

CONFIDENTIAL

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

DONALD L. BARNETT,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	NO. 88-2-04148-2
	)	
JACK A. HICKS, et al.,	)	
	)	
Defendants.	)	

DEPOSITION UPON ORAL EXAMINATION OF

JACK H. DuBOIS

PP. 22, 23, 24, 25, 40, 45-50, 53-56, 69-70

A P P E A R A N C E S

FOR THE PLAINTIFF:	ROBERT J. ROHAN, of Rohan, Goldfarb, Breskin & Shapiro, PS Attorney at Law 212 Watermark Tower 1109 First Avenue Seattle, Washington 98101
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FOR THE DEFENDANTS:	ROGER W. JOHNSON, of Johnson & Riley Attorneys at Law 216 First Avenue South Seattle, Washington 98104
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9:50 a.m.  
November 14, 1990  
Seattle, Washington

REPORTED BY JEAN M. ERICKSEN, RPR

**Sandra**  
**Baker &**  
**Associates** Court Reporters  
and Legal  
Video Service

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1 and ask if you can identify that.

2 A Well, I can say what they purport to be, but I don't  
3 remember seeing them before.

4 Q What do they purport to be?

5 A A report of the minutes of a meeting of the senior  
6 elders.

7 Q Are you familiar with the signature and the  
8 handwriting of Scott Hartley?

9 A Yes.

10 Q Does that appear to be Scott Hartley's signature?

11 A Yes.

12 Q Based on your memory, or on this document, do you  
13 remember, if your memory has been refreshed by this  
14 document, a meeting occurring on or about February

15 10th 1988 between you and Scott Hartley

1 A Yes, to my knowledge it was.  
2 Q Do you know who prepared the letter?  
3 A No, I don't remember.  
4 Q Did you see the letter?  
5 A Yes.  
6 Q Did you sign the letter?  
7 A I don't remember. I should have.  
8 Q Was Donald Barnett present during that meeting?  
9 A No.  
10 Q Was he advised that you and the other two senior  
11 elders were going to hold a meeting of the senior  
12 elders?  
13 A Not by me. I don't know whether he was or not,  
14 otherwise.  
15 Q During the meeting was there any discussion of the  
16 fact that Donald Barnett was absent?  
17 A I don't remember.  
18 Q During the meeting was there any effort made by you,  
19 or either of the other two senior elders, to obtain  
20 Donald Barnett's presence at the meeting?  
21 A I don't remember.  
22 Q Given the subject matter of the meeting, do you  
23 believe that there was any effort made to obtain  
24 Donald Barnett's presence at the meeting?  
25 A No.

1 8, do you recall taking the action that's described,  
2 as a senior elder?  
3 A Yes.  
4 Q Do you remember what day of the week that senior elder  
5 meeting occurred on?  
6 A No, I don't.  
7 Q If it indicates that the following subject is to be  
8 presented at the Friday evening service, February  
9 26th, and if the document is dated February 26th,  
10 would you believe that it would have been Friday  
11 evening or Friday sometime during the day?  
12 MR. ROHAN: Objection, calls for speculation.  
13 A It appears that's true, yes. I have no personal  
14 recollection of that.  
15 Q Was Donald Barnett present during that meeting?  
16 A No.  
17 Q Was it your belief at the time that provisions in the  
18 Articles of Incorporation or the bylaws of the church  
19 that gave Donald Barnett a right of concurrence were  
20 illegal under Washington law?  
21 A Yes.  
22 Q On what did you base that belief or understanding?  
23 A On the advice of attorney.  
24 Q Was that the advice of Jim Leach?  
25 A Yes.

1 Q Do you know where Donald Barnett was when this meeting  
2 of the senior elders occurred?

3 A No.

4 Q Was there any discussion of the fact that he was not  
5 present?

6 A I don't remember.

7 Q Was there any effort made to obtain his presence?

8 A I don't remember.

9 Q Do you know whether or not he was notified of the  
10 meeting?

11 A No, I don't know.

12 Q Given the subject matter of the meeting, do you  
13 believe he was notified?

14 MR. ROHAN: Objection, calls for speculation.

15 Asked and answered.

16 A No, I don't believe he was notified.

17 Q Given the subject matter of the meeting, do you  
18 believe that he would have authorized this subject to  
19 be discussed at a Board of Senior Elders meeting?

20 MR. ROHAN: Objection, calls for speculation.

21 A In my mind, these meetings we're speaking about were a  
22 continuation of the hearings. They had to do with the  
23 results of those hearings, in which case we were  
24 proceeding in accordance with his agreement not to  
25 interfere until they were concluded.

1 Q You say he had called the meeting. How did you become  
2 aware of the --

3 A He requested that we meet, through his secretary,  
4 Bonnie Martin, and she had made us aware of that, and  
5 I don't remember any of the particulars of that.

6 Q She told you it would be a meeting of all of you  
7 together at the same time, or a meeting with you  
8 individually, one with Don, and then the next with  
9 Don, and then the next with Don?

10 A No. My recollection is that it was a meeting of the  
11 board.

12 Q Did she indicate to you what the purpose of the  
13 meeting was?

14 A I don't remember. She may have, but I don't remember  
15 if she did.

16 Q If she did, do you believe it was the purpose that Don  
17 called the meeting was to vote on a resolution to  
18 amend the Articles of Incorporation?

19 A I don't know, but it would seem doubtful.

20 Q Why do you say "it would seem doubtful"?

21 A I had no indication at the time that he felt that was  
22 desirable.

23 Q Was a resolution passed at the meeting at Donald  
24 Barnett's house, as indicated in Exhibit Number 14?

25 A Yes.

1 A Yes.

2 Q What is it?

3 A It, too, purports to be the minutes of a senior elders  
4 meeting held on the 4th of March at 3:15 p.m. in Jack  
5 Hicks' office.

6 Q Do you recall such a meeting?

7 A Not really, no.

8 MR. JOHNSON: Let's go off the record.

9 (Remarks made off the record.)

10 Q I'd like you to take a look at Exhibit Number 15. Can  
11 you identify that document?

12 A Yes.

13 Q What is the document?

14 A This is a Resolution to Amend the Bylaws of the  
15 Corporation.

16 Q Do you recall considering that resolution?

17 A Yes.

18 Q I'd ask you to take a look at the last page of that  
19 resolution, and the next to the last page at the  
20 bottom, and examine the date, and having done so,  
21 indicate if you can recall the meeting wherein you  
22 discussed or considered that document.

23 A I know the meeting occurred, but as far as my  
24 recollection of it, I don't have any. As to the  
25 surroundings and so forth, I don't know. I couldn't

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tell you where it was, but I know the meeting occurred.

Q Do you know whether that meeting occurred on the same day that the meeting at the parsonage, that was continued at Jack Hicks' office occurred?

A It says it does but I don't remember that for sure



1 foundation.

2 A Did you say was it my belief at that time?

3 Q Was it your belief at that time that he would have  
4 approved of the Board of Senior Elders passing the  
5 resolution containing Exhibit 15?

6 MR. ROHAN: Same objection.

7 A I don't remember what my belief was at the time.

8 Q Is it your belief now, that he would have approved of  
9 it?

10 MR. ROHAN: Same objection.

11 A No, it's my belief now that he would not approve of  
12 it.

13 Q Was there any discussion by any members of the Board  
14 of Senior Elders at the meeting or prior to the  
15 meeting, with regard to whether or not Donald Barnett  
16 would have approved of the execution and passing of  
17 the resolution contained in Exhibit Number 15?

18 A I don't remember any.

19 Q I'd ask that you take a look at Exhibit Number 16, and  
20 indicate whether or not you can identify that  
21 document.

22 A Okay. (Perusing) Yes.

23 Q Can you indicate what that document is?

24 A It's a resolution to remove Donald Barnett as a member  
25 of the board of directors of Community Chapel and

1 Bible Training Center.

2 Q Does your signature appear on that document?

3 A Yes.

4 Q Do you recall executing that document?

5 A No, not specifically, no.

6 Q Do you recall voting on the resolution to remove  
7 Donald Barnett?

8 A Yes.

9 Q Did you vote affirmatively?

10 A Yes.

11 Q And did that occur at this meeting that we have been  
12 referring to?

13 A Yes.

14 Q Is there a signature line available for Donald Barnett  
15 to participate in the vote?

16 A No.

17 MR. ROHAN: Objection, vague and ambiguous,  
18 "participate".

19 Q I'd like to ask you to examine Exhibit Number 17, and  
20 indicate whether or not you can identify it.

21 A Yes, I can.

22 Q What is that document?

23 A This is a letter to Don from the senior elders,  
24 stating our intention to remove him. Let's see. Yes,  
25 remove him from all his offices, and as a member of

1 the church.

2 Q Did you sign that letter?

3 A Yes.

4 Q Was there a vote taken, a formal vote taken by you and  
5 Mr. Hartley and Mr. Hicks, with regard to whether you  
6 were going to sign it, or did you just sign it, all of  
7 you agree to sign it and sign it?

8 A There was such unanimity in the matter, that I doubt  
9 that it would have been necessary to take a vote.

10 Q I take it by your answer that you didn't take a vote  
11 separately, then?

12 MR. ROHAN: Objection.

13 A I didn't say that. I don't remember whether we did or  
14 not, but as I said before, it's the application of  
15 church policy, and to think that a senior elder would  
16 vote against something that was church policy is,  
17 well, it didn't occur to me to ask for a vote.

18 Q Did it occur to you that Donald Barnett would  
19 participate in the vote and vote with you, had he been  
20 there?

21 MR. ROHAN: Objection, speculation, lacks  
22 foundation.

23 A No, that didn't come up, it didn't enter into my mind.

24 Q You gave no consideration whatsoever as to whether or  
25 not Donald Barnett would have approved or disapproved

1 of this?

2 A No.

3 Q Do you recall whether or not during the meeting where  
4 this letter was signed -- withdraw that.

5 Was the meeting where this letter was signed  
6 the same meeting where the previous two documents, the  
7 resolution to remove Donald Barnett as member of the  
8 board of directors, and the resolution to amend the  
9 bylaws, was that the same meeting, or was that all  
10 done at the same meeting?

11 A I don't remember.

12 Q If you would look again at Exhibit Number 18, is the  
13 resolution to amend the bylaws that Exhibit Number 18  
14 indicates was discussed and adopted at 3:25 p.m. on  
15 March 4, 1988, is that the resolution set out in  
16 Exhibit Number 15?

17 A Fifteen?

18 Q Yes.

19 A Yes.

20 Q Is the resolution to remove Donald Barnett as a member  
21 of the board of directors that Exhibit Number 18  
22 indicates, the minutes of the meeting that occurred in  
23 the afternoon of March 4th at 3:15, that those minutes

1 Q I'd like to ask you to take a look at Exhibit Number  
2 17, on page three, in the first full paragraph that is  
3 the second, well, a third of the way down the page,  
4 where it begins with the words, This disfellowship  
5 is not contrary to any provision of our Articles of  
6 Incorporation or bylaws as currently amended.  
7 Previous limitations in the bylaws to your dismissal  
8 have been removed by legally-adopted amendments as of  
9 today, end of quote.

10 In executing or signing Exhibit Number 17,  
11 was it your intention, by that language, to refer to  
12 the amendments to the bylaws that are reflected in  
13 Exhibit Number 15?

14 A Yes.

15 Q In making or reaching your decision to disfellowship  
16 Donald Barnett, did you consider as the reason, or one  
17 of the reasons, that he had acknowledged having had  
18 sexual activity with other members of the  
19 congregation, women members of the congregation, other  
20 than his wife?

21 A No, that wasn't the reason.

22 Q What was the reason?

23 A The reason was that he refused the remedy we offered  
24 him, to preclude anything like that from happening in  
25 the future.

1 Q In the remedy that you offered to him, special status,  
2 I think you have referred to, how long was that  
3 special status to continue?

4 A I don't remember precisely, but it seemed to me that  
5 it was indefinite. I don't know that a time limit was  
6 put on it.

7 Q The special status would involve him not being alone  
8 with a female member of the church; is that correct?

9 A In private, yes.

10 Q In private, and that could have gone on forever?

11 MR. ROHAN: Objection, speculation.

12 A Well, like I said, there was no time limit put in the  
13 letter.

14 Q Was your word "indefinite"?

15 A I don't remember. It was my intention to see that  
16 there was some improvement in his social decorum, that  
17 would authorize us to remove that whole status.

18 Q At the time of the eldership hearings were you aware  
19 of any members of the eldership who were or had  
20 engaged in sexual activity with women, other than  
21 their wife?

22 A No.

23 Q You were not aware of any other members of the  
24 eldership, or those who were involved in holding the  
25 eldership hearings, who had engaged in any sort of

1 sexual activity with any other woman, other than his  
2 wife?

3 A Yes, that's true.

4 MR. ROHAN: Asked and answered.

5 Q Had you, at that point in time, engaged in sexual  
6 activity with any woman other than your wife, during  
7 the period of 1986, '87 or up until March 4th, 1988?

8 A No.

9 Q Was Donald Barnett, following your and your fellow  
10 senior elders disfellowshipping of him, given an  
11 opportunity to appeal his disfellowshipment?

12 A Not in the letter. No, he wasn't.

13 Q Was he given an opportunity to review his own  
14 disfellowshipment also?

15 MR. ROHAN: Objection, vague and ambiguous.

16 A He was presented a copy of the letter.

17 Q Was it the senior elders' intention, you, Mr. Hartley  
18 or Mr. Hicks, to permit him to review, and if he felt  
19 so inclined, reverse his disfellowshipment?

20 MR. ROHAN: Objection, calls for speculation.

21 A I can tell you what was in my mind at the time.

22 Q Okay.

23 A Had he, upon receiving that letter said, in order to  
24 avoid this, I will agree to your special status  
25 letter, if he had done that, then of course there

1 would have been no reason, in my mind, to  
2 disfellowship him. That was church policy.

3 Q Had he been advised of that by you, or any member of  
4 the --

5 A He knew the church policy.

6 Q Did anybody specifically advise him of that?

7 A I don't know.

8 Q Did you discuss, or were you present during any  
9 discussion by the members of the Board of Senior  
10 Elders, or by the members of the eldership, of the  
11 possibility of presenting the decision whether to  
12 remove Donald Barnett as pastor of the Community  
13 Chapel and Bible Training Center to the congregation,  
14 did you ever hear that discussed?

15 A No. You mean in the way of presenting it for a vote?

16 Q Yes.

17 A No. That was not church policy.

18 Q It was not church policy to present to the  
19 congregation the decision whether or not to remove a  
20 pastor?

21 A No.

22 Q Were you aware of a movement or desire by any elders  
23 or any persons attending Community Chapel and Bible  
24 Training Center during the year 1987, or early part of  
25 1988, prior to the eldership hearings, though, to



1 the Community Chapel and Bible Training Center?

2 A On a regular basis, yes. There are some of those  
3 others we see from time to time, but not on any  
4 regular basis.

5 Q I believe, and correct me if I'm wrong, that you  
6 indicated that the meeting of the Board of Senior  
7 Elders that occurred on February 10th, the minutes for  
8 which are contained in Exhibit Number 7, and the  
9 meeting that of the Board of Senior Elders that  
10 occurred on February 26th, the minutes for which are  
11 contained in Exhibit Number 8, and the meeting --

12 MR. ROHAN: Tell us the question first, and  
13 then he can look at the documents, because he's trying  
14 to look through the documents, and it's hard for him  
15 to listen and look at the documents.

16 MR. JOHNSON: We'll withdraw that question  
17 for Counsel's benefit.

18 MR. ROHAN: Thank you.

19 Q (By Mr. Johnson) There were three meetings that I  
20 believe you indicated Donald Barnett was not present  
21 at, meetings of the Board of Senior Elders, and  
22 they're the meetings of February 10th, February 26th  
23 and March 4th in the afternoon?

24 A (Nods head affirmatively.)

25 Q My question is, is it your belief that Donald Barnett

1 was advised that the members of the Board of Senior  
2 Elders were going to hold those meetings?

3 MR. ROHAN: Objection, asked and answered.

4 A I don't remember.

5 Q With regard to the meeting that occurred on the  
6 afternoon of March 4th, is it your understanding or  
7 belief, or was it your understanding or belief that he  
8 was advised or invited to participate in that meeting?

9 MR. ROHAN: Objection, asked and answered.

10 A I said I don't remember.

11 Q Prior to February of 1988, had you attended meetings  
12 of the members of the Board of Senior Elders of the  
13 Community Chapel and Bible Training Center?

14 MR. ROHAN: Prior to what date?

15 MR. JOHNSON: Prior to February of 1988.

16 A Yes.

17 Q Would you say you had attended most of the meetings  
18 that were held?

19 A Yes.

20 Q Would you say that Donald Barnett attended most of the  
21 meetings that were held?

22 A Yes.

23 Q Were you ever aware of a meeting that was held that  
24 was specifically kept secret from him, prior to  
25 February of 1988?