

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN CIVIL LIBERTIES UNION of
MASSACHUSETTS,

Plaintiff,

v.

MIKE LEAVITT, Secretary of U.S. Department of
Health and Human Services, in his official capacity,
WADE HORN, Assistant Secretary for Children and
Families, in his official capacity, and HARRY
WILSON, Associate Commissioner for the
Administration on Children, Youth and Families in his
official capacity,

Defendants.

CIVIL ACTION NO.:

COMPLAINT

Plaintiff American Civil Liberties Union of Massachusetts (“Plaintiff” or “ACLU of Massachusetts”), for its complaint in the above-captioned matter, alleges as follows:

PRELIMINARY STATEMENT

1. Defendants have provided more than one million dollars of public funds to an organization called the “Silver Ring Thing” (or “SRT”). The Silver Ring Thing is a ministry that uses abstinence education as a means to bring “unchurched” students to Jesus Christ. Federal dollars support the Silver Ring Thing’s religious activities and religious content. Both because the federal funding of the Silver Ring Thing constitutes a direct government grant to a pervasively sectarian institution and because the federal dollars are demonstrably underwriting religious activities and religious content, the funding violates the Establishment Clause of the First Amendment to the United States Constitution. Furthermore, the federal grant to the SRT

impermissibly communicates a message of governmental endorsement of and preference for religion in general and the specific religious tenets of SRT in particular. Plaintiff – whose members include taxpayers whose tax dollars are used to finance the Silver Ring Thing program – seeks, among other relief, an injunction barring the Defendants from continuing to fund the Silver Ring Thing.

JURISDICTION AND VENUE

2. This action arises under the First Amendment of the United States Constitution and presents a federal question within this Court’s jurisdiction under Article III of the Constitution and 28 U.S.C. § 1331.

3. Plaintiff’s claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the inherent equitable powers of this Court.

4. The Court has the authority to award costs and attorneys’ fees under 28 U.S.C. § 2412.

5. Venue is proper in this judicial district under 28 U.S.C. § 1391(e).

PARTIES

6. Plaintiff ACLU of Massachusetts is a statewide affiliate of the national American Civil Liberties Union. The ACLU of Massachusetts is incorporated as a Massachusetts not-for-profit corporation and is a membership organization with approximately 20,000 members in the Commonwealth of Massachusetts. The mission of the ACLU of Massachusetts is to defend and advance the individual freedoms embodied in the federal and Massachusetts Constitutions. The ACLU of Massachusetts conducts extensive advocacy in support of the rights safeguarded by the Establishment Clause of the United States Constitution. Its members include individuals who

pay income taxes to the United States and who oppose government funding that promotes religion, including such government funding to the Silver Ring Thing.

7. Defendant Harry Wilson is the Associate Commissioner for the Administration on Children, Youth and Families and is the head of the Family and Youth Services Bureau (“FYSB”), the subdivision of the United States Department of Health and Human Services (“HHS”) charged with administering the federal Abstinence Education Special Congressional Initiative Project Grants to the SRT. Defendant Wilson has failed to sufficiently monitor or audit the funding of SRT. Defendant Wilson and his successors are sued in their official capacity.

8. Defendant Wade Horn is Assistant Secretary for Children and Families for the Administration for Children and Families in HHS. Defendant Horn has authority over the Family and Youth Services Bureau and has failed to cause FYSB to monitor or audit the funding of SRT sufficiently. Defendant Horn and his successors are sued in their official capacity.

9. Defendant Mike Leavitt is the Secretary of the United States Department of Health and Human Services and is responsible for the administration and oversight of the Department. Defendant Leavitt has authority over the Administration on Children, Youth and Families and FYSB and has failed to guarantee that the funding of SRT is sufficiently monitored or audited. Defendant Leavitt and his successors are sued in their official capacity.

FACTS GIVING RISE TO THIS ACTION

A. The Silver Ring Thing

10. The federal government has awarded more than one million dollars to the Silver Ring Thing in the past three years.

11. According to IRS filings, the Silver Ring Thing, IRS ID number 25-1376083, is also known as the John Guest Evangelistic Team, which has the same address, the same telephone number, and the same IRS ID number.

12. According to 2001 IRS filings, the John Guest Evangelistic Team is an “Evangelistic Ministry.” In its “Statement of Program Service Accomplishments,” it describes its three main programs as “Evangelistic crusade planning, coordination, and implementation, including development and distribution of religious material,” “International evangelistic programs including Christian center in Cuba, Ukraine, Ghana and Holland,” and “Radio broadcast of religious teaching on twelve radio stations.” Internal Revenue Service Form 990, 2001 (filed Aug. 12, 2002).

13. In the BBC documentary, “American Virgins,” Silver Ring Thing Executive Director Dennis Pattyn states, “I believe that the end of the world is approaching very quickly and I believe that Christ will come back. . . . I believe that we are approaching the return of Christ, which is a huge event.” When asked if abstinence is the appropriate place for his energies if the end of the world is so close, Mr. Pattyn explains that abstinence education is merely a means to an end for the Silver Ring Thing, and the end is to bring faith into the lives of students.

14. In the *It's Time* Silver Ring Thing newsletters, the Silver Ring Thing/John Guest Evangelistic Team describes “Our Ministry” as follows: “The ministry of John Guest and his team is to call our world to Christ. The Silver Ring Thing is now the primary outreach of the John Guest Team. The mission is to saturate the United States with a generation of young people who have taken a vow of sexual abstinence until marriage and put on the silver ring. This mission can only be achieved by offering a personal relationship with Jesus Christ as the best

way to live a sexually pure life.” See, e.g., Silver Ring Thing *It’s Time* Newsletters, Fall 2004, Spring 2004, May 2004, April 2004.

15. Articles in the *It’s Time* newsletters highlight the success of the Silver Ring Thing in achieving its stated mission. For example, the April 2004 SRT newsletter commented, “Who would have ever thought we would see the day when promoting sexual abstinence among students would become an opportunity to communicate the Good News of the Gospel. Through our Silver Ring Thing program, students who are longing for sexual purity have the chance to begin again. The Good News that comes with Jesus Christ is that He is the power and the hope of starting over.” April 2004 Newsletter

<http://www.silverringthing.com/images/srtnewsCW324final.pdf>).

16. According to SRT’s applications for federal funds, a key component of the Silver Ring Thing program is its three-hour high-tech multi-media presentations (“Three-Hour Presentation”) that culminate in students taking an abstinence pledge and donning the SRT ring: “The high-tech presentation is the ‘thing’ in the Silver Ring Thing. . . . The program features hilarious skits, concert sound systems, and high-energy music and is presented by a team of talented and trained peer level performers. A typical SRT event lasts three hours . . .” “The climax of the event, is when the participants join together in reciting the abstinence pledge which states that they will present their silver ring to their spouse on their wedding day, symbolizing that they have abstained from sexual behavior.”

17. According to Silver Ring’s Thing’s website, SRT has held at least three of these events in the Boston area since April 2003, and another Boston event is tentatively scheduled for October 15, 2005.

18. On information and belief, the Three-Hour Presentation, discussed in more detail below, is permeated with religion.

19. In keeping with SRT's focus on bringing students to Jesus, the registration card for the Three-Hour Presentation requires the following information: name, address, email address, age, school, grade, "Do you currently attend church?" "If so, where?" Students are required to fill out a registration card in order to attend a SRT Three-Hour Presentation.

20. The SRT announces in its SRT newsletter how many students after each Three-Hour Presentation have "made a commitment to Jesus."

21. This same information about how many students have "made a commitment to Jesus" after each Three-Hour Presentation is posted on its website as well. The website also includes a photograph of the students at a particular Three-Hour Presentation who have "made a commitment to Christ."

22. In response to an inquiry about the SRT school assembly program, an SRT representative stated in an e-mail dated August 30, 2004: "The vision of our program is to reach as many un-churched students as possible, and we see [public school] assemblies as an opportunity to reach a larger audience." In an e-mail dated August 26, 2004, the SRT representative explained that "[b]asically, the assembly is designed to compel students to attend the [Three-Hour Presentation] following shortly afterwards."

23. According to SRT's federal grant applications, another key component of the Silver Ring Thing is its twelve-step follow-up plan ("Follow-Up Plan"): "SRT recognizes that making a pledge and putting on a ring is only the beginning. Very few people can remain true to their pledge unless they have strong individual and group support. For this reason, SRT has created a 12-Step follow-up plan."

24. On information and belief, as described below, religion permeates the Follow-Up Plan.

25. On information and belief, it is not possible to participate fully in the complete SRT program, which includes the Three-Hour Presentation and Follow-Up Plan, without encountering religious content and proselytization.

26. On information and belief, the Silver Ring Thing is so permeated by religion that any secular activities it has cannot be separated from its sectarian ones.

B. Religious Content of SRT's Three-Hour Presentation

27. On information and belief, the Silver Ring Thing's Three-Hour Presentation, which federal dollars help support, is a highly religious program that promotes Christianity.

28. On information and belief, the Three-Hour Presentation is offered in two parts. There is a short intermission between the first and second part.

29. On information and belief, during the intermission, SRT Executive Director Dennis Pattyn asks students to decide whether they want to hear more about abstinence with or without religion.

30. On information and belief, students are strongly encouraged to remain for the religious programming. For example, Mr. Pattyn has told the audience that he highly encourages them to stay in the room.

31. On information and belief, students attending the Three-Hour Presentation feel pressured to attend the religious programming.

32. On information and belief, federal funds support both the religious programming and the secular programming in the second part of the Three-Hour Presentation.

33. On information and belief, those who wish to attend the secular programming must go to a different room than the one used for the first part of the Three-Hour Presentation.

Those attending the religious programming do not need to switch rooms.

34. On information and belief, in typical sessions, no more than a handful of students leave the room for the secular programming.

35. On information and belief, those who remain for the religious programming are exposed to a ninety-minute session suffused with religious proselytization.

36. On information and belief, in the religious programming, SRT members testify on stage about how their lives improved after they accepted Jesus Christ.

37. On information and belief, in the religious programming, SRT members quote and explicate Bible passages on stage.

38. On information and belief, in the religious programming, Mr. Pattyn discusses on stage his own born-again experiences that occurred when he was a teenager.

39. On information and belief, in the religious programming, Mr. Pattyn urges audience members to do as he did and ask the Lord Jesus Christ to come into their lives.

40. On information and belief, in the religious programming, Mr. Pattyn recites a prayer asking Christ to forgive any past sins, and tells audience members that their sins could be forgiven on the spot.

41. On information and belief, at the end of the event, Mr. Pattyn instructs audience members to go get their rings.

42. On information and belief, the rings are available at all SRT performances and cost \$15.00.

43. The rings are inscribed with “1 Thess. 4:3-4.” This is a reference to the Bible verse 1 Thessalonians 4:3-4, which reads: “God wants you to be holy, so you should keep clear of all sexual sin. Then each of you will control your body and live in holiness and honor.”

44. On information and belief, SRT does not offer SRT rings without inscription of this biblical verse.

45. On information and belief, students are given a Silver Ring Thing Sexual Abstinence Study Bible when they purchase a ring.

46. On information and belief, once people have their SRT ring and SRT Bible, Mr. Pattyn directs the audience to the first page of the Bible. This page contains the Silver Ring Thing Covenant. The audience is told to fill in their names, sign and date it, and within three days identify an accountability partner who would countersign the Covenant.

47. The Silver Ring Thing Covenant reads: “In signing this covenant before God Almighty, I _____, agree to wear a silver ring as a sign of my pledge to abstain from sexual behavior that is inconsistent with Biblical standards. On my wedding day, I will present my silver ring to my spouse, representing my faithful commitment to the marriage covenant.” There are places for both the student and his or her accountability partner to sign.

48. On information and belief, SRT does not offer an SRT abstinence pledge without religious content.

49. On information and belief, these examples of religious content in the SRT three-hour event are not exhaustive.

C. Religious Content of SRT's Twelve-Step Follow-Up Program

50. On information and belief, the Silver Ring Thing's twelve-step follow-up program, which federal dollars help support, is a highly religious program that promotes Christianity.

51. The Silver Ring Thing describes on its website

(<http://www.silverringthing.com/follow.html>) its twelve-step follow-up program as follows:

1. The Ring - the symbol and namesake of the Silver Ring Thing. The ring is a constant reminder of the commitment made and sends a profound message to everyone who sees it.
2. SRT Bible - abstinence study Bible with support material specific to students. A distinct connection between the Bible and e-mail follow-up provides depth and further understanding of the decision made.
3. The Vow - a public promise to remain abstinent until marriage pledged by each student in a group setting. The Vow is signed and dated on the first page of the SRT Bible as a reminder and constant source of encouragement and support. [The Vow reads, "In signing this covenant before God Almighty, I _____, agree to wear a silver ring as a sign of my pledge to abstain from sexual behavior that is inconsistent with Biblical standards. On my wedding day, I will present my silver ring to my spouse, representing my faithful commitment to the marriage covenant."]
4. A Faith Decision - in accepting the ring, the student accepts the reason for wearing it. The student understands that God has a plan for his or her life, and a plan for his or her sexuality. When the decision is faith-based, the student has the power of God working within them.
5. Accountability Partner - within 48 hours, every student is asked to name an accountability partner of the same sex to encourage, share, and support his or her decision.
6. E-mail - SRT team members initiate e-mail contact with all students in an exhaustive effort to remain present in the daily lives of students. E-mails go out twice a week for two months and help guide and direct students through the SRT Bible and through daily circumstances.
7. SRT Mentoring - Staff members readily available to answer questions and offer support via phone, instant messenger, e-mail, or personal visitation where possible.

8. CREW/Leadership training - SRT is a teen and peer-driven organization. Students are taught leadership skills that strengthen the willpower to keep the vow and are given technical training of SRT systems and equipment. Joining Crew strengthens the abstinence commitment.

9. Youth Group - using contact information, students are encouraged and “plugged-in” to local youth networks for support and discipleship.

10. Website - our website, www.silverringthing.com, provides information for upcoming shows, current issues, latest SRT news, pictures, etc. Areas such as “Deb’s Diary,” “Ask the Doctor,” and “SRT Helpline” provide honest answers to real-life questions and challenges and help them understand the importance of an abstinence commitment.

11. Abstinence Saturated Communities - SRT is aggressively expanding its national and international reach and students become part of an every-growing peer group who will strengthen each other’s commitment. The goal is to perform 20-30 events per year in each Hub city, where students can attend numerous shows and receive constant encouragement and positive peer pressure.

12. Internship/Staff Opportunities - High school and college intern positions are available along with full-time staff positions in each developing Hub city. These positions provide strong bonds and fellowship, adding an additional level of accountability.

52. On information and belief, there is no secular version of the twelve-step follow-up program.

53. On information and belief, there is no SRT ring without inscribed biblical verses (*see Step 1*).

54. On information and belief, there is no SRT abstinence pledge without religious content (*see Step 3*).

55. On information and belief, there is no SRT secular sexual abstinence study guide (*see Step 2*).

56. The SRT Sexual Abstinence Study Bible (the “SRT Study Bible”) (*see Step 2*) promotes religion. In particular, it preaches Christianity. According to the SRT Study Bible, for example:

- a. “Abstinence without faith = Failure (It’s God’s idea!).”
- b. Among the top ten ingredients to remaining abstinent is “Develop your personal relationship with Jesus Christ.”
- c. “Jesus Christ [is] the Only Way to God. . . . If humankind could have reached God any other way, Jesus would not have had to die.”
- d. You will go to hell if you have not accepted Jesus: “If you have accepted God’s wonderful gift of salvation through his Son, Jesus Christ, your name will be found in the Book of Life, and you will spend eternity in heaven with God. If you have chosen to reject Christ, then your final destination will be the lake of fire. No arguments. Case closed.” “In hell, nonbelievers will be doomed to exist in unending torment with the Devil and his demons. . . . Nonbelievers will spend eternity in agony. . . . Those who know Christ have much to gain. Those who do not, have everything to lose.”
- e. These examples of religion content from the SRT Bible are not exhaustive.

57. An accountability partner is another step of the twelve-step SRT follow-up program. (See Step 5). According to the SRT website (<http://www.silverringthing.com/partner.html>), when accountability partners meet, they should “[t]ake time to pray for each other” and “[s]hare with each other what the Lord has been teaching you.” Recommended questions accountability partners should ask each other include “How has your walk with God been going?” and “Do you need prayer for anything?”

58. On information and belief, all student participants, regardless of whether they attend the secular or religious version of the SRT Three-Hour Presentation, receive the same follow-up e-mails from the SRT.

59. These SRT follow-up e-mails, which are designed to help students remain true to their abstinence pledge (*see* Step 6), are filled with religious content and promote Christianity.

a. For example, one email, sent December 14, 2004, informs readers that they can still put on a ring even if they have already had sex: “Yes! You can still put on a ring!!! It’s called STARTING OVER. Jesus meant every word that he spoke about forgiveness. All you have to do is this:

- Acknowledge that you didn’t do things His way before.
- Accept the fact that He completely forgives you and you can start over.
- Forgive yourself! Christ forgives you, so let it go!
- Come to the next show and put on a ring as a symbol that you are waiting until your wedding day!

Don’t let your past rule your life – let Christ. Also, for a little more encouragement, check out John 8: 1-11 for a great example.”

b. Another e-mail, sent January 4, 2005, assures students that they will be able to resist temptations because “[i]n your time of need God will provide you with whatever it takes to get away from, out of or to overcome the temptation.” The e-mail continues: “When I find myself tempted, I just say a prayer right then and there, in my head without closing my eyes or anything, and I ask Him for help. Usually it’s like, ‘Hey God, what’s up, I need some help here and I know you’re the guy to ask. Thanks.’ Someway, somehow, God gives me

what I need to overcome the temptation, whatever it takes He provides. Imagine how stoked God is up there in heaven when one of His children on earth stays strong and shows Satan what's what by overcoming temptation!"

c. These examples of religious content in the follow-up e-mails are not exhaustive.

60. The SRT website, which students are advised to consult (*see* Step 10), is filled with religious content and promotes religion.

61. For example, according to "Deb's Diary," a personal column on the website students are encouraged to consult:

a. "Here are some ways you can strive to be pure: Pursue Faith. The only way to keep strong in God is to read his word, talk to him and worship him 24/7. . . . Talk about God. . . . When you let others know about who you believe in, it not only strengthens your faith, but it lets them know where you stand on certain issues." P-U-R-I-T-Y, Deb's Diary
(<http://www.silverringthing.com/deb26.html>).

b. "You don't need anyone you are romantically interested in to COMPLETE you. Honestly, the only person you need to complete you is Jesus. Come on – has anyone else taken it upon themselves to die for you lately? . . . You are totally complete in Christ. There is no other person anywhere that could complete you." Deb's Diary, Jerry McGuire Was Wrong
(<http://www.silverringthing.com/deb09.html>).

c. These examples of religious content in "Deb's Diary" are not exhaustive.

62. The SRT Newsletter, made available on the website, is also filled with religious content, as these following excerpts demonstrate:

a. “Vision Now Reality: As the traveling crew continues to do its work in cities across America each week, more people are becoming part of this abstinence phenomenon. And ultimately, they are developing a relationship with Jesus Christ. This is such good news! We want you to catch the vision that is now a reality for us! As you read this edition of It’s Time, you’ll see how God is using the John Guest Team and the Silver Ring Thing in powerful ways.” April 2004 Newsletter (<http://www.silverringthing.com/images/srtnewsCW324final.pdf>).

b. “National Prayer Team Kick-Off: How would you like to be a prayer warrior for the Silver Ring Thing ministry? We are organizing a national team of pray-ers who will commit to praying for the many aspects of the ministry.” May 2004 newsletter (<http://www.silverringthing.com/images/srtnews55final.pdf>).

c. These examples of religious content in the SRT newsletter are not exhaustive.

D. Abstinence Education Special Congressional Initiative Project Grants

63. Each year for the past three years, Congress has set aside in its annual Omnibus Appropriations Bills special earmarks for abstinence education. These grants are known as Abstinence Education Special Congressional Initiative Project Grants (“special abstinence grants”).

64. According to the special abstinence grant guidelines, the funds are to be used to promote abstinence education, as defined by Section 510 of Title V of the Social Security Act, to students aged 12-18.

65. The grants are administered by the United States Department of Health and Human Services (“HHS”). Since June 2004, the grants have been administered by the Family and Youth Services Bureau, a division of the Administration for Children and Families within HHS. Previously, the grants were administered by the Maternal Child and Health Bureau, a division of the Health Resources and Services Administration within HHS.

E. Federal Funds Support Silver Ring Thing’s Religious Activity

66. The Silver Ring Thing has requested and received over one million dollars of federal funds in the past three years. FY2003 Omnibus Appropriations Bill, Public Law 108-7 (February 20, 2003), 117 Stat. 11 (awarded for the time period August 1, 2003 to July 31, 2004); FY2004 Omnibus Appropriations Bill, Public Law 108-199 (January 23, 2004) 118 Stat. 39 (awarded for the time period August 1, 2004 to July 31, 2005); FY2005 Omnibus Appropriations Bill, Public Law 108-477 (December 8, 2004), 118 Stat. 2809 (for the time period August 1, 2004 to July 31, 2006).

67. On information and belief, these funds are used to support the Three-Hour Presentations and the Follow-Up Program.

68. For example, in fiscal year 2003, the SRT 2003 application for federal funds (which was granted) requested \$335,450 of public funds for the salaries and benefits of positions the SRT described as “integral to the development and production of the Silver Ring Thing’s abstinence education and follow-up initiatives.” Likewise, the SRT’s 2004 application for

federal funds (which was likewise granted) proposed that the majority of its 2004 federal grant, \$350,000, be used for salaries and benefits.

69. On information and belief, other federal funds have been used to support the Three-Hour Presentation and the Follow-Up Program. For example, according to SRT's budget proposals, federal funds have been allocated for equipment and vehicles "critical for producing the SRT high tech sexual abstinence education program." This includes, for example, funds for "the complete truss system used to set up all the sound, light, and video equipment for producing a SRT show" as well as "vans . . . to transport the crew to shows all over the U.S. . . . These vehicles are needed to transport all of the program staff, crew, and equipment to all of the national programs." Moreover, according to SRT's budget proposals, federal funds have been allocated to support office space, supplies, and computers to be used by "staff, interns, volunteers, and crew. All of these people are integral to the development and production of the SRT abstinence education program and follow-up program."

70. On information and belief, the special abstinence grants are awarded directly to the Silver Ring Thing. The grants are not awarded as vouchers to individual students who then decide to direct the funds to the Silver Ring Thing. Nor is the amount of the grants contingent on the number of students participating in the Silver Ring Thing programs.

71. On information and belief, the Silver Ring Thing makes no effort to segregate government funds for solely secular uses.

72. Defendants have failed to establish safeguards sufficient to prevent the SRT from using government funds for religious activities and purposes.

73. In sum, SRT uses taxpayer dollars to promote religious content, instruction, and indoctrination.

74. As a result of the above-described actions of Defendants, Plaintiff, on behalf of its members, has suffered irreparable injury.

CAUSE OF ACTION

(Violation of the Establishment Clause of the U.S. Constitution)

75. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 74 as if set forth fully herein.

76. The Establishment Clause of the First Amendment to the U.S. Constitution provides that “Congress shall make no law respecting an establishment of religion.”

77. For the reasons set forth above, Defendants have violated the Establishment Clause of the First Amendment to the U.S. Constitution.

RELIEF REQUESTED

WHEREFORE Plaintiff respectfully requests that this Court grant the following relief:

1. a judgment pursuant to 28 U.S.C. § 2201 declaring that Defendants’ actions, as set forth above, violate the Establishment Clause of the First Amendment to the United States Constitution;
2. the entry of a preliminary and permanent injunction ordering Defendants and their agents, representatives, successors and those acting in concert with them to cease and desist from disbursing federal funds to SRT;
3. an award of costs and attorneys’ fees; and
4. such further and other relief as this Court deems appropriate.

Respectfully submitted,

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Dated: May 16, 2005

*Motion for Admission *Pro Hac Vice* Pending

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