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

A P P E A R A N C E S

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9:50 a.m.
November 14, 1990
Seattle, Washington

REPORTED BY JEAN M. ERICKSEN, RPR

complaints or the allegations about Don's behavior from Jerry Zwack, and he was allowed as much time as he needed to do that, and he was allowed to do that without interruption, except for a question or a point of clarification.

Q What, then, next occurred?

A Then the next thing that occurred was Don was given the same privilege, in order to respond to the allegations.

Q Did he do so?

A Yes.

Q Could you estimate how much time Jerry Zwack spent talking during this first part of the hearings that you have mentioned, where he presented his allegations?

A No, I don't remember.

Q Do you have any idea how long Don talked, in response?

A No, I don't. It seemed that Don took more time than Jerry did, but I can't say that accurately.

Q After Don had finished, what next occurred?

A We continued to meet to decide what to do with the information we had. My attitude toward the thing had changed during the hearing, personally. When we entered into these hearings, I was convinced that the allegations were false, and that Don could easily

explain how they came about, to the satisfaction of everybody.

I was extremely loyal to the man, and I did, however, have in the back of my mind the several lawsuits that were pending against the church, that -- which lawsuits were those?

A Well, there was the Hull lawsuit, the Butler suit, the Brown suit. There was one in Tacoma.

Q The Hull, Butler and Brown were one suit were they not?

A Yes. They wound up to be. I'm not sure they were at the time, however. I didn't know a whole lot about those things. There may even have been another one, and there were rumors that others were perhaps pending, that hadn't been filed yet.

Q Those were suits by -- withdraw the question.

Were you done answering or not?

A No.

Q I'm sorry.

A The suits involved allegations of tortious acts by Don Barnett, and at the time I believed what he said about those suits, that they were.

Q You're referring to the Hull-Butler-Brown suit?

A Yes, all of them.

Q Which were the other suits?

A Those, and the one in Tacoma.
Q Do you know what the one in Tacoma, what the --
A I don't remember. I don't remember the names.
Q Was it an allegation of tortious conduct by Don?
A I don't remember. The corporation was named, and I don't remember whether his conduct was an issue of that or not.
Q Any other lawsuits besides the Tacoma suit and the Hull-Butler-Brown suit?
A None that I can put a name on at the moment, but I was concerned about these things, but I believed what Don said about them, that the allegations were false and could be easily disposed of, and that there was no way any of these people could prevail, and I believed that, but during the hearings, and right up to the time he began to reply to the allegations by Jerry Zwack, I still believed that.

Then in his response to the allegations he made admissions of tortious acts on his behalf, which caused me then to begin to wonder if there wasn't some substance to these suits.

Q What tortious acts did he admit to?
A Certain behavior with women congregants.
Q What sort of behavior?
A Adultery.

Q Is adultery a tortious act?

MR. ROHAN: Objection, calls for a legal conclusion.

Q Was adultery, did you believe adultery was a tort --

MR. ROHAN: Same objection.

Q -- that you could sue for?

MR. ROHAN: Same objection.

A Yes, I did.

Q On what basis did you have that belief?

A On what basis did I have that belief?

Q Yes.

A The conduct which he admitted, was similar to the conduct which had been alleged, in my understanding. I didn't know very much about these suits, but it was similar, at least, to the conduct that had been alleged in those previous suits.

Q In what way was it similar?

A Misconduct with women congregants, sexual impropriety with women congregants.

Q Engaging in sexual activity with women congregants?

A In some instances perhaps short of sexual activity, but sexual impropriety. Intercourse, perhaps no.

Q It was your belief that it was a tort for a man to have sexual activity with a woman not his wife?

A I believed it was the basis for a lawsuit.

home, but I don't remember anything about it.

Q Do you remember whether he spoke to those present, as a group?

A No, I don't.

Q When you indicate that -- strike that.

Do you recall when you, as a member of the Board of Senior Elders, first started to discuss with anyone the prospect or possibility of disfellowshipping Donald Barnett?

A I can't remember precisely the time and date, but it was subsequent to his public refusal to abide by the remedy we offered.

Q That public refusal came after the Friday evening February 26th presentation to the congregation by the senior elders, yourself included, of problems --

A It was that and a meeting that the Board of Senior Elders had, all four of us present, in which he refused to us at that time.

Q After that, you and others began to discuss, or you began to discuss with others, disfellowshipping Donald Barnett; is that your testimony?

A Yes, although I think discussion is a bit misleading, because in my mind it wasn't a matter for discussion. He refused the remedy, and in accordance with the policy of the church, when anyone did that, they were

disfellowshipped.

Q Did others discuss it then?

A I don't know.

Q Were you present at any meetings wherein it was discussed?

A Well, there was unanimity arrived at concerning whether or not to disfellowship him, but whether or not that was preceded by discussion, I don't know.

MR. ROHAN: Is this a good time to take a break?

Q Do you recall being at any meetings of the eldership where contingency plans --

MR. ROHAN: Is this a good time to take a break?

MR. JOHNSON: I don't know. Is it a good time for you?

MR. ROHAN: Yes.

(A break was taken.)

Q (By Mr. Johnson) Back on the record now.

During any of these discussions mongst the eldership where disfellowshipment for Donald Barnett was discussed, was Donald Barnett present?

A No.

Q Were there meetings held by you and Mr. Hicks and Mr. Hartley of the Board of Senior Elders where

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

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

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

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

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

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

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

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

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

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

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

A Yes.

Q Was that a voice vote, or was it a written vote?
A It was voice vote, all our votes were voice votes.
Q Did you execute anything in writing at that meeting?
A No, we just took the vote. Don refused to vote, refused to acknowledge that a vote was taken, and ordered us out of his house.
Q What was the purpose, in your mind, of holding that meeting?
A To amend those portions of the Articles of Incorporation that would seem to be, to us, in violation of state law.
Q Was there any document presented at that meeting by you or by Donald Barnett or by anyone else, to others present?
A I don't remember.
Q Is it your testimony, though, that there was no documents that were signed at the meeting?
MR. ROHAN: Objection, asked and answered.
A Yes, I did answer that. There were no documents signed, there wasn't time.
Q Do you know whether or not any documents were delivered by you or Jack Hicks or Scott Hartley to Donald Barnett at the meeting?
A No, I don't remember.
Q I'd like to ask that you look at Exhibit Number 12

back here, and ask if you can identify that document.

A Yes, I can identify it. I haven't seen it in a long time, but I can identify it.

Q On page two of that document, does your signature appear?

A Yes.

Q Did you sign it?

A Yes.

Q Where were you when you signed it?

A I believe it was in Jack Hicks' office.

Q Would this have been immediately following the meeting in the parsonage?

A It was a continuation of the meeting in the parsonage.

Q But was it immediately after you left the parsonage?

A Yes.

Q Was Donald Barnett there in Jack Hicks' office?

A No, he was not.

Q Did you or anyone else at the meeting at the parsonage advise him as he ordered you out of his house, the parsonage, that you were going to continue the meeting elsewhere?

A No, not to my knowledge, not to my recollection.

Q I'd like to ask that you take a look at Exhibit Number 13, and indicate whether or not you can identify that document.

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

A Yes, that's true.

MR. ROHAN: Asked and answered.

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

A No.

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

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

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

MR. ROHAN: Objection, vague and ambiguous.

A He was presented a copy of the letter.

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

MR. ROHAN: Objection, calls for speculation.

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

Q Okay.

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

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

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

A He knew the church policy.

Q Did anybody specifically advise him of that?

A I don't know.

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

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

Q Yes.

A No. That was not church policy.

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

A No.

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

A No.

MR. JOHNSON: I have no further questions, subject, however, to reviewing the materials that Counsel is going to provide, I guess.

MR. ROHAN: Those are the board of directors meetings regarding who was made a director at one point.

I may have one or two questions. Let me talk to the witness for a moment.

(Pause in proceedings.)

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EXAMINATION

BY MR. ROHAN:

Q Mr. DuBois, could you tell whether or not Donald Barnett knew about a right to appeal from a disfellowship?

MR. JOHNSON: Objection, speculative as to what Donald Barnett did.

A It was his stated policy that there was a right to appeal, and that, as a matter of fact, people were not bound to follow anybody's counsel, just because it was given, they always had that right to appeal. He would announce that publicly from time to time.

Q Were you ever present at an appeal where Donald Barnett was also present at the disfellowshipping?