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SEP 2 1980

RODAN, GOLD PARS
RESKIN & SHAPCO, P.S.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

DONALD L. BARNETT)
)
 Plaintiff,)
)
 v.)
)
 JACK A. HICKS, JACK H. DuBOIS)
 and E. SCOTT HARTLEY,)
 individually and as the Board)
 of Directors of COMMUNITY)
 CHAPEL AND BIBLE TRAINING)
 CENTER,)
)
 Defendants.)

NO. 88-2-04148-2

DECLARATION OF DONALD
L. BARNETT IN OPPOSITION
TO DEFENDANTS' MOTION TO
AMEND

I, DONALD L. BARNETT, declare:

1. I make this declaration based on my own personal knowledge and am competent to testify to the matters stated in this declaration.

2. It is not possible to understand the senior elders' attempt to depose me as pastor of Community Chapel without some understanding of the church itself. I founded Community Chapel over 20 years ago. I believed then, and still believe, that God called me and ordained me to pastor Community Chapel and that he gives me theological revelations which I am to preach to the church that He has placed under me. Both I and the members of

DECLARATION OF DONALD L. BARNETT
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MOTION TO AMEND - 1

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1 the church believed God spoke to me uniquely, and that I was to
2 play a unique role in Community Chapel in the last days.

3 3. The articles of incorporation and bylaws reflect this
4 theological belief about my position. The articles and the
5 bylaws treat me uniquely as the "original pastor." From the very
6 beginning, the articles of incorporation could not be amended
7 without the concurrence of the original pastor. In 1981, the
8 articles were amended to provide that the bylaws could not be
9 amended without the concurrence of the original pastor.

10 4. The bylaws themselves reflect the unique position of
11 the original pastor. Attached to this declaration as Exhibit A
12 is a true and accurate copy of the bylaws which were in effect as
13 of March 4, 1988, when the elders purported to remove me. Some
14 of the provisions of the bylaws which reflect the unique position
15 of the original pastor are as follows:

16 A. Page 3, Section II, Article 4: Pastor Barnett
17 holds the offices of chairman of the board of senior elders,
18 president of the corporation, pastor of the corporation church,
19 president of Community Chapel Bible College, chief executive
20 officer of Community Chapel Christian School, and chief executive
21 officer of Community Chapel Communications.

22 B. Page 4, Section IV, Article 2(b): "The original
23 chairman of the board of senior elders is Donald Lee Barnett who
24 cannot be removed from office while living."

25
26 **DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
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1 C. Page 5, Article 3: "Additional members of the
2 board of senior elders may be appointed by the board of senior
3 elders from the among the elders of the corporation church by the
4 affirmative vote of the pastor and at least all other board of
5 senior elders members, save one." (emphasis supplied)

6 D. Page 5, Article 5: Provides for removal of
7 members of the board of senior elders, with the proviso that,
8 "the original pastor shall not be subject to removal from the
9 position of chairman of the board of senior elders."

10 E. Page 6, Article 6, Paragraph I: The powers of the
11 board of senior elders include "exercising jurisdiction in any
12 additional matter which the board of senior elders feels respon-
13 sible (subject to the concurrence of the original chairman of the
14 board of senior elders if he is still presiding)." (emphasis
15 supplied)

16 F. Page 6, Article 7: "This article applies only if
17 the pastor of the corporation church and the chairman of the
18 board of senior elders are one and the same person: The board of
19 senior elders shall not meet to discuss problems or make deci-
20 sions without the presence or permission of the chairman and a
21 minimum of all members of the board of senior elders save one,
22 except to consider the chairman's salary. . . . This regulation
23 shall apply even if the chairman is on extended leave. In such
24 cases, action without him can only be made if reasonable effort

25 DECLARATION OF DONALD L. BARNETT
26 IN OPPOSITION TO DEFENDANTS'
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1 to contact him fails and if it judged to be an emergency by all
2 present. Even so, the board shall not make any decisions con-
3 trary to what it believes the chairman's decision would be, if
4 the case is such as to require his concurrence. . . ."

5 G. Page 7, Article 11: "The board of senior elders
6 shall have no power to infringe upon the pastoral rights and
7 authority listed in these bylaws."

8 H. Page 7, Section IV, Article 2: "The original
9 president of the corporation is Donald Lee Barnett, who cannot be
10 removed from office while living."

11 I. Page 7, Section V, Article 3: "The board of
12 senior elders shall have the power to overturn decisions made by
13 the president of the corporation, except the original president
14 of the corporation, regarding his decisions about interpretation
15 of these bylaws and areas not covered by these bylaws."

16 (emphasis supplied)

17 J. Page 7, Section V, Article 5: "Removal of the
18 president of the corporation: except for the original president
19 of the corporation, the president of the corporation may be
20 removed from office by a two-thirds (2/3) majority vote of the
21 board of senior elders." (emphasis supplied)

22 K. Page 13, Section IX, Article 1: "A minimum of
23 three-fourths (3/4) majority affirmative vote of the board of
24 senior elders and the original pastor's concurrence, if still

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26 DECLARATION OF DONALD L. BARNETT
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1 presiding, is necessary to amend the bylaws stated in this
2 document."

3 L. Page 14, Article 2: "In case of any disagreement
4 of interpretation of these rules (in the event an agreement
5 cannot be reached), a decision of the board of senior elders
6 takes precedence over the division heads and/or the deacon board.
7 If the disagreement cannot be reconciled by a two-thirds (2/3)
8 majority vote of the board of senior elders, the pastor shall
9 decide the issue."

10 M. Page 16, Section I, Article 1, Paragraph A: The
11 original pastor is Donald Lee Barnett. "The pastor shall be
12 recognized as the spiritual overseer of the church, ordained and
13 appointed of God for the ministry and to shepherd the flock of
14 Community Chapel and Bible Training Center. In this capacity, he
15 shall be the chief elder and chairman of the board of senior
16 elders."

17 N. Page 17, Paragraph B(2): "The original pastor,
18 having established the original church by the direction of God
19 and with support of the congregation, shall have oversight of the
20 same until the pastor agrees to change. . . ." Future pastors
21 may be removed by a two-thirds (2/3) majority vote of the board
22 of senior elders and a simple majority vote of the congregation.

23 O. Page 30, Section VII, Article 1, Paragraph A(4):
24 "The ordination of the pastor shall be in effect until he is

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26 **DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
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1 removed from the position of pastor (with the exception of the
2 original pastor, who cannot be removed from office while living),
3 until he resigns, or until this church no longer exists."

4 5. The hearings convened to consider Jerry Zwack's griev-
5 ances against me did not originate in a vacuum. To understand
6 the hearings, it is necessary to understand the background that
7 led to the hearings.

8 6. Sometime in the middle 1980's, many members of
9 Community Chapel began to experience God's love for one another
10 to unite his church - a phenomenon we called "spiritual
11 connections." I did not originate this doctrine and did not
12 experience this phenomenon initially. Rather, this scriptural
13 doctrine was started sovereignly by God, Himself, in our
14 satellite church in Kansas. It began to occur (without any
15 teaching on the subject) at the mother church in Seattle and in
16 other satellite churches. Others in my church experienced it
17 months before I did. Once I experienced it, I found many refer-
18 ences to it in the bible and I began to teach on it.

19 7. A spiritual connection is the spiritual union of two
20 human spirits with each other and the spirit of God. I believe
21 that spiritual connections are a necessary practice for any
22 church that seeks the most spiritually intimate place in the
23 Bridehood of Jesus (as pre-figured by the Shulemite in The Song
24 of Solomon). As with many high, spiritual experiences, connec-

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26 **DECLARATION OF DONALD L. BARNETT
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1 tions caused a tension between the spirit and the flesh (Gal.
2 5:17) - the result for many of those with unbeliefs, poor
3 marriages, sexual weaknesses, ect., was adultery with their
4 connections.

5 8. Jerry Zwack was the spiritual connection of my wife
6 Barbara. In March 1985, Barbara cut off all husband and wife
7 relationships with me. This caused me tremendous stress and led
8 to division in the church. At the same time, some members of the
9 eldership and counseling center, my wife included, began to
10 dispute my theological views. Jerry Zwack took my wife's side in
11 this dispute and rebelled against me as pastor.

12 9. About this same period, it came to my attention that
13 some members of the church wanted to divorce their spouse and
14 marry their spiritual connection. I opposed this practice. One
15 of the defendants, senior elder Jack Hicks, wanted to divorce his
16 wife and marry his connection, and began looking for a way to
17 undermine my position.

18 10. All of this came to a head in 1987 when senior elder
19 Jack Hicks asked my permission to lay off staff members because
20 of a budget crunch caused by a loss of membership. Among others,
21 Hicks laid off Jerry Zwack. Because Jerry Zwack had contested my
22 leadership in the past, he erroneously assumed that I directed
23 his layoff in retaliation for his rebellious attitudes. Just
24 prior to this, I had been forced to change a class on counseling

25 **DECLARATION OF DONALD L. BARNETT**
26 **IN OPPOSITION TO DEFENDANTS'**
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1 which Jerry Zwack had just began teaching in the Bible College.
2 Jerry had not followed necessary guidelines that I gave him in
3 preparing for and teaching the class, and I was forced to convert
4 the class from Jerry Zwack's class to a team teaching effort by
5 other counselors.

6 11. As a result of these events, Jerry became enormously
7 bitter against me. Jerry sent two letters to the eldership that
8 I am aware of. One was a rather long rambling letter in which he
9 unjustly accused me of many things and characterized me in highly
10 negative terms, alleging false things and stating things highly
11 inaccurately. These accusations were mainly against my past
12 sexual behavior ten months to two years after my wife had aban-
13 doned me as her husband; and concerning relationships between
14 himself and me, and my relationship with my wife.

15 12. The second letter was shorter and to the point, and
16 dealt with three specific issues:

- 17 (1) His being put out of the counseling center;
- 18 (2) His being put out of his college class;
- 19 (3) His fear that I might be engaged in sexual behavior
20 outside of the marriage.

21 13. As a result of these letters, in January 1988 David
22 Motherwell approached me to offer the assistance of the eldership
23 in working through Jerry Zwack's grievances against me. David
24 Motherwell had been my personal counselor for six months. He
25 approached as a representative of the complete eldership, as his

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1 own affidavit points out. David Motherwell told me that Jerry
2 was asking for a meeting to resolve the problems and that the
3 eldership was willing, if I was, to meet and try to help us
4 resolve our differences.

5 14. David Motherwell, as a representative of the eldership,
6 expressly told me that the eldership admitted that they had no
7 authority to discipline me in any way but that they just wanted
8 to be of encouragement to me and to provide counsel if and as
9 necessary. They also wanted to help heal Jerry's heart. David
10 also told me that if I would agree to the meeting, the elders
11 will set up some protective guidelines and would assure me that
12 their only motive was to show love to me and to help me and
13 Jerry.

14 15. I told David Motherwell that I would agree to meet with
15 the eldership to talk about Jerry Zwack's three specific
16 grievances, namely, his removal from the Bible College class and
17 the counseling center and his concern that I might still be
18 engaged in sexual relationships outside my marriage. I told
19 David that I knew that I had the facts on my side and perhaps the
20 eldership could persuade Jerry to listen to reason.

21 16. I only met with the elders because I hoped that I could
22 resolve the conflict between Jerry and me and get rid of the deep
23 hurts and bitterness that Jerry held toward me. I would never
24 have allowed myself to be placed on trial for sins that I had

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1 committed months and years earlier. Those sins were under the
2 blood of Christ and forgiven, and I have confessed them to the
3 congregation and had been forgiven. I also knew that many of the
4 elders, counselors and congregation, because of the extreme
5 stress placed on marriages through the practice of spiritual
6 connections, had also engaged in extramarital sexual
7 relationships. There was no way I was going to go on trial
8 before them if they were not going to place themselves on trial.

9 17. David Motherwell states in paragraphs 3 and 4 of his
10 affidavit that the Zwack hearings were held in order to inves-
11 tigate complaints that I had sexual relationships with several
12 women. This is false. This was already known to my counselor
13 and other leaders, and admitted by me. I only agreed to discuss
14 the three specific points raised by Jerry Zwack, one of which was
15 a concern that I might still be engaged in ongoing sexual
16 relationships. But no one ever said anything about investigating
17 past sexual activity which had occurred months and years earlier.

18 18. I told David Motherwell that I was concerned that we
19 must have an orderly meeting, and that some rules must be drafted
20 to prevent arguments and emotional flare-ups. On the first day
21 of the meeting, apparently January 25, 1988, we signed two pieces
22 of paper. One was an agreement that the elders had drawn up
23 consisting of two points of my not exercising authority over the
24 meeting and my allowing the meetings to continue until they were

25 DECLARATION OF DONALD L. BARNETT
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1 concluded. A copy of this agreement appears as Exhibit A to
2 Motherwell's affidavit. The agreement itself states that I will
3 not exercise any authority "over these hearings and over the
4 exclusive eldership review sessions." This only meant that I
5 would not interfere with the process of the hearings and I would
6 permit the hearings to be continued. But the stipulation also
7 states, "This agreement applies only to these hearings and does
8 not pertain to any other church matters." Thus, the January 1988
9 stipulation had nothing to do with giving the elders any power
10 over me, power to remove me or power to disfellowship me.
11 Nothing about the January 1988 stipulation was intended to modify
12 the articles or bylaws. The articles and bylaws can only be
13 amended by amendments made in legal meetings, not by a stipula-
14 tion which applies to one specific hearing.

15 19. Motherwell states in his declaration that I interjected
16 the words "and Jerry" to the January 1988 stipulation so that it
17 would read, "Don [& Jerry] shall permit the hearings to continue
18 until they are concluded to the satisfaction of the elders."
19 Motherwell incorrectly states that I added this language because
20 I "wanted Jerry Zwack to realize that Zwack then had no cause to
21 take this matter to broader audience." (Motherwell declaration
22 p. 3). This is incorrect. If I had meant that, I would have
23 said that. This clause only required that both parties stay in
24 the meetings until the meetings were concluded. My real reason

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26 DECLARATION OF DONALD L. BARNETT
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1 was that if Jerry saw that his reasons were not valid, or that
2 the eldership was taking my side, I did not want him to leave,
3 but rather be required to hear all of the story so that he would
4 have a chance to hear the truth and get over his bitterness.

5 20. The other document which we all signed (including Jerry
6 Zwack and the elders) was a set of guidelines for the hearings.
7 David Motherwell has attached a set of guidelines as Exhibit B to
8 his affidavit, but this is not the copy which we signed on
9 January 25, 1988. The copy attached to Motherwell's affidavit is
10 not signed by anyone. I no longer have copies of the original
11 guidelines, and my memory is not entirely clear about their
12 contents, but I do not believe that the guidelines attached to
13 Motherwell's affidavit are the same guidelines which we all
14 signed.

15 21. In any event, the guidelines attached to Motherwell's
16 affidavit clearly state that they are "guidelines for eldership
17 hearing between Don Barnett and Jerry Zwack." There is nothing
18 about an investigation of Don Barnett or about disciplining or
19 removing Don Barnett. To the contrary, the first guideline
20 states clearly that, "The purpose of the hearing is to resolve
21 all of Jerry Zwack's specific grievances against Don Barnett."
22 The specific grievances referred to in the guidelines are the
23 three matters which I mentioned above--Jerry Zwack's removal from
24 the counseling center, his removal from the Bible College, and

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1 Zwack's concern that I might still be engaged in ongoing sexual
2 relationships with other women.

3 22. I appointed Russ McKenzie to act as moderator and
4 chairman of the Zwack hearings, but I never appointed him or the
5 senior elders to be over me, nor did I give up my pastoral
6 authority over the church. I never put myself in their hands to
7 be disciplined.

8 23. Before the meeting began, I was given a number of very
9 specific promises which had already been agreed to by the
10 eldership. Russ McKenzie spoke for the eldership when he stood
11 up and said, "Don, we promise you before God that nothing said in
12 these meetings will ever leave this room and, Don, we promise you
13 before God that we will not accept any accusation made against
14 you unless you admit it or unless we have two or three
15 witnesses." Russ read aloud the rules we had signed, stating
16 that no subject will be discussed except those for which the
17 meeting was called, and that all notes taken by anyone during the
18 meetings would be destroyed after the meetings so that they would
19 never become public, and that the meetings would continue until
20 they were completed, etc.

21 24. I stated my reasons to the eldership for agreeing to
22 the meetings. I told them that I had agreed to the meetings for
23 the purpose of trying to resolve Jerry Zwack's three grievances
24

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1 and that was to be the full extent of the meetings. I listed the
2 grievances. The elders all agreed.

3 25. I am hurt and angry that the elders so inexcusably
4 breached their solemn vow before God, namely that nothing said in
5 the meetings would ever leave the room. Motherwell's declaration
6 includes allegations of what was said during the hearing, which
7 is totally contrary to the elders' vow to me. Motherwell's
8 characterization is also inaccurate. We agreed that no names of
9 any ladies would be mentioned, so that there would be no
10 embarrassment. Apparently, Mr. Motherwell thinks that statements
11 I made during the hearings should be associated with particular
12 women but none of these women were named during the hearing. Mr.
13 Motherwell also mentions an incident in a hotel in Las Vegas,
14 falsely stating that I had admitted the incident. I denied the
15 incident in the hearing and I deny it today. Mr. Motherwell's
16 statements are false.

17 26. The first witness in the Zwack hearings was Jerry Zwack
18 himself. He started off with some accusations against me going
19 back about 14 years. I immediately objected that this was beyond
20 the scope of the hearing. Russ McKenzie stopped me and directed
21 me not to interrupt the witness. I responded that our rules
22 provided that everything must be relevant to the reason for the
23 hearing and I repeated that the reason for the hearing was to
24 answer Jerry Zwack's three grievances, not get into past sins

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26 **DECLARATION OF DONALD L. BARNETT
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1 which were under the blood of Christ. An emotional exchange took
2 place, but I insisted and said something to the effect that, "I
3 did agree not to interrupt these meetings, but this is not the
4 meeting that I agreed to. We just got through stating the
5 reasons for the meeting and we agreed upon them. Our rules allow
6 us to interrupt for lack of relevancy--this is not relevant to
7 Jerry Zwack's grievances against me. This meeting is for Jerry
8 and me to settle our differences, not to expose and embarrass me
9 by bringing up past sins. If you are going to allow me to be put
10 on trial, why don't you put yourselves on trial for your own
11 sexual sins? Why should I be picked out as the only one?" No
12 one answered me.

13 27. I then explained that Jerry Zwack is a bitter man, and
14 that his aim is to hurt, retaliate and embarrass. I told them
15 that Jerry was going to bypass the three grievances in his letter
16 and try to bring up the past for which I have been forgiven. I
17 told them that Jerry is not even going deal the three grievances
18 we were meeting to discuss. I asked them to stick to the agenda.

19 28. Russ McKenzie announced that the committee would recess
20 and vote on the matter. They went in the adjoining room and came
21 back with the statement that they unanimously agreed to let Jerry
22 give all of his accusations. I was shocked and incensed. I
23 again protested but Russ McKenzie cut me off, telling me that I
24 was not allowed to overrule the committee. I responded something

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1 to the effect, "There isn't a court in the land that would allow
2 witnesses to bring everything they know against a person--they
3 have to establish relevancy. Let Jerry first go through the
4 three areas we agreed on and if he establishes that I am cur-
5 rently doing sexual things, then we can discuss whether it is
6 appropriate to go back into past behavior. David Motherwell is
7 my counselor, he has been checking with all of my connections in
8 the past six months, and he hasn't found any that say that I have
9 done anything sexual. And if Jerry Zwack says he knows of
10 anything I have done in the last six months that was sexual, let
11 him put forth that evidence, otherwise he should be forced to
12 withhold accusations made from the past as they have no bearing
13 on his concern of what I am presently doing."

14 29. There were more hot words and I was overruled. I was
15 deeply hurt, fearful and angry. I knew that I should stand up
16 and exercise my pastoral authority to stop the meetings, but I
17 made the horrible mistake of allowing them to continue, against
18 my objections. I felt I like was being wrongfully accused and
19 wrongfully crucified.

20 30. Jerry Zwack spoke against me for the rest of the
21 afternoon and the next afternoon, speaking for nine hours without
22 interruption. At the end of his speech, he said something to the
23 effect, "I don't need to get into why I was put out of the Bible
24 College class, or put out of the counseling center." He also

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1 admitted that, "No, I don't know of anything Don has done
2 sexually in the last six months."

3 31. Shortly afterward, I met with the senior elders, Hicks,
4 Hartley, and DuBois, and pointed out to them that I was being
5 treated unfairly. I complained that Jerry Zwack was allowed to
6 bring up irrelevant information, contrary to the rules agreed on
7 by the entire eldership. I told the senior elders that I was
8 incensed because the eldership did not listen to me. I also told
9 them that I had warned them that this is what Jerry would do, and
10 that is exactly what he did do.

11 32. I also complained to the senior elders that Russ
12 McKenzie was trying to take authority over the pastor and senior
13 elders. I told Jack Hicks, "Jack, the senior eldership does not
14 have to take that from Russ McKenzie, he has no authority over
15 us. He cannot tell us what the rules are going to be, just
16 because I have appointed him moderator. He has no
17 authority--he's just a moderator." The senior elders agreed that
18 I was being unfairly treated. I asked Jack Hicks to discuss it
19 with the eldership, and get the concurrence of Russ McKenzie and
20 the others to treat me in a more respectful manner. Jack Hicks
21 agreed and wrote them a letter to that effect.

22 33. As the hearings continued, the elders quizzed me on the
23 circumstances of the allegations. I refused to give any names,
24 but I did answer questions truthfully about my activities. When
25

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1 it was my turn to respond to Jerry Zwack, I said, "I am not going
2 to rebut anything I have admitted or that is true. I'm only
3 going to rebut false accusations." My rebuttal took four hours.
4 The elders stated that at the next session Jerry Zwack would
5 respond to my rebuttal, and I would have an opportunity for
6 re-rebuttal. Then the elders would begin a cross-examination
7 process and after that there would be a discussion. Finally, the
8 elders would meet for a closed door discussion and see if they
9 could arrive at a determination of who was right and wrong, and
10 then they would come before Jerry Zwack and me and counsel one or
11 the other in accordance with their determination. However, none
12 of this occurred. The eldership hearings were never concluded.

13 34. Before the hearings could continue to their conclusion,
14 the senior elders, Hicks, Hartley, and DuBois, decided to take
15 matters into their own hands and wrote to me the February 15,
16 1988 letter which is attached as Exhibit C to Motherwell's
17 declaration. If you read the letter carefully, it is clear that
18 the senior elders wrote the letter on their own as senior elders,
19 not as part of the eldership which was conducting the Zwack
20 hearings. In the second paragraph, the senior elders state:

21 We wish to address in this letter matters related to
22 the eldership/committee hearings and your testimony
23 given before this group. The hearings, albeit, are not
24 over and no committee decisions or judgments have been
25 made as yet. That will doubtless be some time yet.
26 Our subject of this letter is not an elder/committee
hearing matter, but a senior elder/corporate board of
directors matter.

DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 18

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1 2/15/88 letter, Hicks, Hartley, and DuBois to Barnett (emphasis
2 supplied). It is clear from this that the senior elders did not
3 purport to be acting under the authority of the January 1988
4 stipulation which I had signed, or as part of the Zwack hearings,
5 but were acting only in their authority as the board of senior
6 elders/directors.

7 35. There are several other indications in the February 15
8 letter which show that the senior elders were not relying on the
9 January 1988 stipulation as authority for their actions. In the
10 third paragraph of the letter, the senior elders state:

11 [O]ur church articles of incorporation and the laws of
12 the State of Washington authorize the board of
13 directors and require them to reasonably protect the
corporation from liability arising out of tortious acts
of employees.

14 It is clear from this statement that the elders are relying on
15 the articles of incorporation and on state law, not on the
16 January 1988 stipulation which I signed regarding the Zwack
17 hearing. The senior elders refer again to this point on the
18 second page of the letter, third full paragraph, where they
19 state, "If, peradventure, you may believe that the above special
20 status action is without authority, and our understanding of our
21 responsibilities as directors of the corporation are erroneous,
22 we ask you to first consult your attorney before raising such an
23 issue to us." They would not say this if we had a clear agree-
24 ment that they had been given authority over me.

25 DECLARATION OF DONALD L. BARNETT
26 IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 19

1 36. The February 15 letter purporting to place me on
2 "special status" was apparently the result of a decision taken by
3 the three senior elders as a group. This decision itself
4 violated the bylaws. As discussed earlier in this declaration,
5 at page 6 of the bylaws, section IV, article 7, the bylaws pro-
6 hibit the senior elders from meeting without me. It is clear
7 from these provisions that the senior elders had no power to meet
8 without me and decide to place me on special status. They never
9 told me that they were going to meet to discuss this topic and
10 never invited me to such a meeting.

11 37. Moreover, as senior elders, they had no authority to
12 infringe upon my pastoral rights and authority (bylaws, Div. I,
13 Section IV, Article 11). And they, as counselors, they had no
14 right to control or manipulate my life (bylaws, Div. II, Section
15 VI, Article 4B.). And even if they did have these rights or
16 authority (which they didn't), they had no authority to put me
17 out of the church or corporation because the bylaws state that I
18 cannot be removed (and that includes disfellowship).

19 38. Mr. Motherwell's affidavit, and the elders' motion to
20 amend the complaint, attempt to make it appear that the entire
21 eldership decided as part of the Zwack hearings that I should be
22 placed on "special status." (Motherwell Declaration, 7) This is
23 clearly incorrect, because, as discussed above, the February 15
24 letter specifically states that "no committee decision or judg-

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26 **DECLARATION OF DONALD L. BARNETT**
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 20

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1 ments have been made as yet" and that "our subject of this letter
2 is not an elder/committee hearing matter, but a senior
3 elder/corporate board of directors matter."

4 39. On or about February 26, 1988, I had to go to
5 Kalispell, Montana to help one of our satellite churches which
6 had just lost its pastor. Before I left, I met with the senior
7 elders and told them that I would not accept the special status
8 which they had tried to place on me. (I had already sent them a
9 letter to this effect). I pointed out to them that almost every-
10 one of the elders and senior elders had been involved in sexual
11 activity outside the marriage, and that Jack Hicks' adulterous
12 activities were well known within the church. I asked them, "Why
13 isn't Jack Hicks put on special restrictions, since he has com-
14 mitted adultery for many many months, and why hasn't Scott
15 Hartley been put on restriction because he has done sexual things
16 with ladies even while in counseling meetings?" They had no
17 answer. Jack Hicks finally said something to the effect that I
18 was in the more senior position and was therefore more
19 accountable. I responded, "Jack, you know full well that the
20 eldership's sins can stumble the congregation as much as the
21 pastor's sins, and you know full well that the elders and
22 counselors can be sued by women as much as the pastor can, so if
23 you are really trying to protect the corporation, you will put
24 restrictions on all the rest of you." At this point, I had to

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26 **DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 21**

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1 leave and Jack Hicks said that we would continue the meeting on
2 Monday. I said to them, "Now don't go and tell the congregation
3 about these things while I am gone. Everything is going to be
4 done legally. If we have any disputes, they will be held in the
5 legal senior elder meetings. Remember the promises you have made
6 me before God."

7 40. When I returned from Kalispell, I learned about what
8 happened in church service on Friday evening, February 26. I
9 learned that the elders had stood before the congregation during
10 service and had spent the entire service telling the congregation
11 all of the things that I had admitted plus a lot of things I had
12 denied. They broke their promise before God knowing full well
13 that it would become public information and would hurt the
14 church. They also knew that it was contrary to the bylaws, which
15 said that I was in charge of all church services whether I was
16 present or not. They also knew that it was against my direct
17 orders. I was hurt and shocked that they had violated my direc-
18 tions, and had violated their promise not to tell anything that
19 went on inside the hearings.

20 41. I listened to a tape recording of the Friday night
21 service so that I would be prepared on Sunday, February 28, to
22 rebut the elders' accusations. When I arrived for the service on
23 Sunday morning, the congregation rose to its feet and clapped for
24 a long time, showing me that they were still with me and that

25 **DECLARATION OF DONALD L. BARNETT**
26 **IN OPPOSITION TO DEFENDANTS'**
MOTION TO AMEND - 22

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1 they loved me and wanted to keep me as pastor. I rebutted all of
2 the elders' accusations. At the end of my rebuttal, I told the
3 congregation of about 1500 adults that this was a power play by
4 the eldership. I asked them how many wanted to retain me as
5 their pastor, even if it became necessary to remove the senior
6 elders in order to keep me. Almost every hand went up. I then
7 asked how many would not want to remove the senior elders to keep
8 me. About 13 hands were raised.

9 42. The next week I called Jack Hick's secretary and asked
10 her to schedule meetings for me with each of the senior elders at
11 my home on Friday, March 4. We scheduled a meeting for Jack
12 Hicks at 9:00, Scott Hartley at 10:00, and Jack DuBois at 11:00.
13 They all showed up at the same time and I reluctantly let them
14 all in and began the meeting. No documents were brought into
15 either side of the meeting that were ever made visible or alluded
16 to, except for one signature sheet of the bylaws. We never
17 discussed amending the bylaws or the articles. The words
18 "amend," "bylaws," or "articles" never came up. Later that same
19 day, I found that the senior elders had gone to Olympia and filed
20 amendments to the articles without my signature and that they
21 were planning on keeping me from getting into my own church that
22 evening. At that point I contacted Rodney Pierce and began this
23 lawsuit.

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25
26 **DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 23**

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1 43. The Zwack hearings were never finished. The guidelines
2 attached to Mr. Motherwell's declaration state that the first
3 phase of the hearing would consist of each party presenting their
4 entire case without interruption. The first phase was completed.
5 The guidelines then say that the second phase "shall consist of
6 rebuttals and answers to rebuttals by the two parties, and ques-
7 tioning by the elders." The second phase was never conducted.
8 The guidelines then called for eldership review sessions "which
9 will be held after the hearings are completed." Since the hear-
10 ings were never completed, the eldership review sessions could
11 not properly (according to our agreement) be held. Finally, the
12 guidelines provide that, "Final decisions regarding each
13 grievance shall be determined by a majority vote of all elders
14 present at the exclusive eldership review sessions, not including
15 Don Barnett or Jerry Zwack." (Emphasis supplied.) There never
16 were decisions on each grievance presented by Jerry Zwack.

17 44. Instead of decisions on Jerry Zwack's grievances, the
18 senior elders attempted to amend the articles and bylaws without
19 my concurrence, the very action that was condemned by the Supreme
20 Court in its decision three months ago. But the senior elders
21 believed that it was necessary to change the articles and bylaws
22 in order to give them the power to disfellowship me. The senior
23 elders wrote to me on March 4 stating that they were disfellow-
24 shipping me pursuant to the recommendation of the full eldership.

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26 DECLARATION OF DONALD L. BARNETT
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1 (Motherwell Declaration, Exhibit E). On page 3 of the senior
2 elders' letter, the senior elders state:

3 [W]e feel compelled to remove you from your position as
4 pastor, senior elder, all of your other offices, and as a
5 member of this church. We deeply regret that we did not
6 find out about many of these things sooner. This disfellow-
7 ship is not contrary to any provision of our articles of
8 incorporation or bylaws as currently amended. Previous
9 limitations in the bylaws to your dismissal have been
10 removed by legally adopted amendments as of today.

11 (Emphasis supplied.)

12 45. Then the eldership wrote me a letter on March 4 stating
13 that they had voted unanimously to put me out of the church and
14 made that recommendation to the senior elders. (Motherwell
15 Declaration, Exhibit D).

16 46. It is very clear that the senior elders were not
17 relying on the January 1988 stipulation as their authority to
18 attempt to disfellowship me. Rather, they were clearly relying
19 on the amendments to the articles and bylaws which they illegally
20 adopted earlier in the day on March 4. The Supreme Court has now
21 held those amendments to be illegal and the elders' attempt to
22 disfellowship me is similarly illegal.

23 47. After the lawsuit was commenced, the eldership sent a
24 26-page letter to the congregation of Community Chapel defending
25 their actions in trying to oust me from the church. A copy of
26 that letter is attached to this declaration as Exhibit B. The
letter misstates many, many things, but it does reveal repeatedly
that the senior elders did not rely on the January 1988 stipula-

DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 25

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1 tion as authority for their attempt to take over the church.
2 Rather, they relied on their illegal attempt to amend the
3 articles and bylaws. A few examples of such statements from the
4 April 21 letter are as follows:

5 A. Page 10, Answer to Allegation 29: "[W]e amended
6 the bylaws after our attorney advised us of his opinion that they
7 were in violation of the Washington Non-Profit Corporation Act.
8 We also revised them because they were contrary to the scripture,
9 inasmuch as the doctrine of excommunication applied to every
10 individual on earth except Don Barnett. Once we knew that Don
11 had to be put out of the church, we had to amend portions of the
12 bylaws so this scriptural action could be done legally according
13 to the law of man." (Emphasis supplied.)

14 B. Page 11, Answer to Allegation 32: "The elders
15 were forced to amend the bylaws to conform to scripture and state
16 law. They knew Don would never agree to change bylaws that were
17 biased in his favor, when he was fighting to save his own life
18 contrary to scripture. Our church attorney advised the elders
19 that if Don would not agree to the changes, they would have to
20 make the changes without him."

21 C. Page 14, Answer to Allegation 43: "The bylaws
22 were written by Don Barnett and not the elders. In retrospect,
23 they were unfairly biased in Don's personal favor, conferring on
24

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26
DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 26

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1 him lifetime tenure and autocratic control with virtual
2 unaccountability to anyone."

3 D. Page 17, Answer to Allegation 56: The elders
4 admit that the bylaws state that the pastor/president shall not
5 be put out: "Yes, and this unscriptural provision was one reason
6 why the senior elders found it necessary to revise the bylaws."

7 48. The senior elders claim that they had power to disfel-
8 lowship me under the bylaws. This is incorrect. Pages 26
9 through 28 of the bylaws govern disfellowship. (See Exhibit A,
10 attached.) Nothing in the bylaws says that the pastor can be
11 disfellowshipped. To the contrary, the bylaws provide that a
12 person cannot be put out of the church without the concurrence of
13 "the pastor or his designee . . ." (Bylaws, p. 27) As of
14 January, February, and March of 1988, I did not designate anyone
15 for purposes of concurring in disfellowshipping. I certainly did
16 not designate anyone for purposes of concurring in my own disfel-
17 lowshipping.

18 49. Even if the bylaws allowed disfellowshipping of the
19 pastor, which they do not, the senior elders did not follow the
20 bylaws in their attempt to disfellowship me. They violated the
21 bylaws in the following ways.

22 A. Page 27, paragraph E.1.a says that the counselors
23 shall inform the individual that he may be put out of the church
24 if he does not repent and mend his ways. I was never informed

25 **DECLARATION OF DONALD L. BARNETT**
26 **IN OPPOSITION TO DEFENDANTS'**
MOTION TO AMEND - 27

1 that the elders would take action to put me out of the church,
2 nor was I told that I must repent in order to remain in the
3 church, nor was I told that in their judgment I had not repented.

4 B. Page 27, paragraph E.1.b says that counselors
5 shall "allow the individual to repent and mend his ways." I was
6 never allowed to repent before them and agree to mend my ways. I
7 was simply disfellowshipped. Moreover, the elders themselves
8 have stated that I was not disfellowshipped for my past actions,
9 but for my attitude. Senior elder Jack Hicks stated in his
10 deposition on March 9, 1988, at page 56:

11 [Pastor Barnett's] sins could have been forgiven. And
12 they were forgiven. And are. And we did not disfel-
13 lowship him for that. It was his refusal in part also
14 to abide by any corrective measures, his unwillingness
15 to cooperate in the resolution of these things,
16 adamantly; and these are attitude problems. He could
17 be forgiven for actions. He would have never been
18 disfellowshipped if it was for the acts.

19 C. Page 27, paragraph E.1.c provides that the
20 counselors shall "fully explain the charges against the
21 individual, allowing him to ask questions and make his defense."
22 As explained above, the elders did not explain any charges
23 against me. In fact, they made no charges against me, but only
24 listened to Jerry Zwack's accusations and my rebuttal. The Zwack
25 hearings were for the limited purpose of considering Jerry
26 Zwack's specific grievances, but the elders went far beyond that
and considered Jerry's allegations about my past activities.

DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 28

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1 D. Page 27, paragraph E.1.e: The bylaws provide that
2 counsel shall "notify the individual when either he is put out of
3 the church with the concurrence of the pastor or his designee, or
4 else that the recommendation is being sent to the pastor or his
5 designee to the effect that he be put out of the church, and
6 therefore that he will not have fellowship with the church." I
7 was never consulted as pastor as to whether I would concur in the
8 recommendation that I be disfellowshipped. I did not have any
9 designee for concurring in the disfellowshipping decision.

10 E. Page 27, paragraph E.1.f provides that an
11 individual "has a right to appeal the expulsion to a board of two
12 or more senior elders (in addition to the counselor, if he is
13 also a senior elder) as determined by the pastor or his
14 designee." I was never given any opportunity to appeal to
15 anyone. Paragraph E.3. similarly states that, "Regardless of the
16 reason why a person is put out of the church, he always have the
17 right to appeal."

18 50. It should also be noted that the senior elders' meeting
19 to put me out of the church was contrary to the bylaw provision
20 which explicitly provides that the board of senior elders shall
21 not meet to discuss problems or make decisions without the
22 presence or permission of the chairman.

23 51. In summary, the elders have violated most of the provi-
24 sions of the bylaws in their illegal attempts to oust me from my

25 DECLARATION OF DONALD L. BARNETT
26 IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 29

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1 rightful position as pastor and president of Community Chapel.
2 They have held secret meetings without my participation, contrary
3 to the bylaws. They have consistently stated that they could not
4 remove me without amending the articles and the bylaws. Now that
5 the Supreme Court has held that their attempt at amendment was
6 illegal, David Motherwell is trying to shift the theory of this
7 case and rely on the January 1988 stipulation and the Zwack
8 hearings for authority to remove me. But nothing in the stipula-
9 tion and nothing about the hearings gave them the power to remove
10 me.

11 52. My congregation and I have suffered enough. We have
12 been improperly put out of our own church for almost two years.
13 We have met in rented inadequate facilities which are distant
14 from our homes. We have been deprived of the income generated by
15 the sale of Community Chapel property, which the senior elders
16 have received. We have been forced to fight a long and expensive
17 battle to establish our legal position. It is time to put an end
18 to this injustice. I respectfully ask the Court to refuse to
19 allow the elders to amend their complaint to add their meritless
20 claims. I also ask the Court to dismiss the elders' second
21 counterclaim on the ground that they have no inherent authority
22 to remove me for any breach of any fiduciary duty.

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26 **DECLARATION OF DONALD L. BARNETT**
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 30

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I declare under penalty of perjury, under the laws of the State of Washington, that the foregoing is true and correct.

DATED this 26th day of September, 1990.

Donald Lee Barnett
DONALD L. BARNETT

BARNETT\DECLAR1.DLB

DECLARATION OF DONALD L. BARNETT
IN OPPOSITION TO DEFENDANTS'
MOTION TO AMEND - 31

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