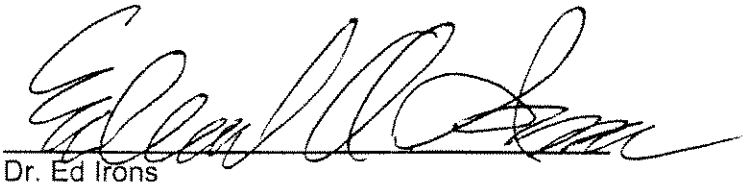
because the truth or falsity of the statement depends upon one's religious beliefs, an ecclesiastical matter which cannot and should not be tried in a court of law."[9]

Amici believe this holding is at odds both with Texas case law[10] and custom and practice.[11] Our primary concern is the danger engendered by the latter – the substantial likelihood that the Chinese government will use the book and the ruling as a basis to justify its persecution of house church Christians outside of government sanctioned churches in China. By ignoring the actual, secular understanding of the term "cult" as employed by the authors of ECNR and governments such as China, the Court of Appeals prevented proper adjudication of the book's allegations. The injury is not merely ECNR's libel of the Local Churches. The injury is also the Court of Appeal's unwitting validation of the term "cult," with all of its criminal associations, in its potential application toward no less than one million Local Church members in China, and upwards of 50 to 100 million additional unregistered Christians.

The authors of ECNR recognize and even concede that the practice of categorizing innocent groups in the manner described herein is a reality: "There are many cases in the courts overseas where Christians are treated as if they were cultists."[12] They may not recognize that their inclusion of the Local Churches in ECNR provides fodder for and lends credence to such treatment. For the sake of millions of Christian believers in China, we pray that the Justices of the Supreme Court of Texas will recognize the important interests at stake in this case and grant review.

Respectfully,

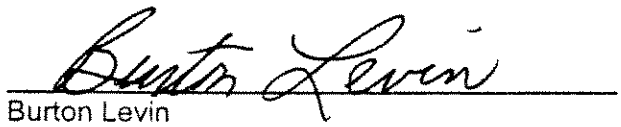
Winston Lord
U.S. Ambassador to Beijing (People's Republic of China)



Dr. Ed Irons
Director of the Hong Kong Institute for Culture, Commerce and Religion

Nicholas Platt
U.S. Ambassador to the Philippines and Pakistan

Bette Bao Lord
Author and Human Rights Activist



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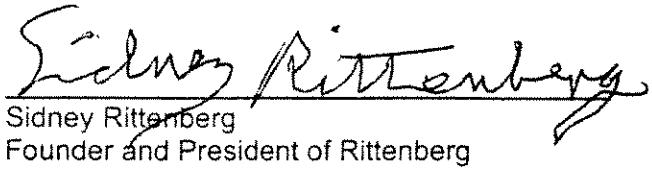
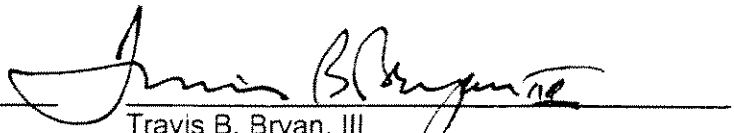
U.S. Ambassador to Myanmar; U.S. Counsel General in Hong Kong



Sidney Rittenberg
Founder and President of Rittenberg Associates, Inc.

Reverend Choo Chee Wai
Golden Lampstand Publishing Society, Hong Kong



Travis B. Bryan, III
Former District Attorney of Brazos County, former Bryan City Councilman, and a practicing attorney in Bryan, Texas

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[9] Harvest House Publishers, et al. v. The Local Church, et al., 190 S.W.3d 204 (Tex.App. – Hous. (1 Dist) 2006).
[10] *See* Hooper v. Pitney Bowes, Inc., 895 S.W.2d 773 (Tex.App. – Texarkana 1995).
[11] *See supra* notes 5 through 7 and accompanying text.
[12] Encyclopedia of Cults and New Religions, at xxvii.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served in accordance with the Texas Rules of Appellate Procedure to the following parties on August 9, 2006, via U.S. certified mail:

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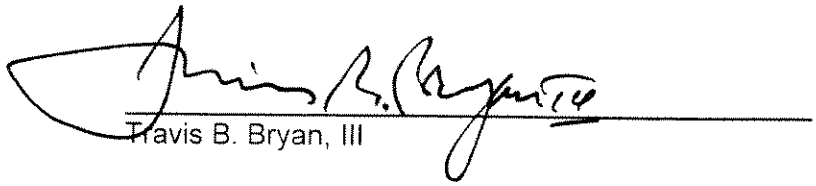

Travis B. Bryan, III

Exhibit A

IDENTITY OF AMICUS CURIAE

Ambassador Winston Lord

Winston Lord currently serves as Co-Chairman of the Overseers of the International Rescue Committee ("IRC"), the largest non-sectarian organization that both helps refugees abroad and resettles them in the United States. The IRC operates in some 25 countries and 20 American cities. Ambassador Lord has had a long career of bipartisan service in the U.S. government and the non-profit sector.

For over three decades Ambassador Lord has been at the center of U.S.-China relations. As Special Assistant to the National Security Advisor he accompanied Henry Kissinger on his secret visit to China and President Nixon on his historic opening in the early 1970's, as well as subsequent trips by President Ford and Dr. Kissinger. From 1985-1989 he served as Ambassador to Beijing under Presidents Reagan and Bush. From 1993-1997 he was Assistant Secretary of State in charge of all East Asian policy, including China, under President Clinton.

Ambassador Lord's other key governmental assignments were as the State Department Director of Policy Planning, 1973-1977, and in the Defense and State Department in the 1960's.

In between governmental posts Ambassador Lord has headed and helped direct a variety of private organizations related to international affairs. He was President of the Council on Foreign Relations in 1977-85, as well as Chairman of the National Endowment for Democracy and Chairman of the Carnegie Endowment National Commission on America and the New World in the early 1990's.

Ambassador Lord earned a B.A. from Yale (Magna Cum Laude) and an M.A. from the Fletcher School of Law and Diplomacy (first in the class). He has received several honorary degrees, the State Department's Distinguished Honor Award and the Defense Department's Outstanding Performance Award. Lord has appeared on all major media networks and his writings include articles in the *New York Times, Washington Post, Wall Street Journal, Newsweek, Time* and *Foreign Affairs.*

He is married to the best-selling author Bette Bao Lord and they are the parents of Elizabeth and Winston.

Ambassador Nicholas Platt

Nicholas Platt has spent most of his life working on relations between the US and Asia. Thirty-four years as a career diplomat, culminating in service as US Ambassador to the Philippines (1987-1991) and Pakistan (1991-1992), was followed by twelve years as President of the Asia Society, beginning in 1992. He became President Emeritus following his retirement, July 1, 2004.

Ambassador Platt's involvement with Asia began as a student of the Chinese language in Taiwan in the early sixties, and continued with Foreign Service assignments in Hong Kong (1964-68), Beijing (1973-74) and Tokyo (1974-77). In 1972 he accompanied President Nixon on the historic trip to Beijing that signaled the resumption of relations between the United States and China. He was one of the first members of the U.S. Liaison Office in Beijing when the United States established a mission there in 1973.

In the course of his government service, Ambassador Platt served in several capacities in Washington, including China analyst, Director of Japanese Affairs, National Security Council Staff Member for Asian Affairs, Deputy Assistant Secretary of Defense (responsible for politico-military relations with Japan, Korea, China and Southeast Asia), Acting Assistant Secretary of State for UN Affairs (1981-1982), and Executive Secretary of the Department of State (1985-1987).

Born in 1936, Ambassador Platt graduated from Harvard College in 1957 and earned an MA from the Johns Hopkins University School of Advanced International Studies in 1959. He is a member of the New York Council on Foreign Relations, and a director of Fiduciary Trust Company International. He and his wife Sheila have three grown sons: Adam, a writer; Oliver, an actor, and Nicholas Jr., a financial publishing executive; and eight grandchildren.

Ambassador Burton Levin

Ambassador Burton Levin was born September 28, 1930 in Brooklyn, New York. He graduated from Brooklyn College with a B.A. in history in 1952 and earned his M.A. in international affairs from Columbia University in 1954. Ambassador Levin entered the U.S. Foreign Service in July 1954 and has more than thirty-six years of diplomatic service in Asia. He was trained as a Chinese language and area officer, and served in Taiwan, Indonesia, Thailand (where he was Deputy Chief of Mission), and as Consul General in Hong Kong from 1981 to 1986. From May 1987 to September 1990, he served as U.S. Ambassador to Burma. His Washington assignments included serving as head of the office of Taiwan Affairs from 1974 to 1977. Ambassador Levin retired from the U.S. Foreign Service in October 1990 to be the director of the newly opened Asia Society Hong Kong Center, the Asia Society's first representative office outside the U.S. In August 1995, he retired from the Asia Society to take up a teaching position at Carleton College as the Sit Investment Visiting Professor of Asian Studies, where he has been a driving force behind the establishment of a Chinese studies program.

Ambassador Levin is a director of the Mansfield Foundation, the Chairman Emeritus of the Council for the John Hopkins University – Nanjing University Center for Chinese and American Studies, a director of the China Fund, and a non-executive director of the Noble Group Limited headquartered in Hong Kong.

Ambassador Levin is married to the former Lily Lee and has a son and daughter, both of whom are graduates of Carlton College.

Additionally, he is active in management consulting and training for a variety of Chinese companies. He has taught graduate-level management courses at the Beijing University of Science and Technology.

Rev. Choo Chee Wai

Chairman of Golden Lampstand Publishing Society, Hong Kong, Minister-in-Charge of Truth Baptist Church in Hong Kong. Golden Lampstand has published biographical works on Watchman Nee. Rev. Wai is especially interested in and familiar with the political and religious climate of both China and Hong Kong.

Dr. Edward A. Irons, Ph.D.

Edward A. Irons earned his PhD in Chinese Religions from the Graduate Theological Union in Berkeley, California, in 2000. He also holds masters degrees in Asian Studies (Hong Kong University) and International Management (Garvin Graduate School of International Management, Glendale, Arizona). An American citizen, he has worked and lived in Asia for over thirty years in business and consulting, and speaks fluent Mandarin and Cantonese.

His current research focus is on religions in China and the sociological factors which determine the form of religious activities. He is frequently a contributor to scholarly works on religion in China with an emphasis on Christianity in China. In 2003 he established a non-affiliated, non-profit research institute, the Hong Kong Institute for Culture, Commerce and Religion. The Institute sponsors conferences, publishing, and translation work related to religion in Hong Kong and China, as well as other civil society sectors.

Dr. Irons currently manages an export company in Hong Kong and is very familiar with manufacturing issues in China, including concerns related to labor and quality standards.

Bette Bao Lord

Author and Human Rights Activist.

Sidney Rittenberg

Sidney Rittenberg is founder and president of the world-class China consulting team, Rittenberg Associates, Inc. He was trained in the Chinese language and history by the U.S. Army and served as a translator in China at the end of World War II. He then lived and worked for 35 years as a member of the United Nations Relief and Rehabilitation Administration in China

During the Mao Zedong Era, Rittenberg was held in solitary confinement as a political prisoner for 16 years. He was finally vindicated and released, after which he and his family became a legend in China, giving them easy entrée to China's leaders. Sidney Rittenberg has known nearly every Chinese leader from Mao Zedong and Zhou Enlai to many of the present leaders.

Rittenberg and his wife and business partner Yulin, whom he met and married in China, have served dozens of top-ranking American and British companies. They have served clients such as Intel, Nextel, Hughes Aircraft and Levi Strauss. Mr. Rittenberg has also helped Dan Rather gain access in China as well as close friend Mike Wallace, with whom he has done four "Sixty Minutes" specials. He has arranged three trips to China for another close friend, Billy Graham, for whom he served as a translator.

Rittenberg is the former Frey Distinguished Professor of Chinese History at the University of North Carolina (Chapel Hill), where an endowed chair has been announced in his name. He currently is Visiting Professor of China Studies at Pacific Lutheran University, Tacoma, Washington, where he was introduced by Ned Graham, youngest son of Dr. Graham. He is a frequent keynote speaker at business seminars and has been the subject of numerous television and media interviews, in both the United States and China. He is author of three books including the autobiographical The Man Who Stayed Behind.

His experience in China since World War II gives him a unique insight into the actual condition of religious freedom in the People's Republic of China, the threats to the exercise of that freedom and a great concern for the people of that nation.

Travis B Bryan, III

A 59 year old lawyer practicing in Bryan, Texas, Travis B. Bryan, III, is a former elected District Attorney of Brazos County and was also a Bryan City Councilman. He is board certified in criminal law by the Texas Board of Legal Specialization.

"I was raised a Texas Baptist and have been active in Christian circles in South Texas for many years. Although not a member of any of the Local Churches, I have attended ten or twelve of their

meetings over the last 5 or 6 years. I have also read many of their publications, with which I have been favorably impressed as a guide to Christian life and practice.

"In all my contact with the Local Church and its members I have not seen or become aware of any practice that is even remotely cultic. I endorse this letter to express my distress at the Local Church being labeled a "cult" by a nationally known publishing company under the cloak of religious speech, and to support the Local Church and Living Stream Ministry's Petition for Review."