

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

In Re COMMUNITY CHAPEL AND  
BIBLE TRAINING CENTER, a  
non-profit corporation  
organized under the laws of  
the State of Washington.

Cause No.

2-0517  
**ORIGINAL**

Deposition Upon Oral Examination  
of  
DRAKE PESCE

Taken at 260 - 216 First Avenue South  
Seattle, Washington

APPEARANCES:

For COMMUNITY CHAPEL &  
BIBLE TRAINING CENTER,  
E. SCOTT HARTLEY, and  
JACK DuBOIS:

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DATE: April 13, 1988

REPORTED BY: Patrice E. Starkovich, RPR

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25

A. Uh-huh.

Q. Are you employed?

A. Yes.

Q. Where are you employed?

A. Community Chapel.

Q. What position are you employed there in?

A. Senior accountant.

Q. Are there other accountants on the staff at  
Community Chapel?

A. No.

Q. Is there a distinction in using the words  
"senior accountant"?

A. There are clerks, but they are not accountants.

Q. How long have you been employed by Community  
Chapel?

A. About two and a half years.

Q. During that two and a half years, have you been  
the senior accountant for Community Chapel?

A. Yes.

Q. Were you hired into that position as the senior  
accountant?

A. Yes.

Q. Who hired you into that position?

A. The Deacon Board, I believe.

Q. Who was the representative that you spoke with

1 at Community Chapel when you applied for the position?

2 A. I didn't apply. I was approached.

3 Q. Who approached you?

4 A. Wiman Smalley.

5 Q. Mr. Smalley's position at the time that he  
6 approached you was what?

7 A. He was the treasurer.

8 Q. Was he the treasurer at that point in time?

9 A. Yes, I believe so.

10 Q. Who is your supervisor at Community Chapel at  
11 the present time?

12 A. Can you repeat that.

13 (The pending question was  
14 read by the court reporter.)

15 A. The board of directors.

16 Q. Would it be correct to say that you follow the  
17 directions of one or more of the representatives of the  
18 board of directors?

19 A. Could you repeat it.

20 (The pending question was  
21 read by the court reporter.)

22 MR. ANDERSEN: If you think the question  
23 needs clarification or you don't understand it --

24 A. Yes. Could you clarify that.

25 Q. (By Mr. Pierce) Why do you have problems with

1 that question?

2 A. I don't understand what you are asking.

3 Q. You say your supervisor at Community Chapel is  
4 the board of directors, or is there one individual?

5 A. It is a group of people.

6 Q. Who is that group of people that you respond  
7 to?

8 A. The board of directors.

9 Q. Who is the board of directors at the present  
10 time?

11 A. You are asking me for their names?

12 Q. Yes. Can you identify who they are?

13 A. Scott Hartley and Donald Lee Barnett.

14 Q. Do you require that more than one of these  
15 individuals direct you at any particular time for you to  
16 follow them as your supervisor?

17 A. Yes.

18 Q. So, you require two of them to give you  
19 directions or three? If it is more than one, it has to  
20 either be two or three.

21 A. Yes.

22 Q. Who has told you that you should follow the  
23 direction of two of these individuals together?

24 A. The board of directors.

25 Q. Is this in a memo that was given to you, or was

1 it verbally given to you?

2 A. Verbally.

3 Q. Who verbally told you that you should be  
4 following the directions of two individuals on the board  
5 of directors?

6 THE WITNESS: Can you repeat that, please?

7 (The pending question was

8 read by the court reporter.)

9 A. Scott Hartley and Jack DuBois.

10 Q. (By Mr. Pierce) When did this occur?

11 A. It occurred in the process of giving me  
12 direction regarding many subjects.

13 Q. The date this occurred, please.

14 A. I don't know.

15 Q. Would it have been in the month of March or in  
16 the month of April?

17 A. I don't know.

18 Q. How long have you been following the directions  
19 that were verbally given to you by Scott Hartley and  
20 Jack DuBois that you should be following the directions  
21 of two of the board of directors?

22 A. Any time I need a decision on something other  
23 than through normal channels, they instruct me on what to  
24 do.

25 Q. We will come back to this in just a moment.

1                   How long of a period of time have you been  
2 taking your directions from two of the members of the  
3 board of directors?

4           A.    I will repeat what I said. My answer is the  
5 same, what I just said.

6           Q.    I am asking for the length of time, not the  
7 procedure that you follow for out of normal procedures.  
8 I want to know the length of time that you have been  
9 following the direction of two of the members of the  
10 board of directors.

11                   MR. ANDERSEN: It is the length of time,  
12 as I understand it, that you have been following  
13 directions of at least two, two or more members, of the  
14 board of directors. How long has that process occurred,  
15 if you remember?

16           A.    I don't remember.

17           Q.    (By Mr. Pierce) Why do you have a problem in  
18 remembering, Mr. Pesce?

19           A.    Because I don't operate in terms of time. I  
20 operate in terms of instructions over matters where it  
21 doesn't go through normal channels. Then I just go  
22 through the board of directors and ask them. So, I don't  
23 recall a time.

24           Q.    I will come back to the time issue in a second.  
25                   You indicated any time you need directions,



1 other than the normal channels, they instruct you. By  
2 "they," you mean Scott Hartley and Jack DuBois?

3 A. Yes.

4 Q. What are the normal channels that you referred  
5 to?

6 A. The normal channels that exist in any  
7 corporation regarding reccurring expenditures, receipts,  
8 et cetera.

9 Q. I am not talking about the abstract of any  
10 corporation. I am talking about one corporation,  
11 Community Chapel, and please tell me what the normal  
12 channels were that you would follow in taking your  
13 directions.

14 A. The normal authority within a church, within a  
15 corporation.

16 Q. What is the normal authority at Community  
17 Chapel?

18 A. I don't understand your question.

19 Q. I am using your words, Mr. Pesce. You provided  
20 to me your answer saying that you follow the normal  
21 authority in a church. Now I am asking you what that  
22 means. Can you tell us what that means.

23 A. That means many people have been delegated  
24 authority over many areas. To the extent they operate  
25 within their authority, I do not question it or challenge

1 it.

2 To the extent unusual items come up or are  
3 presented to me, I go to a higher authority, and the  
4 highest authority is the board of directors.

5 Q. Now, are you taking directions from any other  
6 individuals other than Scott Hartley and Jack DuBois?

7 A. Yes.

8 Q. I am trying to get a picture of the chain of  
9 command at Community Chapel and who you would be taking  
10 direction from. Who would be supervisors for you at  
11 Community Chapel?

12 A. Don Barnett.

13 Q. Anybody else?

14 A. No.

15 Q. What position does Don Barnett hold in the  
16 corporation?

17 A. He is the president of the corporation and a  
18 member of the board.

19 Q. As an officer of the corporation and as the  
20 president, would he be between you and the board of  
21 directors?

22 A. Could you repeat that.

23 MR. PIERCE: Let's go off the record.

24 (Discussion off the record.)

25 A. Can you rephrase the question?

1 MR. PIERCE: Will you read it back.

2 (The pending question was  
3 read by the court reporter.)

4 A. I haven't been instructed that he has been  
5 between me and the board of directors. So, the answer is  
6 no.

7 Q. (By Mr. Pierce) You said you were instructed  
8 that he was not in between you and the board of  
9 directors?

10 A. I said I have not been instructed that he is  
11 between me and the board of directors. So, the answer is  
12 no.

13 Q. You were talking about normal business  
14 corporations a minute ago in your answer and saying there  
15 is a normal chain of command that would occur in any  
16 corporation. Are you familiar with them?

17 A. Yes.

18 Q. Prior to working at Community Chapel, where  
19 were you employed?

20 A. Seafirst.

21 Q. For how long a period of time did you work at  
22 Seafirst?

23 A. Nine years.

24 Q. What department did you work in at Seafirst?

25 A. Accounting.

1 Q. What position did you hold at Seafirst in the  
2 accounting department?

3 A. I was vice-president over accounting policy.

4 Q. How long was that?

5 A. Four years, about.

6 Q. I'm not pinning you down to the four years.  
7 Approximately four years you worked as vice-president in  
8 accounting policy, and for the remaining five years, what  
9 else were you doing?

10 A. I was responsible for published financial  
11 statements.

12 Q. Is that a separate title that you would have  
13 other than vice-president of accounting policy?

14 A. Assistant vice-president, financial reporting.

15 Q. How long of a period did you hold that  
16 position?

17 A. For the remainder of the time.

18 Q. Approximately five years?

19 A. Correct.

20 Q. Now, prior to working at Seafirst, where were  
21 you employed?

22 A. Touche Ross & Company, CPA's.

23 Q. What period of time were you employed at  
24 Touche Ross?

25 A. 1973 to 1976.

1 Q. From Touche Ross in 1976, you went to Seafirst  
2 in that year and worked there for approximately nine  
3 years?

4 A. Yes.

5 Q. So, that would be about 1976 to 1985 that you  
6 worked at Seafirst; is that right?

7 A. Yes.

8 Q. When you were at Touche Ross, what position  
9 did you hold with that company?

10 A. Auditor.

11 Q. Can you explain what an auditor does.

12 A. Audits financial statements.

13 Q. What does the process of auditing involve?

14 THE WITNESS: Do I have to answer  
15 questions like this?

16 MR. ANDERSEN: Sure. That's okay.

17 A. The process of auditing is to express an  
18 opinion on the reliability of financial data that is  
19 presented in a report by management to its shareholders.

20 Q. (By Mr. Pierce) Where did you go to school,  
21 Mr. Pesce?

22 A. What type of school are you talking about?

23 Q. Did you go to college?

24 A. Yes, I did.

25 Q. Where did you go to college?

1 A. University of Washington.

2 Q. During what period of time were you at the  
3 University of Washington?

4 A. 1971 to 1973.

5 Q. Did you receive a Bachelor of Arts?

6 A. Yes, I did.

7 Q. Did you have a degree in accounting from the  
8 University of Washington?

9 A. I had a degree in business administration, a  
10 major in accounting.

11 Q. Did you sit for the Washington State Certified  
12 Public Accounting Examination after graduation from the  
13 University of Washington?

14 A. Yes.

15 Q. In the year 1973?

16 A. Yes.

17 Q. Did you pass that in 1973?

18 A. Yes.

19 Q. Was there a portion of your undergraduate work  
20 done at some other location other than the University of  
21 Washington?

22 A. Highline Community College.

23 Q. What period of time were you at Highline  
24 Community College?

25 A. 1969-1971.

1 Q. Do you have any postgraduate education at the  
2 university level or above?

3 A. No.

4 Q. Do you have continuing educational requirements  
5 as a certified public accountant in the state of  
6 Washington?

7 A. Yes.

8 Q. Could you tell us what those are.

9 A. 80 hours of continuing education every two  
10 years.

11 Q. Are you represented by counsel at this  
12 deposition of your own?

13 A. What do you mean, "of my own"?

14 Q. Do you have your own attorney for this  
15 deposition?

16 (Discussion off the record.)

17 MR. PIERCE: Let the record reflect that  
18 counsel for the two senior elders, Mr. Andersen, is  
19 consulting with the witness and providing him  
20 information, not at the sound level to be heard by all  
21 others.

22 Q. (By Mr. Pierce) Go ahead and answer.

23 A. I am represented by counsel for Community  
24 Chapel.

25 Q. Community Chapel counsel is here. You have not

1 retained an individual attorney to represent you  
2 individually in these proceedings; is that correct?

3 A. That's right.

4 Q. Did you say that you were an auditor for a  
5 period of three years at Touche Ross?

6 A. Yes.

7 Q. Tell us what Touche Ross is.

8 A. Touche Ross is a national CPA firm.

9 Q. Would it be one of the ten largest in the  
10 United States?

11 A. I think so.

12 Q. In your position as auditor for Touche Ross,  
13 you audited corporations with regard to their financial  
14 statements and their activities that they took as a  
15 business; is that correct?

16 A. Yes.

17 Q. Would it be correct to say you know what the  
18 functions of a board of directors is for a corporation?

19 A. Not entirely.

20 Q. Tell me what your understanding is of the  
21 function of a board of directors of a corporation.

22 A. My understanding is the board of directors is  
23 the highest level of authority and oversight for a  
24 corporation.

25 Q. How many corporations did you audit as an



1 auditor at Touche Ross?

2 A. I don't remember.

3 Q. Approximately.

4 A. I don't remember.

5 Q. Above a hundred?

6 A. I don't remember.

7 Q. Above fifty?

8 A. I don't remember.

9 Q. Above ten?

10 A. Yes.

11 Q. So, we know, at least, we have done ten, and  
12 would those be major corporations, or would those be  
13 small regional corporations, or would they be just the  
14 one-man type corporations?

15 A. Smaller corporations.

16 Q. Regional Northwest corporations?

17 A. Local corporations.

18 Q. Can you tell us approximately the size of these  
19 corporations.

20 MR. ANDERSEN: Size in what respect?

21 Q. (By Mr. Pierce) Were you responsible for  
22 auditing corporations of a certain size?

23 A. Can you rephrase your question.

24 Q. I am trying to find the scope of your  
25 responsibility as an auditor for Touche Ross and what

1 corporations you were going to be responsible for. If  
2 that involves the word "size," or if it involves dollar  
3 amounts, or number of employees, whatever the distinction  
4 is at Touche Ross, I just used the word "size" as an  
5 introduction. If you have some other way of defining  
6 that, that is fine with me. Just tell me the area here.

7 A. The partners are responsible for the audit;  
8 staff auditors are not. So, I was not responsible. So,  
9 if your question is was I responsible, I was not  
10 responsible for an audit.

11 Q. You were not a partner at Touche Ross?

12 A. Correct.

13 Q. Did you have the opportunity to become a  
14 partner at Touche Ross?

15 A. No.

16 Q. Why is that?

17 MR. ANDERSEN: I don't know if that is  
18 relevant.

19 MR. PIERCE: I don't know, either. I will  
20 ask and find out.

21 A. You have to be at a large firm for many, many  
22 years to become a partner.

23 Q. (By Mr. Pierce) More than three years, I take  
24 it?

25 A. Yes.

1 Q. So, you were only there for a short period of  
2 time, and you weren't able or did not desire to stay  
3 around long enough to maintain that seniority; is that  
4 correct?

5 A. Yes.

6 Q. Were you in a group of auditors that were used  
7 for certain size corporations by one of the partners in  
8 the auditing department of Touche Ross?

9 A. Yes.

10 Q. What was the size of the corporations you were  
11 working on?

12 A. Define "size."

13 Q. I am not using size as being some determining  
14 factor. I am just trying to get the relationship of the  
15 corporation to other corporations, however you can define  
16 size of the corporations, either in dollar amounts or  
17 employees. How was it defined at Touche Ross with regard  
18 to employees of the corporation?

19 A. We didn't look at it in terms of size.

20 Q. How did you define the groups of corporations  
21 that one auditing group would look at and another  
22 auditing group would look at?

23 A. According to industry.

24 Q. What industry were you involved in?

25 A. Retail, savings and loan.

1 Q. Was it principally retail or principally  
2 savings and loan?

3 A. Principally savings and loan.

4 Q. Let's use savings and loan as an example. In  
5 any of those savings and loans, were any of the board of  
6 directors of those corporations, unless they were  
7 specifically an officer, involved in the operations of  
8 those savings and loans, to your knowledge?

9 A. Yes.

10 Q. Give me an example of how that worked.

11 A. There were a number -- I correct that. There  
12 was one savings and loan that I recall where one of the  
13 directors was involved in the management of the  
14 corporation, day-to-day operations, very extensively.

15 Q. This was an officer of the corporation?

16 A. What?

17 Q. Was he an officer of the corporation?

18 A. Yes.

19 Q. Was there any corporations which you can  
20 recall in which the board of directors or a member of the  
21 board of directors was involved in the operations of the  
22 business and was not an officer of the corporation?

23 A. I don't remember.

24 Q. Isn't it true, Mr. Pesce, based upon your  
25 knowledge, there are no situations in which the board of

1 directors, to your memory, has ever been involved in the  
2 operations of the business unless they have also been an  
3 officer of the corporation?

4 THE WITNESS: Can you repeat that, please.

5 (The pending question was  
6 read by the court reporter.)

7 A. I can't answer that.

8 Q. (By Mr. Pierce) Why is that?

9 A. I don't know.

10 Q. To the extent of your knowledge, is what I am  
11 asking.

12 MR. ANDERSEN: If you remember or not.

13 Q. (By Mr. Pierce) If you don't remember it  
14 occurring, say you don't ever remember it occurring. If  
15 you recall it occurring, say you do.

16 MR. ANDERSEN: It is to the extent of your  
17 experience and knowledge.

18 A. I am aware of, or I recall, that outside  
19 directors, if that is what you are asking, have been  
20 involved in the affairs, internal affairs, of the  
21 corporation, whether officer or not officer, at Seafirst  
22 and others.

23 Q. (By Mr. Pierce) Let's use Seafirst, then, as an  
24 example. Give me the name of a member of the board of  
25 directors that was involved in the operation of the

1 business and was not an officer of the corporation.

2 A. My recollection is that non-officer members of  
3 the board of directors at Seafirst who served on certain  
4 -- I am going to rephrase that.

5 My recollection is that non-officer members of  
6 the board of directors were involved in the business  
7 activities of Seafirst.

8 Q. Who are they?

9 A. I don't remember.

10 Q. I thought you just said you did recall that  
11 they were.

12 A. I don't remember their names.

13 Q. Isn't it true that in most corporations,  
14 Mr. Pesce, an accountant would be responsible to the  
15 president of the corporation?

16 A. I don't know.

17 Q. Based upon your experience, you are unable to  
18 form any opinion with regard to the responsibility of  
19 employees of the corporation to a president?

20 THE WITNESS: Can you repeat that.

21 (The pending question was  
22 read by the court reporter.)

23 A. Correct.

24 Q. (By Mr. Pierce) Mr. Pesce, when you went out  
25 and audited companies, did you not look at the

1 relationship of the employees with the officers of the  
2 company?

3 A. Yes.

4 Q. Would that relationship also involve the  
5 employees with the president of the company?

6 A. Generally, no.

7 Q. And why is that, Mr. Pesce?

8 A. The level of employees I dealt with did not  
9 deal or interface with the president of the corporation.

10 Q. You never looked beyond what their levels of  
11 responsibility were and their duties to the company  
12 beyond just what their immediate supervisor was?

13 A. I would like to rephrase it.

14 Q. Why do you have difficulty with that question?

15 A. Because you've combined a lot of things into  
16 one question.

17 Q. That's fair.

18 Do you ever look at a chain of command of a  
19 corporation, Mr. Pesce?

20 A. Yes.

21 Q. How many times would that have occurred?

22 A. I don't remember.

23 Q. Was it basically one of the things that you  
24 would look at in doing an audit of a corporation?

25 A. Yes.

1 Q. In fact, in doing an audit, you need to know  
2 who is responsible to whom in a corporation, don't you?

3 A. Yes.

4 Q. So, you would know generally the president of  
5 the corporation would be the main operating officer of  
6 the corporation; isn't that correct?

7 A. That is not correct.

8 Q. Tell me why that would not be correct. Would  
9 there be somebody else other than the president, such as  
10 a CEO?

11 A. Yes.

12 Q. If the corporation doesn't have a CEO, would  
13 that normally, then, fall upon the president of the  
14 corporation?

15 A. I don't know.

16 Q. Every corporation that you audited had a CEO?

17 A. I don't remember.

18 Q. Do you recall any that did not?

19 A. I don't remember.

20 Q. Would you agree that the CEO is the main  
21 operating officer of a corporation?

22 A. CEO or CFO.

23 Q. Maybe you can explain what the difference is,  
24 and tell us how they would rank in a flow chart, a chart  
25 of command of a corporation. Let's start with a CEO, and



1 then a CFO.

2 (Discussion off the record.)

3 A. Can you repeat that.

4 Q. (By Mr. Pierce) What is the difference between  
5 a CEO and a CFO?

6 A. A CFO, to my understanding, is responsible for  
7 the financial affairs of the corporation.

8 The CEO has delegated the financial affairs of  
9 the corporation to the CFO.

10 Q. "CEO" is "chief executive officer"; is that  
11 correct?

12 A. Yes.

13 Q. "CFO" is "chief financial officer"; is that  
14 correct?

15 A. Yes.

16 Q. Would one of those two be normally in charge of  
17 the operations of a corporation?

18 A. I don't know.

19 Yes, yes, yes, one of those two. Yes.

20 Q. Which one would normally be in charge of a  
21 corporation, Mr. Pesce?

22 A. In charge of its financial affairs or in charge  
23 of what?

24 Q. In charge of the operation of the corporation.

25 A. Chief financial officer.

1 Q. Would be in charge of the operations of the  
2 corporation?

3 A. Correct.

4 Q. He would have his responsibilities delegated to  
5 him by the chief executive officer?

6 A. Yes.

7 Q. Where would the president sit in relationship  
8 to the CEO and the CFO of a corporation?

9 A. I'm not sure.

10 Q. You never learned that in all of your  
11 education, in your CPA training, in your Touche Ross  
12 three years of experience and your 80 hours of continuing  
13 accounting education?

14 A. Correct.

15 Q. Who was your supervisor at Touche Ross?

16 A. I had many supervisors.

17 Q. Who was your last supervisor at Touche Ross?

18 A. I don't remember.

19 Q. Identify any of your supervisors at Touche  
20 Ross.

21 A. Dave Roach, Randy Farrell, Candace Johnson.

22 Q. Spell that, please.

23 A. C-a-n-d-a-c-e, J-o-h-n-s-o-n. I can't remember  
24 any more.

25 Q. Were any of those involved, any of those three

1 individuals you just named, involved in the auditing of  
2 the corporations?

3 A. Yes.

4 Q. Which was the last of these three individuals  
5 that you named who would have been your supervisor  
6 involved with the auditing of corporations?

7 A. Probably, if I had to guess, Randy Farrell.

8 Q. Do you know if these three individuals live in  
9 the Seattle area?

10 A. No.

11 Q. You don't know?

12 A. I don't know.

13 Q. Were they supervisors of yours while you were  
14 working in the Seattle area?

15 A. Yes.

16 Q. When was the last time you would have seen any  
17 supervisor of yours from Touche Ross?

18 A. It's been years.

19 Q. To the best of your memory, when was the last  
20 time?

21 A. 1977.

22 Q. Who was your last supervisor at Seafirst when  
23 you were vice-president of accounting policy?

24 A. Peter Spurgin.

25 Q. Please spell the last name.

1 A. S-p-u-r-g-i-n-g.

2 Q. Do you know where he is located at the present  
3 time?

4 A. No, I don't.

5 Q. When was the last time you had any contact with  
6 Peter Spurgin?

7 A. About two and a half years ago.

8 Q. To your knowledge, is he still in the Seattle  
9 area?

10 A. I don't know.

11 Q. Would this be the last contact you had while  
12 you were still employed at Seafirst?

13 A. I believe so.

14 Q. What was his position at that point in time?

15 A. Vice-president and manager, corporate  
16 accounting.

17 Q. Were there any other supervisors that you can  
18 recall at Seafirst who would know the extent of your  
19 education or your ability to handle financial matters?

20 A. Ron MacDougall.

21 Q. What position did Ron MacDougall have the last  
22 time you worked at Seafirst?

23 A. He was my boss before Peter Spurgin.

24 Q. Vice-president, management?

25 A. Yes.

1 Q. Do you know where he is located at the present  
2 time?

3 A. No.

4 Q. To your knowledge, is he still employed by  
5 Seafirst?

6 A. I don't think so.

7 Q. Why don't you think so?

8 A. I think he has left.

9 Q. Do you know where he went?

10 A. No.

11 Q. Would you happen to have the telephone number  
12 of Ron MacDougall or Peter Spurgin?

13 A. No.

14 Q. I should be able to get those from Seafirst, I  
15 assume.

16 A. I guess, if they are there.

17 Q. You reviewed the bylaws of Community Chapel and  
18 Bible Training Center?

19 A. Yes.

20 Q. When was the last time you reviewed them?

21 A. This week.

22 Q. Where were you when you reviewed them?

23 A. In my office.

24 Q. Was anyone else present with you at the time  
25 that you reviewed them?

1 A. No.

2 Q. Did you discuss those bylaws with Scott  
3 Hartley?

4 A. Can you rephrase that.

5 MR. ANDERSEN: A point in time.

6 Q. (By Mr. Pierce) During 1988, did you discuss  
7 the bylaws with Scott Hartley?

8 A. Briefly.

9 Q. Did you discuss the testimony that you would  
10 give at this deposition with any individuals?

11 A. No. I discussed I would be giving a  
12 deposition.

13 Q. Who did you discuss that with?

14 A. Many people.

15 Q. Tell me who those people were.

16 A. My children, my wife, my friends.

17 Q. What employees of Community Chapel?

18 A. My staff.

19 Q. Who would that be?

20 A. Sue Annaer, A-n-n-a-e-r, and Debra Gurr,  
21 G-u-r-r.

22 Q. Any other employees of Community Chapel?

23 A. Loren Krenelka, Wiman Smalley, Doug Burmester,  
24 Scott Hartley.

25 Q. You will have to give those names a little

1 slower, so I can write them down.

2 A. Loren Krenelka -- what else? Scott Hartley,  
3 Jack DuBois, Doug Burmester.

4 Q. Spell that last name, please.

5 A. B-u-r-m-e-s-t-e-r, Keith Slover, S-l-o-v-e-r.

6 Q. Any other employees?

7 A. I don't think so.

8 Q. Let's start with Scott Hartley. What did you  
9 discuss with Scott Hartley with regard to your  
10 deposition?

11 A. That I was supposed to give a deposition.

12 Q. When did this discussion take place?

13 A. It wasn't really a discussion. It was just  
14 comments. Last week, this week.

15 MR. ANDERSEN: For the record, I just  
16 object to any hearsay testimony that he may give. It  
17 sounds like you are leading up to that.

18 MR. PIERCE: He is the petitioner, and it  
19 is admission against interest. So, it wouldn't be  
20 hearsay but --

21 MR. ANDERSEN: I am just objecting for the  
22 record. Make that a continuing objection, so I don't  
23 have to keep saying it.

24 Q. (By Mr. Pierce) Other than discussion of the  
25 fact that your deposition would be taken, was there any

1 further discussion with Scott Hartley with regard to the  
2 deposition, the questions to be asked, the answers to be  
3 given, or any other information relating to the  
4 deposition.

5 A. Scott Hartley told me to take my time, make  
6 sure I understood the questions, think about the  
7 questions, make sure I understand them. That's it.

8 Q. In talking about the deposition, did you also  
9 talk about the bylaws of the corporation?

10 A. No.

11 Q. Why were you reviewing the bylaws of the  
12 corporation?

13 A. I have a copy of the bylaws and, on occasion, I  
14 look at them.

15 Q. I will show you what is marked Exhibit 82.  
16 Would you take a look at that exhibit, and tell me if  
17 those are the bylaws of Community Chapel.

18 A. They appear to be a copy of the bylaws.

19 Q. Review them closely and make sure.

20 You have had an opportunity to review them?

21 A. Yes.

22 Q. What areas were you concerned about with regard  
23 to the bylaws of the corporation within the last six  
24 weeks?

25 A. The authority of the corporation.



1 Q. Did you review a portion of the bylaws where it  
2 indicated that the president of the corporation had the  
3 power to make decisions on a day-to-day basis?

4 A. Could you rephrase that.

5 Q. Did you review a portion of the bylaws,  
6 Exhibit 82, which made reference to the fact that the  
7 president had the ability to make day-to-day decisions  
8 for the corporation?

9 A. I don't recall reading that, specifically.

10 Q. Were you looking for specific areas of the  
11 bylaws with regard to the authority of members of the  
12 corporation?

13 A. With regard to the authority of the board of  
14 directors.

15 Q. What did you find in the bylaws, as best you  
16 can recall, with regard to the authority of the board of  
17 directors?

18 A. The bylaws state that the total corporation  
19 shall be governed by the board of senior elders.

20 Q. Is that any different from any other  
21 corporation you have seen?

22 A. No.

23 Q. That is fairly standard, isn't it?

24 A. Yes.

25 Q. Normally, you would not see the board of

1 directors of a corporation making decisions with regard  
2 to day-to-day operations, would you, in your experience?

3 A. No, that's not true.

4 Q. In your experience, you know of the board of  
5 directors making day-to-day decisions with regard to the  
6 operation of businesses?

7 A. I know of members of the board being involved  
8 in the operations of the corporation.

9 Q. But not the board of directors as a group;  
10 isn't that correct?

11 A. That's correct.

12 Q. And those members of the board of directors who  
13 work for a corporation would have to, in their positions  
14 as either an officer or an employee of the corporation,  
15 have to make decisions in the day-to-day operations of a  
16 business, wouldn't they?

17 A. Correct.

18 Q. Does that occur at Community Chapel?

19 THE WITNESS: Would you repeat that. The  
20 question prior to that.

21 (The previous question was  
22 read by the court reporter.)

23 A. Correct.

24 MR. PIERCE: Read the next question,  
25 please.

1 (The pending question was  
2 read by the court reporter.)

3 A. Correct.

4 Q. (By Mr. Pierce) What position does Scott  
5 Hartley have as an officer or employee of the  
6 corporation?

7 A. Since I have been employed at Community Chapel,  
8 Scott has been involved in the financial affairs of the  
9 corporation.

10 Q. Let's take a look at Exhibit 82, second-to-the-  
11 last page. There is a listing of the officers and major  
12 employees of the corporation, isn't there?

13 A. Yes.

14 Q. Do you see Mr. Hartley's name listed on there  
15 as one of the officers or major employees of the  
16 corporation?

17 A. Yes.

18 Q. Could you just tell us what those are.

19 A. He is a member of the board of senior elders.

20 Q. I am asking you as an officer and employee of  
21 the corporation.

22 A. Scott Hartley is secretary of the corporation.

23 Q. What about Jack DuBois, do you see him as a  
24 major employee or as an officer of the corporation?

25 A. He is on the board of senior elders.

1 Q. Let's go to Jack DuBois as an officer of major  
2 employee of the corporation in the bylaws.

3 A. In the bylaws?

4 Q. To be fair to you, I think there is a second  
5 page there, too.

6 A. Jack DuBois is an employee of the corporation.

7 Q. Excuse me?

8 A. He is an employee of the corporation.

9 Q. I am asking is he one of the officers or major  
10 employees that is defined in the bylaws here.

11 A. He is listed under the board of senior elders.  
12 He has been on our payroll. So, he is an employee.

13 Q. We know he is on the board of senior elders.  
14 We got that settled.

15 Do we have him as anything other than on the  
16 board of senior elders, as a major employee or as an  
17 officer of the corporation?

18 A. He is resident -- I mean, he is dean of the  
19 Bible college.

20 Q. To your knowledge, has he done anything other  
21 than be dean of the Bible college, other than on the  
22 board of directors?

23 A. Yes.

24 Q. Can you tell us what that is.

25 A. Both him and Scott Hartley, as authorized check

1 signers over the course of my employment at Community  
2 Chapel, have had the authority to disapprove any  
3 expenditure of funds that is presented for payment or  
4 require further documentation before they would sign  
5 checks.

6 Q. Is that somewhere specified in the bylaws?

7 A. I don't know.

8 Q. Have you made yourself familiar with these  
9 bylaws?

10 A. Generally.

11 Q. Can you show me where there is any provision in  
12 the bylaws that would provide for anything like that.

13 A. The bylaws say that the board of directors  
14 shall govern a total corporation. As members of the  
15 board of directors, they have exercised that authority  
16 over the expenditure of monies from the corporation.

17 Q. That wasn't my question. Can you show me  
18 anywhere in the bylaws that provides authority for  
19 expenditures by any of these two individuals?

20 A. I answered your question yes.

21 Q. I am handing you Exhibit 82.

22 A. Do you have a copy I can read?

23 Q. You are looking at Page 3, and you have  
24 indicated that is not legible enough for you to review?

25 A. Yes.

1 Q. I can get one.

2 As you recall, it is on Page 3 of the bylaws?

3 A. I believe so.

4 Q. We will move on, and I will get you Page 3, so  
5 we can go over that aspect.

6 Am I correct to understand that Mr. Hartley and  
7 Mr. DuBois have taken action in directing you to do  
8 things or not do things as a board of directors?

9 I am not trying to trick you. I will tell you  
10 where I am going. I will give you full knowledge of  
11 where I am at.

12 A. I will answer that. You don't have to say  
13 anything.

14 Q. I want to make sure it is fully clear to you,  
15 Mr. Pesce, so there is no misunderstandings. I am trying  
16 to determine whether or not there is actions being taken  
17 by the board of directors or actions being taken by these  
18 two individuals, individually; do you understand that?

19 A. Yes.

20 Q. Can you tell me whether or not these two  
21 individuals have taken actions as members of a board of  
22 directors, an action on behalf of the board, or have they  
23 been taking it as employees of the corporation? Can you  
24 tell me that?

25 A. What actions are you asking me to comment on?

1 Q. Directions that you have been given by Jack  
2 DuBois or Scott Hartley.

3 MR. ANDERSEN: Answer if you can. If you  
4 can't, say you can't. If you can make that  
5 distinction --

6 A. I don't know.

7 Q. (By Mr. Pierce) Why don't you know?

8 A. I would like the question to be rephrased.

9 Q. What area of the question are you having  
10 problems with?

11 A. The whole question.

12 Q. Why is that?

13 A. I don't understand it.

14 Q. You indicated they were giving you directions  
15 when we started off in this deposition. Can you tell me  
16 in what areas you have been getting directions from  
17 Mr. Hartley.

18 A. I have not been receiving directions from  
19 either Scott Hartley or Jack DuBois individually.

20 Q. Have you been receiving them, directions from  
21 them, as members of the board of directors? I want you  
22 to be free and tell me what is going on here, Mr. Pesce.  
23 You have made this so difficult to try to draw --

24 A. I am thinking.

25 Yes.

1 Q. How do you know that? Did they tell you that?

2 A. Yes.

3 Q. How did they tell you that? What was said?

4 A. I have asked them in areas, like I said  
5 earlier, that are not handled normally, anything unusual,  
6 and I go to them, and I ask them. As members of the  
7 board of directors, they have instructed me what to do on  
8 unusual items.

9 Q. You said they were acting as members of the  
10 board of directors, and you understood it from them. I  
11 want to know what they told you so you would understand  
12 they were acting as the board of directors.

13 A. Are you asking me did they tell me that they  
14 are a member of the board of directors?

15 Q. No, I'm not telling you anything. I am trying  
16 to find out the information, Mr. Pesce.

17 You indicated you understood they were acting  
18 as the board of directors; is that correct?

19 A. Yes.

20 Q. How did you come to that understanding that  
21 they were acting as the board of directors?

22 A. Because their names are listed in the bylaws as  
23 members of the board of directors.

24 Q. Mr. Hartley's name is listed in the bylaws as  
25 the secretary of the corporation; isn't that correct?



1           A.    I don't know.  It is in the back of the bylaws.  
2  It is listed as secretary.

3           Q.    We looked at the end of Exhibit 82, and you  
4  identified Mr. Hartley as secretary of the corporation,  
5  E. Scott Hartley?

6           A.    That's correct.

7           Q.    How do you know they were acting as the board  
8  of directors of the corporation?

9           A.    Because that has been understood in my meetings  
10 with them and their instructions to me.

11          Q.    What instructions have you been getting from  
12 them?

13          A.    I have received instructions, or I have sought  
14 their instructions, on unusual items.

15          Q.    What instructions have you been getting from  
16 them?

17          A.    Do you want specifics?

18          Q.    Yes.

19          A.    Instruction as to disbursement of corporate  
20 monies to the corporation attorney.

21          Q.    What else?

22          A.    Instruction as to withhold certain amounts from  
23 Don Barnett's salary.

24          Q.    What else?

25          A.    Instructions to pay vacation pay for

1 terminating employees.

2 Q. What else?

3 A. That's it.

4 Q. These actions have all been taken as members of  
5 the board of directors?

6 A. Yes, that is my understanding.

7 Q. Was something vocalized to you, some  
8 information provided to you, by either Jack DuBois or  
9 Scott Hartley, which would have made that clear that they  
10 were acting as the board of directors?

11 A. Yes.

12 Q. What was said?

13 A. I asked them somehow it was either -- I asked  
14 them or somehow it was understood in our conversation as  
15 members of the board of directors that they were  
16 instructing me what to do. I don't remember the exact  
17 words, the exact phrase, or who said what.

18 Q. But they made it clear in their conversation  
19 that they were acting as the board of directors in giving  
20 you these instructions about disbursement of corporate  
21 money to the corporation attorney, withholding money from  
22 Donald Barnett's salary and paying vacation pay to  
23 terminating employees?

24 A. They made it clear they were acting as members  
25 of the board of directors. They were not acting as the

1 board of directors.

2 Q. You mean this was not a board of directors  
3 action that was being taken; is that what you are saying?

4 A. I am saying two members of the board of  
5 directors instructed me to do something, and I did it.

6 Q. Is there some authority in the bylaws or the  
7 corporation, to your knowledge, which gives any  
8 individual member of the board of directors the power to  
9 direct employees?

10 A. Yes, the bylaws say that the total corporation  
11 shall be governed by the board of directors.

12 Q. Sure, the board of directors has that power, is  
13 what you told me before. Where is the authority of these  
14 individuals that happen to be members to direct you to  
15 perform certain functions on behalf of the board of  
16 directors?

17 A. It is my understanding that a majority of the  
18 board of directors governs, a majority of the members of  
19 the board of directors.

20 Q. So, is it your understanding, then, that, since  
21 they comprised the majority of the board of directors,  
22 their action was the action of the board itself?

23 A. Correct.

24 Q. Did they make that clear to you?

25 A. Correct.

1 Q. Do you normally follow directions of Donald  
2 Barnett?

3 A. Yes.

4 Q. Do you recall a staff meeting being held at  
5 Community Chapel in the middle of March 1988?

6 A. What staff meeting are you referring to?

7 Q. Do you recall any staff meeting being held in  
8 March 1988?

9 A. I have had staff meetings for my staff.

10 Q. For all of the employees of the corporation.  
11 We will make it broad like that.

12 A. Yes.

13 Q. Approximately what was the date of that?

14 A. I don't remember.

15 Q. March 22, 1988?

16 A. I don't remember.

17 Q. Would you know any reason why it would not have  
18 occurred on March 22, 1988, at 3 o'clock, on the east  
19 campus of the Community Chapel and Bible Training Center?

20 A. No.

21 Q. There was a staff meeting called by Scott  
22 Hartley and Jack DuBois on approximately March 22, 1988,  
23 which you attended; isn't that correct?

24 A. As to the date, I don't remember.

25 Q. Do you recall it being in March?

1 A. I think so.

2 Q. Do you recall any other staff meetings called  
3 by Scott Hartley since March 1, 1988, other than the one  
4 on the east campus for all of the employees?

5 A. No.

6 Q. Let's talk about this one in March here. Was  
7 one called at approximately 3 o'clock in the afternoon?

8 A. If you say so.

9 Q. You don't recall?

10 A. I don't remember. I don't --

11 Q. Do you recall a meeting with Donald Barnett  
12 following the staff meeting?

13 A. Okay, I do remember. It was 3 o'clock in the  
14 afternoon. That's right. Okay.

15 Q. Following that staff meeting, you went back to  
16 your office; is that correct?

17 A. That's correct.

18 Q. Did Donald Barnett come into that office with  
19 his attorney, Rodney Pierce?

20 A. Yes.

21 Q. At that time, was information requested from  
22 you as to whether or not you maintained yearly financial  
23 statements and monthly financial statements for the  
24 corporation?

25 A. Yes. You requested that information from me.

1 Q. It was basically a request as to whether or not  
2 you had yearly financial statements prepared and whether  
3 or not you prepared monthly financial statements; is that  
4 right?

5 A. Right, and the request was made by you.

6 Q. Donald Barnett was with Mr. Pierce at that  
7 time; is that correct?

8 A. That's correct.

9 Q. It was requested to have the financial  
10 statements provided for the end of February of 1988;  
11 isn't that correct?

12 A. I don't remember any dates mentioned.

13 Q. When was the last financial statement that  
14 would have been available after the staff meeting in  
15 March 1988?

16 A. It would have been February.

17 Q. Do you recall a request for any financial  
18 statements to be provided to Donald Barnett?

19 A. Yes, there was a request.

20 Q. Do you recall the specific dates of those  
21 financial documents that were requested?

22 A. No.

23 Q. Was it the most recent financial statements  
24 that were being requested?

25 A. I don't know.

1 Q. You are not saying the most recent financial  
2 statements were not requested. It is just you don't  
3 recall; is that correct?

4 A. That's correct.

5 Q. Did you indicate in your response to the  
6 request for documents that the request would have to be  
7 made to Scott Hartley?

8 A. Don Barnett requested -- I don't remember who  
9 requested, either Don Barnett or yourself requested  
10 financial information, and I did not provide that  
11 financial information because I wasn't sure as to the  
12 request.

13 Q. That wasn't my question, Mr. Pesce. My  
14 question was: Did you indicate in response to the  
15 request that the request would have to be made from  
16 Mr. Hartley?

17 A. No.

18 Q. Did you make any indication that contact would  
19 have to be made with Mr. Hartley with regard to the  
20 documents requested?

21 A. No.

22 Q. Did you make any indication at that time, at  
23 the time of the request for financial documents, that you  
24 would have to check with Mr. Hartley before releasing any  
25 documents?

1           A.    I asked for Mr. Hartley to come down out of his  
2 office to talk to --

3           Q.    We will get to that in just a second.  I am  
4 asking did you make any indication that contact would  
5 have to be made with Mr. Hartley before you could provide  
6 any documents?

7           A.    I don't remember.

8           Q.    You didn't provide any documents at that point  
9 in time, did you, immediately upon the request?

10          A.    No.

11          Q.    What was your understanding of the documents  
12 that were being requested?

13          A.    I was unsure what the request was.

14          Q.    Did you make that clear to Donald Barnett or  
15 his attorney, that you didn't understand what the request  
16 was?

17          A.    I was also unsure as to who would be receiving  
18 the documents.

19          Q.    I am not asking you that.  The question is,  
20 Mr. Pesce, did you make it clear to Donald Barnett or his  
21 attorney that you didn't understand what the request for  
22 the documents was?

23          A.    I wasn't given opportunity to.

24          Q.    Why weren't you given opportunity to?

25          A.    I felt pressure form Don Barnett and the



1 attorney that was there.

2 Q. What type of pressure?

3 A. I have never provided financial information to  
4 Don Barnett, in two and a half years. I have not been  
5 requested of financial information to Don Barnett. So, I  
6 found it extremely unusual that him and his attorney  
7 would appear in my office asking me for financial  
8 information.

9 Q. It is not unusual for a president of a company  
10 to ask for financial records from its accounting staff,  
11 is it?

12 A. Yes, it is, if it is with an attorney.

13 Q. Is it unusual for the president of a  
14 corporation to request financial information from the  
15 accounting office?

16 A. In certain cases, it may be.

17 Q. In certain cases, it may be. Are you  
18 indicating that, whenever a president of a company comes  
19 in to see the accounting office to get financial records,  
20 that this is a pressure situation for the accountant?

21 A. It would be if he had an attorney present, and  
22 he never requested financial information in the past.

23 Q. What type of pressure were you under,  
24 Mr. Pesce?

25 A. Pressure to produce documents very quickly to

1 someone that I did not know.

2 Q. You knew Donald Barnett, didn't you?

3 A. I did not know the person that was accompanying  
4 him and was also requesting financial information from  
5 the church.

6 Q. You knew Donald Barnett, didn't you?

7 A. Correct.

8 Q. Do you know of any reason why Donald Barnett  
9 would not be entitled to financial documents that were  
10 requested?

11 A. There is no reason why Donald Barnett would not  
12 be entitled to financial information.

13 Q. The pressure you had, Mr. Pesce, was that fear  
14 of bodily injury?

15 A. No.

16 Q. Was it a fear of termination or loss of your  
17 job somehow?

18 A. No.

19 MR. ANDERSEN: I think Mr. Pesce answered  
20 it. He said he felt pressure to produce documents very  
21 quickly.

22 MR. PIERCE: I am trying to figure out  
23 what that pressure was.

24 Q. (By Mr. Pierce) How was that pressure expressed  
25 to you? Was it in a violent outburst given to you, or

1 was it in a calm voice, Mr. Pesce?

2 A. Accountants never provide financial information  
3 to other than recognized people who they are familiar  
4 with and who they give the information to on a recurring  
5 basis. I felt pressure from a person who is not even on  
6 the corporation's payroll, who I didn't even know, who  
7 walked into my office uninvited and approached me and  
8 asked me to immediately provide him financial  
9 information.

10 Q. Let me understand --

11 A. That was the pressure.

12 Q. If Donald Barnett was there by himself and  
13 asked for these financial records, that would be okay?

14 A. That's correct.

15 Q. You would have given them to him?

16 A. That's correct.

17 Q. You wouldn't have had to call Scott Hartley; is  
18 that correct?

19 A. That's correct.

20 Q. But did you indicate that to Mr. Barnett or to  
21 Mr. Pierce, who was accompanying Mr. Barnett?

22 A. I did not have an opportunity to, because I  
23 felt pressure from --

24 Q. You are a pretty straightforward person,  
25 Mr. Pesce. Were you able to communicate your limitations

1 in any manner about the pressure or about maybe  
2 confidentiality or your limitations in providing these  
3 documents, to either Mr. Barnett or to his attorney?

4 A. I did not have the opportunity to.

5 Q. Was there something that was going to occur  
6 within a short period of time that prevented you from  
7 communicating with either Mr. Barnett or Mr. Pierce?

8 A. Possibly. The attorney walked into my office  
9 uninvited. Danny O'Brien and Scott Miller also attempted  
10 to walk into my office uninvited. I didn't know if there  
11 would be an attempt to physically remove documents out of  
12 the office. I felt threatened.

13 Q. Threatened?

14 A. Uh-huh.

15 Q. Now, was this a threat to you of physical  
16 violence?

17 A. No.

18 Q. What type of threat was there?

19 A. Possibly, removing documents forcibly by people  
20 who are not employees.

21 Q. Sure. That threat never took place; is that  
22 right?

23 A. That's correct.

24 Q. In fact, Mr. O'Brien and Mr. Miller, who were  
25 there, went outside; isn't that correct?

1 A. After I asked them to leave my office.

2 Q. Then there was a request for information from  
3 Mr. Pierce on behalf of Mr. Barnett; isn't that correct?

4 A. That's correct.

5 Q. So, we know these two people are outside of  
6 your office, and they are no longer a threat. What is  
7 the threat at this point in time that prevented you from  
8 communicating your inability to provide documents?

9 A. I did not know that these people were not a  
10 threat just because they were outside of my office.

11 Q. So, it was the threat of two individuals  
12 outside of the office coming back into the office that  
13 concerned you?

14 A. The pressure from an individual in my office  
15 who was not an employee and possible threat of two people  
16 who were not employees outside of my office.

17 Q. You weren't able to communicate any of your  
18 problems of the threat, of the pressure, of your  
19 inability to provide these documents, to Donald Barnett  
20 or to his attorney; is that correct?

21 A. I asked to speak to Don Barnett alone, and both  
22 he and the attorney said no, as I remember.

23 Q. You excused yourself then, went over and  
24 contacted Mr. Hartley; is that correct?

25 A. I asked Debra to call Mr. Hartley.

- 1 Q. That would be your assistant?
- 2 A. Correct.
- 3 Q. Then Mr. Hartley came down to the office; isn't
- 4 that correct?
- 5 A. That's correct.
- 6 Q. And you told Mr. Hartley that Mr. Barnett
- 7 wanted to have financial documents; is that correct?
- 8 A. As I recall.
- 9 Q. Just answer my question. Is that correct or
- 10 not correct?
- 11 A. I'm not sure.
- 12 Q. Mr. Hartley came into the room in which you
- 13 were located, Mr. Pierce was located, the attorney for
- 14 Donald Barnett, and Donald Barnett was located; is that
- 15 correct?
- 16 A. That's correct.
- 17 Q. Did you then communicate to Mr. Hartley any
- 18 information?
- 19 A. Yes.
- 20 Q. Did you tell Mr. Hartley that Mr. Pierce and
- 21 Mr. Barnett were there and they wanted something?
- 22 A. I communicated something before that.
- 23 Q. So, we know that you communicated to
- 24 Mr. Hartley that Donald Barnett and his attorney wanted
- 25 some information, but there was also something that was

1 communicated before that; is that correct?

2 A. Correct.

3 Q. Before you provided Mr. Hartley with that  
4 information that there was a request for documents, did  
5 you tell Mr. Hartley something else?

6 A. Correct.

7 Q. What did you tell him?

8 A. I asked him, or I made a comment to him, one or  
9 the other, that I had asked for you to leave the office,  
10 and that you had refused.

11 Q. So, let me see if I understand this.

12 Mr. Hartley came into the office. You told him that you  
13 had asked the attorney to leave, and the attorney had  
14 indicated he was not going to do it, and then you told  
15 Mr. Hartley that Donald Barnett wanted some financial  
16 information; is that right?

17 A. Correct.

18 Q. And Mr. Hartley responded back to you that you  
19 should, quote, "Give them absolutely nothing," end quote;  
20 is that correct?

21 A. I don't remember the quote.

22 Q. I'm not talking about the specific wording, and  
23 we will understand that that quote may not be exactly  
24 correct. Was that the substance of that communication  
25 back from Mr. Hartley?

- 1 A. Correct.
- 2 Q. Notes were taken by Mr. Pierce of that  
3 communication; is that correct?
- 4 A. I don't know.
- 5 Q. Did you notice any note taking?
- 6 A. Some.
- 7 Q. Who was taking those notes?
- 8 A. At that time I did not notice note taking. At  
9 that particular time, I did not notice note taking.
- 10 Q. At some particular time you noticed note  
11 taking?
- 12 A. Earlier.
- 13 Q. Who was taking the notes?
- 14 A. The attorney for Donald Barnett.
- 15 Q. Do you recall anything else occurring at the  
16 time of this request for financial information?
- 17 A. No.
- 18 Q. Have you ever met Jim Leach?
- 19 A. Yes.
- 20 Q. Have you ever met him in the presence of  
21 Mr. Hartley?
- 22 A. Yes.
- 23 Q. Would that have been at the corporation offices  
24 or in Mr. Leach's office?
- 25 A. Mr. Leach's office.



1 MR. ANDERSEN: I will object to any  
2 communication regarding Jim to Drake or Drake to Jim.

3 MR. PIERCE: Are you identifying this  
4 individual as a speaking agent on behalf of the  
5 corporation?

6 MR. ANDERSEN: It depends what the  
7 questions will be.

8 MR. PIERCE: You can bet what the question  
9 will be, and it is going to come up real quick here. I  
10 want to know if you will identify him as a speaking agent  
11 on behalf of the corporation.

12 MR. ANDERSEN: I will identify Jim Leach  
13 as attorney for the corporation.

14 MR. PIERCE: We know that communication  
15 with the corporation does not extend to all of the  
16 employees of the corporation and that the fact that the  
17 individual is employed by the corporation doesn't  
18 insulate communication to every single employee of the  
19 corporation. We know that. We have to limit that down  
20 to speaking agents. Are you identifying this individual  
21 as a speaking agent who would be admissible in court on  
22 behalf of the corporation? I need to know that.

23 MR. ANDERSEN: Yes, I would say for the  
24 extent of -- it depends on what the communications would  
25 be. Financial matters, I would say yes.

1 MR. PIERCE: Either he is or he isn't a  
2 speaking agent. You can't have it both ways. Is he or  
3 isn't he?

4 MR. ANDERSEN: Yes, he is.

5 Q. (By Mr. Pierce) Was Mr. Leach in your office  
6 with Mr. Hartley?

7 A. Could you repeat that.

8 MR. ANDERSEN: Ever?

9 Q. (By Mr. Pierce) From March 1, 1988, to the  
10 present, have you seen Mr. Leach with Mr. Hartley in your  
11 office at Community Chapel?

12 A. No.

13 Q. Were you ever requested to provide documents  
14 to Mr. Leach by Mr. Hartley?

15 A. Yes.

16 Q. Maybe you can tell me what the difference is  
17 between the attorney for one of the members of the board  
18 of directors getting documents and the attorney for the  
19 president of the corporation getting documents and why  
20 there would be a distinction.

21 A. There is a big difference.

22 Q. Would you explain that to us.

23 A. The request that accompanied -- the request  
24 that was made -- Mr. Hartley requested that I give the  
25 attorney information. That was not the case with you and

1 Don. You came into my office and approached me and  
2 requested I give you financial information. I didn't  
3 even know who you were. I felt immediately -- I felt  
4 pressure to provide financial information about the  
5 corporation. I was not all -- the only request that  
6 Scott asked was just on offerings. It was not a request  
7 for a complete financial information, though, if that had  
8 been made, I would have provided it, but it was at the  
9 request of Scott. There was no pressure. It was  
10 something to produce, you know. It wasn't all of a  
11 sudden I had to produce documents to a complete stranger.

12 Q. Mr. Pesce, at the time in your office after the  
13 staff meeting, was that the first time I had ever been  
14 identified as the attorney for Donald Barnett?

15 A. To me.

16 Q. You had never heard my name before?

17 A. I don't recall.

18 Q. Were you present at the staff meeting?

19 A. Yes.

20 Q. Didn't you hear Mr. Scott Hartley at the time  
21 of the staff meeting indicate that Rod Pierce, the  
22 attorney for Donald Barnett, was sitting next to him in  
23 the Community Chapel on the east campus and could stay in  
24 the proceeding?

25 A. That's correct.

1 Q. So, you knew I was the attorney for Donald  
2 Barnett when I came into your offices, didn't you?

3 A. That's correct.

4 Q. It didn't come as a surprise that you didn't  
5 know who I was.

6 A. No, it was a surprise. I knew your name. I  
7 knew a face. I knew a label, but I didn't know all of  
8 the where's, why's, and how's.

9 Q. What are the where's, why's, and how's,  
10 Mr. Pesce?

11 A. Well, like I said earlier, accountants don't  
12 hand over financial information to other than employees.

13 Q. You were asked by Mr. Hartley to provide  
14 information to a non-employee, weren't you?

15 A. Correct.

16 Q. If Donald Barnett's attorney is to get  
17 information, is that different than Scott Hartley's  
18 attorney getting information?

19 A. Yes.

20 Q. What is the difference between one attorney  
21 getting it who represents the board of directors, and one  
22 getting it who represents the president?

23 A. The circumstances were entirely different.

24 Q. So, it is not the fact that is the  
25 representation that causes you the problem; it is the

1 fact of the circumstances in which it occurs?

2 A. No, the way the representation was done and the  
3 circumstances made the situation very, very difficult.

4 Q. So, you are not saying that the attorney for  
5 the president of the corporation should not get the  
6 documents; is that correct?

7 A. At the request of the president, not at the  
8 request of the attorney.

9 Q. In this meeting, Mr. Pesce -- and I want you to  
10 recall that you are under oath in this thing -- wasn't it  
11 identified to you that the president of the corporation  
12 was requesting the financial documents?

13 A. The first request, as I recall, came from the  
14 attorney, who came in my office uninvited. I felt  
15 pressure, immediate pressure, to hand over documents in a  
16 situation I was uncomfortable with.

17 Q. The first request was by the attorney for  
18 records with regard to the corporation; is that correct?

19 A. I believe so.

20 Q. Subsequently, it was identified that the  
21 request was being made on behalf of the president of the  
22 corporation; isn't that correct?

23 THE WITNESS: Can you repeat that.

24 (The pending question was  
25 read by the court reporter.)

1 A. Request by who?

2 Q. (By Mr. Pierce) The request for information at  
3 the accounting office after the staff meeting was being  
4 made by the attorney on behalf of the president of the  
5 corporation?

6 A. I believe so.

7 Q. You knew it was the president who was  
8 requesting the information. It just happens that the  
9 words came out of the attorney's mouth; isn't that  
10 correct?

11 A. No, not entirely. The president did not talk  
12 to me directly. An individual who was uninvited came  
13 into my office and immediately approached me and asked me  
14 for financial information, and immediately I felt  
15 uncomfortable and pressured.

16 Q. You have been in pressure situations before,  
17 haven't you, Mr. Pesce?

18 A. Yes.

19 Q. Is this one of the most pressure-packed  
20 situations you have ever been in?

21 A. Yes.

22 Q. Were you ever in the armed services, Mr. Pesce?

23 A. No.

24 Q. Did you ever play any contact sports or be  
25 involved in any physical ventures?

1 MR. ANDERSEN: I object. I don't think  
2 that is relevant.

3 Q. (By Mr. Pierce) Answer.

4 A. Yes.

5 Q. Was there more pressure --

6 A. Can you repeat that. Can you repeat that  
7 question.

8 Q. Was there more pressure in this situation in  
9 your office than any of these prior occasions?

10 A. Yes.

11 (A short recess was taken.)

12 Q. (By Mr. Pierce) Mr. Pesce, we have talked about  
13 this occasion in your offices at Community Chapel  
14 involving instructions given to you by Mr. Hartley. If  
15 Mr. Hartley had instructed you to give documents to the  
16 attorney, would you have done it?

17 A. Yes.

18 Q. If Donald Barnett had indicated you should give  
19 the documents requested by the attorney to the attorney,  
20 would you have done it?

21 A. I would have given the documents to Don, not to  
22 the attorney. I would not have handed over any document  
23 to an attorney in my office.

24 Q. But if Mr. Hartley indicated you should, you  
25 would have done it?

1           A.    I would have.  I would have said, "I will do  
2 it," and provided the documents over a period of time and  
3 not just hand documents right then and there, unless I  
4 had some personal assurances of who is getting those  
5 documents and what they are going to be used for -- so I  
6 can correct my earlier statement.

7           Q.    Your answer is, yes, you would give those to  
8 the attorney?

9           A.    It is a qualified yes.

10          Q.    Excuse me, she can't write down your answer at  
11 the same time I am asking a question.  I guess I will  
12 have to wait until you finish.

13                   Your answer would be a qualified yes, that you  
14 would give the documents to the attorney if requested by  
15 Mr. Hartley; is that correct?

16          A.    No, I would not give the documents to the  
17 attorney if requested by Mr. Hartley.  I would give the  
18 documents to Don Barnett.

19          Q.    Earlier you testified that you knew that the  
20 request was being made by the attorney on behalf of  
21 Donald Barnett; is that correct?

22          A.    That is what the attorney told me.

23          Q.    You didn't hear anything from Donald Barnett,  
24 who was standing by his side, that there was anything to  
25 the contrary, did you?



1 A. Correct.

2 Q. You knew that request was being made by or on  
3 behalf of Donald Barnett at that time, didn't you?

4 A. Everything happened so quickly that there was  
5 not the opportunity to weigh, consider and think about  
6 what was being asked, who was asking and for what reasons  
7 they were asking financial information.

8 Q. That was because of the pressure at that time?

9 A. That's correct. The accounting office is off  
10 limits to all employees, other than those who are invited  
11 in. We handle cash transactions in there, and the  
12 accounting office is not an open office.

13 Q. Can the president of the corporation go into  
14 that accounting office?

15 A. He can. I don't recall, it may be once two and  
16 a half years ago that he has been in there. So, I found  
17 it unusual. The whole situation was very unusual.

18 Q. We know it is unusual, but he has the authority  
19 to go in there, doesn't he?

20 A. Not if we are counting cash, he doesn't.

21 Q. You weren't counting cash, were you?

22 A. There was no notice given or request to enter  
23 the office.

24 Q. Were you counting cash?

25 A. I don't recall.

1 Q. You had just come back from a staff meeting,  
2 hadn't you?

3 A. We count cash many times during the week. I  
4 don't recall.

5 Q. Nothing at least stood out that there was a  
6 problem with regard to cash at that moment, was there?

7 A. Correct.

8 Q. Have you received any other instruction from  
9 Scott Hartley or Jack DuBois other than the one occasion  
10 with regard to disbursement of corporate funds to the  
11 corporate attorney, withholding of money from Donald  
12 Barnett's salary and paying vacation pay to terminating  
13 employees?

14 A. Did you ask were there other instructions other  
15 than those?

16 Q. Yes.

17 A. Can you read the things that you listed, that  
18 you read.

19 MR. PIERCE: Maybe you can read it back.

20 (The requested portion  
21 of the record was read  
22 by the court reporter.)

23 A. I don't believe so.

24 Q. (By Mr. Pierce) Let's go to the disbursement of  
25 corporate money to corporate attorneys. Why did you get

1 instructions from Scott Hartley with regard to this  
2 matter?

3 A. I have received instructions from both Scott  
4 Hartley and Jack DuBois to pay the corporate attorney.

5 Q. When was this?

6 A. On a number of occasions.

7 Q. What was the first occasion?

8 A. I don't remember.

9 Q. Did you get a memo from Donald Barnett  
10 indicating that you should not pay funds to James Leach?

11 A. Yes.

12 Q. Subsequent to that, did you obtain instructions  
13 from Scott Hartley that you should disburse funds?

14 A. I received instruction from both Scott Hartley  
15 and Jack DuBois to disburse monies.

16 Q. Subsequent to the memo from Donald Barnett not  
17 to disburse funds?

18 A. Correct.

19 Q. You understood the instructions to be as  
20 members of the board of directors?

21 A. Correct.

22 Q. Or as the board of directors of the  
23 corporation; is that correct?

24 A. Correct.

25 Q. Then you also received instructions from Scott

1 Hartley and Jack DuBois that you should withhold money  
2 from Donald Barnett's salary?

3 A. That's correct.

4 Q. What was told to you, and who was the  
5 individual who told you?

6 A. Scott Hartley and Jack DuBois said or  
7 instructed me, since Don has been receiving gifts from  
8 people over in his side, that it violates a corporate  
9 policy that Don Barnett has established, and therefore he  
10 is not entitled to receive his normal salary.

11 Q. Did you talk with Donald Barnett with regard to  
12 their corporate policy?

13 A. I have sent a memo to Donald Barnett, telling  
14 him I have been instructed by Scot Hartley and Jack  
15 DuBois not to pay him a salary for that reason.

16 Q. Did you talk with Donald Barnett with regard to  
17 these instructions from Hartley and DuBois?

18 A. Are you asking if I talked to him personally?

19 Q. Is there another way of talking to him?

20 A. Yes.

21 Q. Explain to me what are the ways you can talk to  
22 Donald Barnett other than personally.

23 A. I sent a memo to him.

24 Q. That would be in writing, wouldn't it?

25 A. Correct.

1 Q. Are there other means of talking to him other  
2 than personally?

3 A. Yes.

4 Q. What are those means?

5 A. Telephone.

6 Q. Did you talk with him, either in person or by  
7 telephone?

8 A. I don't believe so.

9 Q. Did you see a copy of this 1985 policy  
10 regarding payment of salaries to employees?

11 A. Yes.

12 Q. Do you know who prepared that memo?

13 A. I believe it was Jack Hicks.

14 Q. That was Jack Hicks' memo with regard to the  
15 withholding of salaries; is that correct?

16 A. It is my understanding it is Jack Hicks' memo  
17 per Don Barnett's instructions.

18 Q. Jack Hicks is no longer employed by the  
19 corporation; is that correct?

20 A. That's correct.

21 Q. You can't ask him as an employee or officer of  
22 the company what was intended by that memo, can you?

23 A. Correct.

24 Q. Did you receive any information, either  
25 directly or indirectly, from Donald Barnett that that

1 policy was not intended to cover the pastor of the  
2 Community Chapel?

3 A. Yes, I did.

4 Q. Did you contact any individual after receipt of  
5 a memo such as that?

6 A. Yes, I did.

7 Q. Who did you talk to?

8 A. Scott Hartley and Jack DuBois.

9 Q. What occurred in this conversation with these  
10 two individuals?

11 A. They have instructed me that the monies are not  
12 to be disbursed to Don Barnett.

13 Q. Anything else that occurred in these  
14 conversations with these individuals?

15 A. That is basically it.

16 Q. I am not asking "basically." I want all of  
17 your information that you recall that occurred in these  
18 conversations or this conversation with these two  
19 individuals.

20 A. I told him I received a memo from Don Barnett,  
21 many things that didn't pertain to me, but there was one  
22 item where Don Barnett instructed the accounting  
23 department to prepare to reimburse him for payroll  
24 deductions for March and April and to pay him his full  
25 salary from that date forward. I presented that to them,

1 and they instructed me that Don Barnett was not to  
2 receive his salary per the policy -- per the 1985 policy.

3 (Exhibit 133 was marked  
4 for identification.)

5 Q. I am showing you what has been marked as  
6 Exhibit 133. Is that a copy of the memorandum delivered  
7 to you from Donald Barnett, dated April 6, 1988?

8 A. It is a copy of a memorandum that is signed by  
9 Donald Barnett.

10 Q. Did you receive this?

11 A. Yes, I did.

12 Q. Is this the memorandum that you discussed with  
13 Scott Hartley?

14 A. Yes, it is. I discussed it with both Scott  
15 Hartley and Jack DuBois.

16 Q. They indicated that you should disregard that  
17 memorandum?

18 A. They indicated to me that I was not to pay  
19 Donald Barnett his salary per the 1985 memo.

20 Q. Per Jack Hicks' memo?

21 A. Per Don Barnett's instructions, correct.

22 Q. You said "Donald Barnett's instructions"?

23 A. Yes.

24 Q. What instructions?

25 A. The 1985 memo says, "This is instruction per

1 Donald Barnett."

2 Q. That is Jack Hicks' memo, correct?

3 A. Yes.

4 Q. Have you seen any documents from Donald Barnett  
5 at all, including this Exhibit No. 133, which in any way  
6 indicates whether or not the pastor is or is not covered  
7 by this policy expressed in the 1985 memo of Jack Hicks.

8 A. Would you repeat the question.

9 Q. Have you seen any documents, including this  
10 memorandum, Exhibit 133, that indicates in any manner  
11 that Donald Barnett, as the pastor of the Community  
12 Chapel, was not covered by this 1985 memorandum of Jack  
13 Hicks?

14 A. Yes, this memo says in Item 3 it was intended  
15 to apply to other ministers other than the pastor.

16 Q. Other than Jack Hicks' memo, is there any other  
17 documents besides this Exhibit 133 that you know that  
18 relate in any manner to this 1985 policy?

19 A. No.

20 Q. Why didn't you go to Donald Barnett and say,  
21 "The elders have told me I shouldn't be paying you."

22 A. I don't believe it is my responsibility to  
23 settle a dispute or disagreement between the elders and  
24 Don Barnett.

25 Q. Do you know how meetings of the board of



1 directors of the corporation are held?

2 A. No.

3 Q. Do you know if meetings were actually even  
4 called by Scott Hartley and Jack DuBois with regard to  
5 Donald Barnett's salary?

6 A. No.

7 Q. Do you know if any meetings were held by the  
8 board of directors with regard to this memorandum or the  
9 1985 policy or the decision to be given to you not to pay  
10 Donald Barnett?

11 A. No.

12 Q. How do you know that the board of directors of  
13 the corporation was telling you not to pay Donald  
14 Barnett?

15 A. Because I was in a room with Scott Hartley and  
16 Jack DuBois, and I discussed this memo with them, and  
17 they instructed me not to pay Donald Barnett.

18 Q. That is just two individuals that told you.  
19 That is not the board of directors, is it?

20 A. Yes, it is the board of directors.

21 Q. That is two individuals on the board of  
22 directors, isn't it?

23 A. It is the board of directors.

24 Q. Those two individuals are?

25 A. Members of the board of directors.

1 Q. Sure. I mean, there wasn't any meeting of the  
2 entire board at that time, was there?

3 A. No.

4 Q. Did they indicate that meeting was being  
5 called?

6 A. No.

7 Q. Was Donald Barnett present?

8 A. No.

9 Q. How could this be a meeting of the board of  
10 directors, in your opinion?

11 A. Because, in my opinion, I had been instructed  
12 by the majority of the board to do something.

13 Q. Whenever these two individuals act together,  
14 you have been either told or you interpret it as being  
15 the action of the board of directors, one or the other;  
16 is that correct?

17 A. Whenever a majority of the board of directors  
18 instructs me to do something, I have a responsibility to  
19 do it, be it any two individuals on the board.

20 Q. Have you seen Donald Barnett do anything with  
21 either of the other two members of the board of senior  
22 elders of this corporation?

23 A. I don't know.

24 Q. I am asking you if you have seen it.

25 A. No.

1 Q. To your knowledge, it has never occurred, then?

2 A. To my knowledge.

3 Q. The only time you have seen two individuals act  
4 outside of a meeting that is called is Scott Hartley and  
5 Jack DuBois, isn't it?

6 A. No.

7 Yes. Yes. Yes, I understand your question.

8 Yes. Yes.

9 (Exhibit 134 was marked  
10 for identification.)

11 Q. Is that a copy of the subpoena duces tecum that  
12 was delivered to you?

13 A. Yes.

14 Q. In response to that subpoena duces tecum, did  
15 you provide documents numbered 58 through 78?

16 A. Are you asking me to look through each one --

17 Q. Yes, please.

18 A. Each page?

19 Q. I will represent to you these are the documents  
20 that have been identified as part of the deposition of  
21 Scott Hartley and were the entire set of documents that  
22 you had previously provided.

23 A. Yes.

24 Q. In response to this subpoena, are there any  
25 other documents in your possession or your control which

1 would be responsive in any manner to that subpoena duces  
2 tecum?

3 A. No.

4 Q. I want you to take a look through Exhibits 58  
5 through 78, your financial documents, which I understand  
6 relate to the dissolution of the corporation; is that  
7 correct?

8 A. I don't understand that question.

9 Q. Let me go through this. Let's take a look at  
10 Exhibit 134, Item 19, documents relating in any manner to  
11 the financial status of the corporation deteriorating as  
12 alleged in the petition. These exhibits, 58 to 78, are  
13 the documents that would relate to the --

14 A. Only a few of them would be. Most of them  
15 would not relate.

16 Q. Which ones can you tell me would?

17 A. Document 67, Document 68.

18 Q. Would you identify those documents as you go  
19 through them, so we could have a general idea.

20 A. 67 is a schedule of offerings received during  
21 the month of March. Document 68 is just a cash flow  
22 projection, and that is all it is is a projection.

23 Q. Can you give us a date of preparation and for  
24 the period it would cover.

25 A. Projection as of April 1 to June 10, 1988.

1 Q. Date of preparation?

2 A. April 1. These are the only two documents --

3 MR. ANDERSEN: May I ask something that  
4 may help?

5 MR. PIERCE: Sure.

6 MR. ANDERSEN: In the deposition we had  
7 this morning, Mr. Smalley brought in some financial  
8 documents. I'm not sure how he and Mr. Pesce have  
9 arranged to do this. I didn't want Mr. Pesce to say  
10 those weren't involved.

11 Q. Take a look at all of the documents which are  
12 in front of the court reporter, which are represented to  
13 be documents provided by Mr. Smalley to his deposition.  
14 Would those also identify which documents there are that  
15 would relate to the financial status of the corporation  
16 deteriorating and identify which documents those would  
17 be.

18 A. I don't know. I wasn't involved in the  
19 preparation of those documents.

20 Q. If you don't know anything about them, that is  
21 fine.

22 On any of those documents -- I think we have  
23 Exhibits 127, 128 --

24 A. Correct. I was not involved in the preparation  
25 of this.

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(Discussion off the record.)

(The last question was  
read by the court reporter.)

A. It appears Document 128 would be a document that shows the financial problems of the corporation, and possibly Document 129.

Q. (By Mr. Pierce) Now that you have seen Mr. Smalley's documents and you have reviewed your own, can you tell me which one of these documents you would have provided to Mr. Hartley prior to March 21, 1988, which I will represent to you is the date of the petition for dissolution of the corporation?

A. Can you rephrase the question.

Q. I want to know which ones of these documents, which are the corporation documents of Community Chapel, you would have provided to Mr. Hartley or Mr. DuBois prior to March 21, 1988, which is the date of the filing of the petition for dissolution of the corporation, which would have related in any manner to the deteriorating financial condition and the need for dissolution of the corporation?

A. Document 67 and Document 68.

Q. Document 67, you couldn't have provided that document, because it has March 27 on there for budget and actual, doesn't it?

1 A. Correct.

2 Q. This wasn't in existence on March 21, right?

3 A. I have that document by week. That is an  
4 update by week.

5 Q. Where is the document that you would have  
6 provided to Mr. Hartley?

7 A. If I was asked, I would have provided as of  
8 three weeks. If I was asked March 13, I would have given  
9 him two weeks. If I was asked March 6, I would have  
10 given him one week.

11 Q. This is a document that you gave to Mr. Hartley  
12 that is similar to Exhibit 67. You couldn't possibly  
13 have given him the original or a copy of Exhibit 67,  
14 because March 27 wouldn't have occurred.

15 A. Right. I gave him a document that was -- I  
16 don't remember the exact date, but it had budget and  
17 actuals in it for part of March. I have that on  
18 computer.

19 Q. So, you made a hard copy of this document and  
20 gave it to Mr. Hartley?

21 A. I gave him the document. He looked at it,  
22 looked at the numbers, and the numbers were included in  
23 the affidavit, as I remember, for --

24 Q. I want to know where the document is. You said  
25 you gave him a document. What happened to it? Did he

1 keep it, or did he give it back to you?

2 A. Probably he gave it back to me.

3 Q. Where is it?

4 A. It has probably been shredded. I shred all of  
5 the documents. All of this is on computer. There is no  
6 need to keep it.

7 Q. Exhibit 68, you told me earlier in identifying  
8 this document, the date of preparation was April 1; is  
9 that correct?

10 A. Probably, because that is the last date that I  
11 have actual numbers in, and I usually prepare these  
12 documents -- I usually update this document every Friday.  
13 So, April 1 would be a Friday.

14 Q. Doesn't it show an actual figure on this  
15 Exhibit 68 as of April 1 and, therefore, you know that  
16 document was prepared approximately April 1?

17 A. Yes.

18 Q. So, this document was not in existence on  
19 March 21, 1988; isn't that correct?

20 A. Correct.

21 Q. You couldn't have shown either Exhibit 67 or 68  
22 to Mr. Hartley or Mr. DuBois?

23 A. I would have showed them the same documents  
24 without the additional weeks.

25 Q. Where are those documents at the present time?



1           A.    Like I said, I shred them every week.  They are  
2 on computer.  The document is right here.  If you want  
3 March 18, you look at this, and it is right here.  This  
4 will tell you where we were.

5           Q.    Are you involved in --

6           A.    This is a cumulative document.

7           Q.    Are you involved in preparation of budgets for  
8 Community Chapel?

9           A.    I am advisor to the budget person, but I am not  
10 involved in the preparation of the budget.

11          Q.    Does the budget person work underneath you?

12          A.    No.

13          Q.    He works for whom?

14          A.    Right now, I don't know.

15          Q.    Is there an acting general manager of the  
16 corporation?

17          A.    I don't know.

18          Q.    Have you been advised by anybody that they are  
19 acting as a general manager of the corporation?

20          A.    I have been advised, I believe, by Don Barnett  
21 in one of his memos that either he was looking to appoint  
22 an acting general manager or he was acting general  
23 manager.

24          Q.    Who is the budget person that you were talking  
25 about?

1 A. Charlotte McGaughey.

2 Q. Did she respond to the general manager up a  
3 chain of command?

4 A. The budget person has worked very closely with  
5 Scott Hartley and Jack Hicks and to a lesser extent with  
6 my man Smalley and Loren Krenelka.

7 Q. I am asking the chain of command in the  
8 corporation.

9 A. That was the chain of command.

10 Q. That is from the secretary of the corporation  
11 to the budget director?

12 A. The person that you identified or is labeled as  
13 secretary acts in a lot more capacity than just  
14 secretary of the corporation. That has been a practice  
15 at Community Chapel for a long time.

16 Q. Did Donald Barnett tell you not to give any  
17 vacation or severance pay to individuals who retired  
18 after March 1 of 1988 without his approval?

19 A. That's correct.

20 Q. Have you done that?

21 A. Yes.

22 I correct that. I have not paid anyone any  
23 money. I am not authorized to pay anyone any money. I  
24 have just followed the instructions of the board of  
25 directors.

1 Q. What are the instructions of the board of  
2 directors with regard to this?

3 A. Terminating employees are to receive vacation  
4 pay and not severance pay.

5 Q. Has anyone received severance pay after  
6 March 1, 1988?

7 A. Not to my knowledge.

8 Q. Did Jack Hicks receive severance pay after  
9 March 14, 1988, the date of his termination of  
10 employment?

11 A. He wasn't employed after March 14, 1988. So,  
12 he couldn't receive severance pay.

13 Q. Did he receive any type of severance pay in  
14 March 1988?

15 A. Not to my knowledge.

16 Q. Did he receive vacation pay?

17 A. Yes, he did.

18 Q. How much was accrued to him?

19 A. I think it was about five weeks.

20 Q. Then there is no additional severance pay of  
21 approximately four weeks paid to him?

22 A. Not to my knowledge.

23 Q. Did Jack Hicks authorize the disbursement of  
24 vacation pay to himself?

25 A. Yes, he did.

1 Q. Did you contact the board of directors with  
2 regard to that?

3 A. No.

4 Q. Why not?

5 A. There was no need to. As general manger, he  
6 had the authority to do that.

7 Q. Did you pay Mike Chapman vacation pay?

8 A. Yes.

9 Q. Did you pay anyone else vacation pay?

10 A. George Bowker, Marlene Hanson. I think Sandy  
11 Shartzkoph also received some vacation pay.

12 Q. That was after the directions from Donald  
13 Barnett not to pay vacation pay?

14 A. Yes.

15 Q. Who made the determination of what vacation pay  
16 was due, if any, to these individuals?

17 A. It is a department head's responsibility to  
18 keep track of how much vacation is owing to employees.  
19 So, that information is provided to us in accounting.

20 Q. Showing you what has been marked as  
21 Exhibit 116, which is a March 13, 1988, letter, did you  
22 sign that document?

23 A. Yes, I did.

24 Q. Was that signed after a church service on  
25 Sunday, March 13?

1 A. No, I believe I signed it on Monday.

2 Q. Who presented this document to you for  
3 signature?

4 A. I believe I found the document with the  
5 treasurer. I don't remember him presenting it to me. I  
6 had heard about the document, and I wanted to read it.

7 Q. Did you request any individuals to sign this  
8 document?

9 A. No.

10 Q. You are the department head of the accounting  
11 office?

12 A. Uh-huh.

13 Q. At the church service on March 13, were you one  
14 of the designated department heads to have this document  
15 executed?

16 A. I don't know. I didn't go to that service.

17 Q. Who told you about this letter?

18 A. One of the employees. I don't remember.

19 Q. You indicated that you had two documents that  
20 were in response to Item No. 19 to the subpoena. Out of  
21 all of these remaining documents between 58 and 78, why  
22 do we have these documents here? What are we responding  
23 to in the subpoena? Is there a particular section of  
24 that subpoena --

25 A. Yes.

1 Q. Can you show me on the subpoena?

2 A. Item 39.

3 Q. Item 39 asks for corporate tax returns, 1976 to  
4 the present. Did you bring those?

5 A. We are a 501(c)3 tax-exempt organization.

6 Q. What type of tax returns do you file?

7 A. This is a corporate tax return. We do not file  
8 any corporate tax returns.

9 Q. What type of tax returns do you file?

10 A. We file an information return with the Social  
11 Security office, and we file an information return on our  
12 FIT deposits. Those are the returns that we file.

13 Q. FICA taxes and FIT taxes?

14 A. Right. If you want copies of those, I will  
15 give you copies of those.

16 Q. The documents that you provided would be all of  
17 the documents, 58 through 78, available as to Item 39 A  
18 through I?

19 A. Except B, D, and H. Well, I did give you a  
20 document on H. The only thing we give is an annual  
21 financial statement, and you have that. So, it would be  
22 B and D.

23 Q. There is no corporate tax returns. So, there  
24 wouldn't possibly be any?

25 A. Right.

1 Q. D is budget and subsidiary documents; what  
2 would those be?

3 A. That is what Wiman provided you with, the  
4 budget information, or whoever provided you with that.

5 Q. The subsidiary documents that would be involved  
6 with the budgets are what?

7 A. Your guess is as good as mine.

8 Q. Can you tell me what the financial problems are  
9 for Community Chapel at the present time.

10 A. Reduced offerings, significantly reduced  
11 offerings, without a corresponding reduction in expenses.

12 Q. Are there alternatives for the financial  
13 survival of the Community Chapel from an accountant's  
14 point of view at the present time?

15 A. Reduce expenses.

16 Q. Has anybody contacted you with regard to what  
17 your opinion would be with regard to the financial  
18 alternatives available to Community Chapel after March 1,  
19 1988?

20 A. Yes, I believe there was some discussion on  
21 employee layoffs about that time, either right after that  
22 time or right before that time. I was involved in  
23 helping to decide -- not helping to decide, but to put  
24 forth suggestions on employees to lay off to reduce  
25 expenses, which I believe was communicated to Don

1 Barnett.

2 Q. To whom did you communicate those employee  
3 layoffs?

4 A. Loren Krenelka had asked me.

5 MR. PIERCE: I don't have any other  
6 questions.

7  
8 E X A M I N A T I O N

9 BY MR. ANDERSEN:

10 Q. It wasn't clear to me earlier on when you  
11 discussed the activity of the board of directors being  
12 involved in day-to-day activity or not being involved in  
13 day-to-day activity. Could you explain the extent or  
14 lack of extent of Community Chapel's board of directors'  
15 day-to-day activities.

16 A. Since I have been at Community Chapel, Jack  
17 Hicks, Scott Hartley and Jack DuBois have been involved  
18 in the day-to-day -- not everything, obviously -- but in  
19 the operations on a recurring basis of the corporation.  
20 They review the expense requisition vouchers that  
21 accompany the checks that they sign. They make  
22 inquiries. They ask questions. They are intently  
23 involved in the financial affairs of the corporation.

24 Q. Do you know if there was any regularity to  
25 their meetings?



1 MR. PIERCE: Whose meetings, the board of  
2 directors?

3 Q. (By Mr. Andersen) The board of directors.

4 A. No, I do not know. I do not know if there was  
5 any regularity to their meetings, though I do know that,  
6 just in my daily activities there, in conversations with  
7 Jack Hicks, Jack frequently would discuss financial  
8 matters. He would not make financial decisions until he  
9 got the concurrence of other members, and that was a  
10 recurring thing at Community Chapel, so much so that  
11 Scott Hartley has been provided a detailed accounts  
12 payable report, detailed payroll report that accompanies  
13 the checks, and that was at the request of the vice-  
14 president and general manager.

15 Q. If Mr. Pierce had not accompanied Don Barnett  
16 into your accounting office and Mr. Barnett had requested  
17 to see the financial records alone, would you have shown  
18 him the records?

19 A. Yes.

20 Q. Would you look at Exhibit 128. Have you seen  
21 that before today?

22 A. Parts of it definitely I have seen. Most of it  
23 I have seen.

24 Q. Are you familiar with the pages headed  
25 "Corporate Budget Summary"?

1 A. Yes.

2 Q. Do you know who prepared this document?

3 A. Charlotte McGaughey.

4 Q. She compiled these pages together?

5 A. Correct.

6 Q. Did you assist her in compiling these numbers  
7 specifically for this page headed "Corporate Budget  
8 Summary, Period Ending 2/29/88"?

9 A. No.

10 Q. Given the present status of Community Chapel  
11 with the two groups, the two services, the present  
12 attendance and the present offering schedule or amounts,  
13 do you have any idea how long Community Chapel can  
14 financially survive?

15 MR. PIERCE: I will object on the basis of  
16 a lack of information, a lack of experience in projecting  
17 information and failure to set a foundation as an expert  
18 in this area.

19 A. I can guess to where we will be the first week  
20 in June. Beyond that time, I don't know.

21 Q. (By Mr. Andersen) What is your guess for the  
22 first week in June?

23 MR. PIERCE: What is your guess? I am  
24 going to object to the guess. It is not admissible.

25 THE WITNESS: Am I supposed to answer?

1 Q. (By Mr. Andersen) Very briefly, yes.

2 A. We will have used up 30 to 40 percent of our  
3 savings that was set aside to retire the balloon payment  
4 on our buildings, possibly 50 percent, 30 to 50 percent.

5 Q. Are you able to find out the amount of offering  
6 contributed weekly at the services conducted by Don  
7 Barnett?

8 A. The offering put in the bag, yes. Any other  
9 offerings that are taken for personal purposes, no.

10 MR. ANDERSEN: No further questions.

11 (The deposition concluded  
12 at 4:45 p.m.)

13 (By agreement between  
14 counsel and the witness,  
15 signature was waived.)

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C E R T I F I C A T E

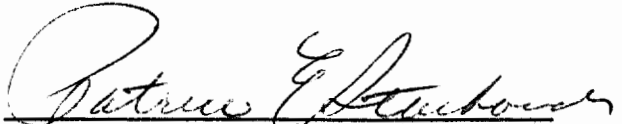
STATE OF WASHINGTON )  
                                  :  
COUNTY OF KING        )

I, the undersigned officer of the Court under my commission as a Notary Public in and for the State of Washington, hereby certify that the foregoing deposition upon oral examination of the witness named herein was taken stenographically before me and thereafter transcribed under my direction;

That the witness before examination was first duly sworn by me to testify truthfully; that the transcript of the deposition is a full, true and correct transcript of the testimony, including questions and answers and all objections, motions, and exceptions of counsel made and taken at the time of the foregoing examination;

That I am neither attorney for, nor a relative or employee of any of the parties to this action; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my  
14th April  
hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 1988.

  
NOTARY PUBLIC in and for the  
State of Washington residing at  
Seattle.

Page 2 of 2

*Rough & Associates*  
Incorporated  
COURT REPORTERS

405 SEATTLE TOWER  
SEATTLE, WASHINGTON 98101  
(206) 682-1427

EXHIBIT 33 DATE \_\_\_\_\_  
WITNESS \_\_\_\_\_  
**PATRICE STARBUCK**

MEMORANDUM

DATE: 4/6/88

TO: SCOTT HARTLEY, WYMAN SMALLEY, DRAKE PESCE

YOUR LETTER OF APRIL 1, 1988 STATES THAT I WILL RECEIVE NO PAYCHECK FOR THIS PERIOD OR IN THE FUTURE UNTIL I STOP TAKING OFFERINGS FOR ME. YOU CITE AS YOUR AUTHORITY MY MEMO OF FEBRUARY 15, 1985.

1. FUNDS RECEIVED IN SPECIAL OFFERINGS HAVE NOT BEEN PAID TO ME DIRECTLY, BUT HAVE BEEN USED FOR LEGAL PROCEEDINGS TO BENEFIT THE CHURCH AND MYSELF.
2. THE STEERING COMMITTEE APPOINTED BY ME, HAS, BY THEIR DECISION, TAKEN UP A SEPARATE "DEFENSE FUND" FOR LEGAL BILLS THAT SHOULD, BY RIGHTS, BE PAID FOR BY THE CHURCH, SINCE I AM, ON BEHALF OF MY CHURCH, DEFENDING THEM AND ME, AS AN OFFICER OF THE CORPORATION, AGAINST AN ILLEGAL TAKEOVER. THIS IS NOT CONTRARY TO MY MEMO OF FEBRUARY 15, 1985.
3. THE LETTER OF FEBRUARY 15, 1985 REFERENCED WAS INTENDED TO APPLY TO OUR MINISTERS OTHER THAN THE PASTOR.
4. TO THE EXTENT THAT ANYONE MISUNDERSTOOD THE LETTER, AS IT APPLIES TO THE PASTOR, IT HAS BEEN RESCINDED EFFECTIVE 3/1/88.
5. I DO HEREBY DECLARE THAT THE ORIGINAL PASTOR, DONALD BARNETT, MAY HIMSELF (OR HAVE OTHERS) TAKE UP SPECIAL DEFENSE FUNDS, COMPENSATORY MONIES, OR OTHER OFFERINGS AS HE DEEMS NECESSARY FOR THE BENEFIT OF THE PASTOR AND/OR CCBTC.
6. I DO HEREBY DIRECT THE ACCOUNTING DEPARTMENT TO REIMBURSE ME FOR ALL SALARIES DEDUCTED FROM MY PAYCHECK FOR THE MONTHS OF MARCH AND APRIL, AND TO PAY MY FULL SALARY FROM THIS DATE AND ON.
7. I DO HEREBY DIRECT THE SENIOR ELDERS AND ANY ONE CLAIMING TO BE ACTING AS THE VICE PRESIDENT AND GENERAL MANAGER TO STOP TRYING TO FIND WAYS TO WORK AGAINST ME, AND MY OFFICE, AND TO STOP IMPEDING ME, AS THE LEGAL PRESIDENT OF THE CORPORATION, FROM DOING MY JOB. AND I DIRECT YOU TO MAKE NO DECISIONS THAT YOU KNOW OR SUSPECT IS CONTRARY TO MY WISHES. CONTACT ME IF YOU HAVE ANY QUESTIONS OR DOUBTS.
8. I RULE (BY THE AUTHORITY OF THE BYLAWS THAT SAY THE PRESIDENT SHALL HAVE THE AUTHORITY TO INTERPRET, AND, IF NECESSARY, MAKE ON THE SPOT DECISIONS, ARBITRATIONS, REGULATIONS, ETC., REGARDING AREAS NOT COVERED IN THE BYLAWS) THAT SCOTT HARTLEY IS NOT THE ACTING VICE-PRESIDENT

OR GENERAL MANAGER (AS YOU HAVE INDICATED) BECAUSE HE HAS NOT BEEN APPOINTED BY THE PRESIDENT AS REQUIRED BY THE BYLAWS, NOR HAS JACK DUBOIS. (SEE DIV. I, SECT V, ART III, AND DIV I, SECT VI, ART I.) IF SCOTT HARTLEY CONSIDERS HIMSELF TO BE THE VICE-PRESIDENT, THIS IS NEW TO THE STATUS QUO, AND I HEREBY REMOVE HIM FROM OFFICE (SAME BY-LAW REFERENCE).

YOUR LETTER ERRS IN STATING THAT I THREATENED JEFF WITH A LAWSUIT FOR HIS RELIGIOUS VIEWS. I RATHER INFORMED HIM THAT HE MAY STAND LEGALLY LIABLE FOR ALLOWING PERSONNEL TO LOOK FOR NEW JOBS ON STAFF TIME, CONTRARY TO MY ORDERS.

AS TO REFUSING TO GIVE THE ELDERSHIP THE USE OF THE SANCTUARY, I REPEAT THAT WE HAVE ONLY ONE LEGAL CHURCH OF COMMUNITY CHAPEL PER OUR BYLAWS, AND ACCORDING TO OUR BYLAWS AND THE JUDGE, I AM THE PASTOR OF THAT CHURCH. IF YOU DO NOT TAKE UP OFFERINGS, COMMENSURATE WITH THE OFFERING RATIO/CAPITA OF THAT BEFORE MARCH 4, 1988, YOU ARE OCCUPYING THE CHAPEL ILLEGALLY AND CONTRARY TO MY ORDERS.

CONCERNING THE LAYOFFS, HOW CAN I CONCUR WITH A LIST OF LAYOFFS WHEN I HAVE NO INFORMATION AS TO HOW THE OFFICES CAN FUNCTION WITHOUT THEM? THE OFFICES WILL NEED SOME REORGANIZATION. I HAVE ASKED FOR THIS INFORMATION BUT HAVE RECEIVED NO REPLY. SURELY YOU MUST HAVE FIGURED THIS OUT IN ORDER TO KNOW WHO TO PLAN TO LAY OFF. WHY HAVE YOU NOT YET GIVEN ME THIS DATA?

I REQUEST THAT YOU SUPPLY ME WITH THIS DATA IMMEDIATELY, AND THAT YOU AGREE TO LET ME RESTRUCTURE THE OFFICES AS I SEE FIT, SINCE YOU WANT TO DISSOLVE THE CORPORATION ANYWAY.

I JUST LEARNED YOU ORDERED A STORE-WIDE SALE AT COST PLUS 10%. THIS IS AGAINST MY ORDERS. THE VICE-PRESIDENT, GENERAL MANAGER IS TO ACT UNDER MY DIRECTION PER THE BYLAWS. YOU HAVE USURPED THIS OFFICE. IF YOU CONTINUE TO USURP IT CONTRARY TO MY DIRECTIVES, YOU STILL MUST WORK UNDER MY DIRECTIVES. MAKE NO DECISIONS IN THE CORPORATION OFFICES WITHOUT MY CONCURRENCE; HOLD NO SENIOR ELDERS MEETINGS WITHOUT THE FULL STAFF AND CHAIRMAN. SINCE YOU HAVE NOT MET LEGALLY, NONE OF YOUR DECISIONS ARE THEREFORE LEGAL.

YOU ARE DIRECTED TO SEND ME THE FULL "AMENDED ARTICLES AND BYLAWS" OF MARCH 4, 1988.

SIGNED

Donald Lee Barnett  
PRESIDENT

DATE

4/8/88

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8803-01

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IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

IN RE COMMUNITY CHAPEL AND BIBLE )  
TRAINING CENTER, a non-profit ) NO. 88-2-05272-7  
corporation organized under the )  
laws of the State of Washington. ) SUBPOENA DUCES TECUM  
PURSUANT TO CR 30(b)(6)

THE STATE OF WASHINGTON, to: Drake Pesce,

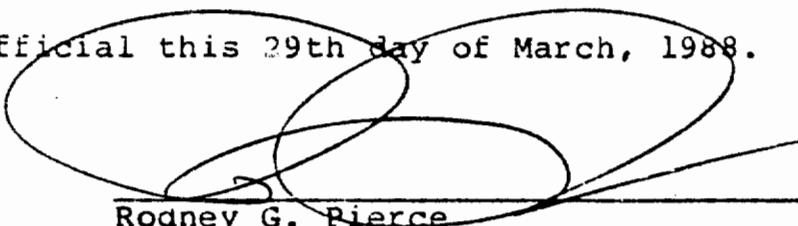
GREETINGS:

YOU ARE HEREBY COMMANDED to be and appear at the offices of  
Roger W. Johnson, 260 Grand Central on the Park, 216 First Avenue  
South, Seattle, Washington, on the 5th day of April, 1988 at the  
hour of 3:00 o'clock p.m., then and there to testify as a witness  
at the request of the plaintiff in the above entitled cause, to  
remain in attendance upon the undersigned or other Notary Public  
until discharged and bring the following documents:

All items listed on attached Appendix "A" made  
a part hereto.

HEREIN FAIL NOT AT YOUR PERIL

WITNESS my hand and official this 29th day of March, 1988.



Rodney G. Pierce  
Attorney for Plaintiff



APPENDIX "A"

Preliminary Definitions:

1  
2  
3 1. "Documents" shall include any and all originals and copies of  
4 documents as defined on the attachment hereto, in the possession  
5 or under the control of the responding party, their attorneys,  
6 employees or agents.

7 2. "Petition" shall mean the Petition for Dissolution of  
8 Non-Profit Corporation and for Appointment of Receiver dated  
9 March 21, 1988.

10 3. "Community Chapel" shall mean the Community Chapel and Bible  
11 Training Center.

12 4. "Board" shall mean the Board of Senior Elders of the Community  
13 Chapel.

14 1. Documents relating in any manner to any deadlock in management  
15 as alleged in the Petition at page 2, line 9.

16 2. Documents relating in any manner to the deficits, as alleged in  
17 the Petition at page 2, line 12.

18 3. Documents relating in any manner to the decisions relating to  
19 reduction in personnel and programs which must be made, as alleged  
20 in the Petition at page 2, lines 12-13.

21 4. Documents relating in any manner to an agreement, lack of  
22 agreement, communication, conference or any other activity  
23 relating in any manner to "what reductions should be made or how  
24 those decisions should be reached," as alleged in the Petition at  
25 page 2, lines 13-15.

5. Documents relating in any manner to any request by Barnett  
that persons in the congregation give him money which exasperated  
"this problem," as alleged in the Petition at page 2, lines 16-19.

6. Documents relating in any manner to strong disagreement between  
Petitioners and Barnett as to how pending civil suits should  
be handled, as alleged in the Petition at page 2, lines 20-23.

7. Documents relating in any manner to employees of the corporation  
being unwilling or expressing unwillingness to take  
directions from Barnett, as alleged in the Petition at page 3,  
lines 1-5.

1 8. Documents relating in any manner to an obvious management  
2 problem by Barnett being restrained from terminating employees,  
except with the concurrence of Petitioners, as alleged in the  
Petition at page 3, lines 6-8.

3 9. Documents relating in any manner to attempts to get agreement  
4 with Barnett regarding the appointment of a successor registered  
agent and failure in that attempt, as alleged in the Petition at  
page 3, lines 9-12.

5 10. Documents relating in any manner to worship services led by  
6 Senior Elders drawing more people than the meeting room holds, as  
alleged in the Petition at page 3, lines 13-14.

7 11. Documents relating in any manner to services led by Barnett  
8 having much poorer attendance in the large sanctuary, as alleged in  
the Petition at page 3, lines 15-16.

9 12. Documents relating in any manner to Barnett's refusal to move  
10 his services to the small sanctuary, as alleged in the Petition at  
page 3, lines 16-17.

11 13. Documents relating to any memo issued by Barnett to  
12 Petitioners which threatened them with legal action and dismissal  
for their failure to cooperate which created an intolerable work  
13 environment as alleged in the Petition at page 3, lines 18-20.

14 14. Documents relating in any manner to any type of investigation  
of Barnett or any other past or present employees of Community  
15 Chapel and Bible Training Center during 1987 or 1988.

16 15. Documents, including tape recordings, relating in any manner  
17 to worship services by Senior Elders during the year 1988 up to  
the present.

18 16. Documents, including tape recordings, relating in any manner  
to any and all Senior Elders' meetings during 1987 and 1988.

19 17. Documents, including tape recordings, relating in any manner  
20 to any and all Elders meetings during 1987 and 1988.

21 18. Documents relating in any manner to Barnett providing the  
22 "Grand Master" key to a person who is not an employee of the cor-  
poration, against the terms of the restraining order and bylaws,  
23 which threatens the security of the files and records of the cor-  
poration, as alleged in the Petition at page 3, line 21 and  
page 4, line 2.

24 19. Documents relating in any manner to the financial status of  
25 the corporation deteriorating, as alleged in the Petition at page 4,  
lines 6-7.

1 20. Documents relating in any manner to a deadlock in management  
2 leading to a breakdown of employee morale which has led to  
resignations of key employees and will result in more resignations,  
as alleged in the Petition at page 4, lines 8-10.

3 21. Documents relating in any manner to the failure to resolve  
4 differences as resulting in decreased participation in services  
with a resultant decrease in church income, as alleged in the  
5 Petition at page 4, lines 11-13.

6 22. Documents relating in any manner to not of the congregation  
7 following the Senior Elders being able to support the current  
8 program, as alleged in the Petition at page 4, lines 14-15.

9 23. Documents relating in any manner to not of the congregation  
10 following the Senior Elders not supporting any program managed by  
11 Donald L. Barnett, as alleged in the Petition at page 4, lines  
12 14-16.

13 24. Documents relating in any manner to giving to the Church,  
14 while there has been split services, being down 47% from budget, as  
15 alleged in the Affidavit of Drake Pesce.

16 25. Documents relating in any manner to review by Drake Pesce of  
17 financial records from the Church for the purposes of expressing  
18 any type of opinion or statement of fact, as set out in the  
19 Affidavit of Drake Pesce.

20 26. Documents relating in any manner to attendance at meetings at  
21 Community Chapel for the period from July 1, 1987 to the present.

22 27. Documents relating in any manner to determination of atten-  
23 dance at meetings as alleged in the Affidavit of Loren Kreneika.

24 28. Documents relating in any manner to the Donald Barnett orders  
25 or directions to the Board, as alleged in the Affidavit of Scott  
Hartley at page 1, lines 18½-20½.

26 29. Documents relating in any manner to any meeting of Senior  
27 Elders on Friday, March 19, 1988, as alleged in the Affidavit of  
28 Scott Hartley, page 1, lines 14½-15½.

29 30. Documents relating in any manner to the number of Deacons  
30 being below the number required to act, as alleged in the Affidavit  
31 of Scott Hartley at page 1, lines 20½-21½.

32 31. Documents relating in any manner to a vote of the congregation  
33 to elect new deacon board members, as alleged in the Affidavit of  
34 Scott Hartley at page 1, lines 21½-22½.

1 32. Documents relating in any manner to the impossibility to elect  
2 new members to the Deacon Board because the congregation is split  
into two services, as alleged in the Affidavit of Scott Hartley at  
page 1, lines 22 $\frac{1}{2}$ -23 $\frac{1}{2}$ .

3 33. Documents relating in any manner to a memorandum by Donald  
4 Barnett threatening to take civil action and threatening to ter-  
5 minate officers and staff if they do not perform to his satisfac-  
tion, as alleged in the Affidavit of Scott Hartley at page 1,  
line 14 $\frac{1}{2}$  - page 2, line 2.

6 34. Documents relating in any manner to a letter signed by 85 $\frac{1}{2}$  of  
7 the staff that they will not take directions from Donald Barnett,  
as alleged in the Affidavit of Scott Hartley at page 2, lines 3-5.

8 35. Documents relating in any manner to Donald Barnett's assump-  
9 tion of the position of general manager of the corporation as  
alleged in the Affidavit of Scott Hartley at page 2, lines 6-7.

10 36. Documents relating in any manner to no substantial corporate  
11 activity being or capable of being accomplished without coopera-  
12 tion of the staff with the general manager, as alleged in the  
Affidavit of Scott Hartley at page 2, lines 7-9.

13 37. Documents relating in any manner to any type of communication,  
14 correspondence, memorandum or other documents or directions from  
Donald Barnett to any officer or employee of Community Chapel and  
Bible Training Center from January 1, 1988 to the present.

15 38. Documents relating in any manner to the preparation, review,  
16 execution or delivery of the March 13, 1988 letter attached to the  
Affidavit of Scott Hartley.

17 39. Any and all financial records and documents for Community  
18 Chapel and Bible Training Center from January 1, 1987 to the pre-  
sent, except as otherwise requested, including but not limited to:

- 19 a. Financial Statements, yearly and monthly;  
20 b. Corporate Tax Returns (1976 to the present);  
21 c. Cash Flow Statements;  
22 d. All budgets and subsidiary documents;  
23 e. All pro forma documents and financial projections;  
24 f. All amortization schedules;  
25 g. All schedules for payment of liabilities;

1 h. All documents provided to any bank; and

2 i. Check registers and disbursement records (from January 1,  
3 1988 to present).

4 40. Documents relating to any profit or non-profit corporation  
5 incorporated or to be incorporated in 1988 by any past or present  
6 officer or employee of Community Chapel or by any person on their  
7 behalf.

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DEFINITIONS, ATTACHMENT 1, DEPOSITIONS AND SUBPOENAS

"Document" means all written, printed, typed, punched, taped, filmed or graphic matter, however produced or reproduced, of every kind and description, now or formerly in your actual or constructive possession, custody, trust, care or control, including but not limited to any correspondence (including letters, cables, telegrams, TWX, and telexes); memoranda and notes, memoranda of conversations, conferences or telephone conversations; reports, data compilations or analyses; logs and records; photographs; books; papers; manuals; handbooks; bulletins; advisories; messages; magazines; periodicals; film strips or movies; press releases; newspaper clippings; pamphlets; studies; notations; working papers; charts; graphs; plans; drawings; diagrams; computer printouts; indexes; minutes; transcripts; contracts; agreements; leases; legal pleadings; invoices; billings; statements; accounting books or records; financial data of any kind; journals; ledgers; diaries; tax returns; bylaws; rules; regulations; constitutions; annual reports; programs; certifications; resolutions; any electronic or other recording of any kind or nature and any mechanical or electronic sound recordings or transcripts thereof, however produced or reproduced; and all copies or facsimiles of documents by whatever means made.

"Person" or "persons" means all entities, including, without limiting the generality of the foregoing, all individuals, associations, companies, partnerships, joint ventures, corporations, trusts or estate, public agencies, departments, bureaus, commissions and boards.