

DEFENDANT'S
EXHIBIT
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IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

DONALD L. BARNETT,)
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 Plaintiff,)
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 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 AND COMMUNITY)
 CHAPEL AND BIBLE TRAINING)
 CENTER,)
 Defendants.)

NO. 88-2-04148-2

REBUTTAL DECLARATION
OF PLAINTIFF DONALD
L. BARNETT

I am the plaintiff in this proceeding and am making this declaration in rebuttal to the affidavit of Scott Hartley, delivered to my attorney's office at 12:55 p.m. on March 10, 1988.

1. Senior Elder Hearings. The affidavit of Scott Hartley indicates that there was a Senior Elder Hearing set up by the Senior Elders. In actuality, there was a request made to me as the Pastor of the church to set up a meeting to discuss matters presented by Jerry Zwack. A team was set up of Elders and some counselors and Mr. Zwack had requested that it include all Elders.

For purposes of this discussion, it should be understood that

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1 there is both a Board of Elders and a Board of Senior Elders.
2 The three Senior Elders do represent a portion of the Board of
3 Elders which is in a greater number.

4 I told Mr. Motherwell that I would be willing to meet with
5 the Elders and did so voluntarily.

6 There is nothing provided in the bylaws with regard to any
7 power of the Elders to restrict or to take any action at any such
8 meeting.

9 2. Agreement. The agreement provided by the Elders was
10 limited in scope and was not to pertain to any other church mat-
11 ters. I did not step aside as the Pastor of the church and the
12 meeting was not intended to interfere with any other matters of
13 the Community Chapel and Bible Training Center.

14 I disagree with the representation of the facts as they were
15 presented to the hearing by Jerry Zwack. The underlying infor-
16 mation and facts are different from the representation by Scott
17 Hartley as to the representations made by Jerry Zwack.

18 3. Unconfirmed Reports. It is impossible to know who
19 apparently is making representations and reports. At no time did
20 I, without the knowledge or approval of the Board of Elders,
21 destroy any documents from any files of any counseling center.

22 4. Threatening Disfellowship. I understood that the action
23 to replace me as a member of the Board of Directors was based
24 upon my attitude, not my actions.

1 A portion of the deposition of Jack A. Hicks, one of the
2 three Senior Elders, taken on March 9, 1988, explains at page 56,
3 lines 7-14 as follows:

4 His sins could have been forgiven. And
5 they were forgiven. And are. And we did not
6 disfellowship him for that. It was his refusal
7 in part also to abide by any corrective
8 measures, his unwillingness to cooperate in the
9 resolution of these things, adamantly; and
10 those are attitude problems. He could be
11 forgiven for actions. He would never have been
12 disfellowshipped if it was for the acts.

9 Deposition of Jack Hicks (Page 56, lines 7-14).

10 The insertion of information, which was intended to be con-
11 fidential, and the affidavit of Scott Hartley, is for the mere
12 purpose of embarrassment. No action was being taken by the Board
13 of Directors based upon the statements which were made.

14 The information which was given was intended to be confiden-
15 tial and was divulged by the elders without prior notice or con-
16 sent. See the portions of the deposition of Jack Hicks as
17 follows:

18 Q. Did you express that to Donald Barnett,
19 this confidentiality that was going to be
20 going on?

21 A. That was one of the ground rules at the
22 beginning.

23 Deposition of Jack Hicks, page 26, lines 3-5.

24 Q. Did he know that you were going to be
25 doing this? Did you express that?

26 A. No.

27 Q. You made a decision yourself, too, as a

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board, to disclose this information; is that correct?

A. It was a decision of the entire eldership.

Deposition of Jack A. Hicks, page 26, lines 1 - page 27, line 5.

5. Special Status. Contrary to the terms of the Bylaws, the Senior Elders, without the Chairman of the Board of Senior Elders present, as indicated by the Affidavit of Scott Hartley, held a meeting and decided that they were not going to hear any other witnesses and that they were going to take action as the Board of Senior Elders to place myself as the Pastor on "Special Status."

This special status, were not allowed by the bylaws or the organization of the church and was more punitive than corrective. At the meeting, I indicated that steps had been taken to correct any of the problems which had existed, that any of the matters complained about by Mr. Zwack had been resolved and that nothing of a current nature was present which would act as a problem.

The "Special Status" included restrictions such as my going on vacation even with a group of individuals which would include any woman. As such, the Senior Elders had decided that I would not be able to minister to half of the congregation, namely the half that would have represented women as compared to men in the church. The restriction to limit my access to and time and contact with the members of the church was not acceptable, was not provided in

1 punitive for my "attitude problems."

2 Thereafter, while I was away from the Community Chapel, the
3 Board of Senior Elders, the defendants in this litigation, took
4 control of the Friday night congregational meeting on February 26,
5 1988 and disclosed information to the congregation and made their
6 decision and asserted their authority that they could put restric-
7 tions on the Pastor of the Community Chapel. I was specifically
8 in charge of church services and the Senior Elders took control
9 illegally of these proceedings. Their actions were contrary to my
10 orders and the bylaws.

11 The following Sunday, February 28, 1988, I did meet with the
12 congregation at the regular Sunday services. The events as
13 relayed by Mr. Hartley are not correct as they occurred. I did
14 indicate to the congregation that the Elders did not have
15 authority to put me under special status. And I also indicated
16 that I did intend to act as Pastor of the church as I had done in
17 the past. At that time support for me as the Pastor was
18 overwhelming. Approximately 95% of the congregation approved of
19 my maintaining control of the church.

20 It was and continues to be my position that there was no
21 authority for the Elders to take these actions which would have
22 been directed at my attitudes.

23 I attempted to explain and to communicate with the Board of
24 Senior Elders that there were problems with regards to the control
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1 that they wanted to assert which included:

2 a. There was no authority in any of the Articles of
3 Incorporation or in the Bylaws which would provide for restriction
4 on the ability of the Pastor to be with members of the church.

5 b. There were no current complaints regarding my acts,
6 and I had 6 months previously repented and had been forgiven by
7 the Elders for any sins that had been committed.

8 c. Whereas suits have been instituted against me, they
9 involved events which were as far back as fourteen years prior to
10 the present proceedings. In addition, it was a matter of the pot
11 calling the kettle black since suits had been started against
12 other Elders. One suit against E. Scott Hartley for alleged acti-
13 vity has been dropped.

14 d. It was discriminatory among the Elders to place
15 restrictions upon me when the Elders knew that similar activity or
16 acts which justified the same type of restriction had not been
17 imposed upon other Elders.

18 e. The lack of any current complaint indicated correc-
19 tive action had been taken.

20 6. Deposition. The affidavit of Scott Hartley fails to
21 identify who a potential witness was in the lawsuit. No request
22 has ever been made that anybody testify as to other than telling
23 the truth.

24 7. March 4, 1988 Meeting. I had called the meeting to meet
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1 with each of the individuals members of the Board of Elders. I
2 had intended that I be able to meet with them all at different
3 hours at different times. At the scheduled time on March 4, 1988,
4 only Jack Hicks was scheduled to come to my residence and at that
5 time, I wanted to be able to discuss with him the differences that
6 had occurred and whether or not Jack was going to support me as
7 the Pastor of the church. A great number of problems had come up
8 and differences of opinion had occurred, mostly over church poli-
9 cies and teachings which had been expressed over the recent
10 nistory of the Community Chapel and Bible Training Center. While
11 the Board of Elders might have disagreed with me, I thought it
12 best to meet and see if the problems could be resolved.

13 On March 4, 1988, the three individual defendants came to my
14 residence at approximately 10:30 a.m. At that time, I decided
15 that I would talk to all three of them with regards to policy pro-
16 visions for the church and differences of opinion. I started to
17 talk to them and was eventually interrupted by Jack Hicks who had
18 put a piece of paper on the table in front of me. I did not look
19 at that piece of paper during the time that we were together.
20 Jack Hicks had said they wanted to vote on another item of busi-
21 ness. I said nothing doing. I told him that we were not going to
22 be talking about subject "B" until subject "A" was done with.

23 I never had a chance to finish subject "A" and go over the
24 resolutions of differences of opinions. I asked Jack Hicks if the
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1 Board of Senior Elders had been holding meetings illegally
2 (without the Pastor being present as provided by the Bylaws) or
3 without my direction. Jack wouldn't respond to my question. At
4 that time, I said he could leave the house.

5 I never discussed the Articles of Amendment which had been
6 placed on the table. It was after the meeting that I had an
7 opportunity to review those documents. At no time did Jack indi-
8 cated he wanted to vote, on another undisclosed matter. No indi-
9 cation was made by any other members of the Board of Elders as to
10 what the vote would be and there was no show of hands at that time
11 of anybody apparently voting in favor of a motion. No motion was
12 presented, nor was any resolution discussed, approved or voted on.

13 It was subsequent to the three individuals leaving my resi-
14 dence that I was able to review and see that what they wanted to
15 do was to remove the check on the balance of power that was pro-
16 portioned in the church.

17 Prior to the Articles of Amendment being filed, the balance of
18 power in the church was between the Board of Senior Elders and the
19 Pastor. The Pastor could not initiate actions reserved for the
20 Board of Directors and the Board of Directors could not take
21 action without the concurrence of the Original Pastor, myself.

22 These three Senior Elders are the same ones who had voted in
23 November, 1981 to reaffirm the provision of the original of
24 Articles of Incorporation that the concurrence of the original
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1 Pastor, myself, was necessary for amendment of any Articles of
2 Incorporation.

3 After the Articles of Amendment were filed, without notice to
4 me, the Board of Senior Elders again held a meeting at which time
5 the danger of uncontrolled checks on the Board of Directors became
6 apparent. The Board of Senior Elders removed all checks on their
7 power and the concurrence requirements of the Pastor of the
8 church.

9 8. March 4, 1988 3:25 p.m. Meeting of Directors. On Friday
10 afternoon, March 4, 1988, I went to my attorney's offices in the
11 Duncan Building in Downtown Seattle. At approximately 3:10 p.m.,
12 Rodney G. Pierce called the offices of James Leach to advise them
13 that we would be going to court to get a temporary restraining
14 order.

15 I heard only one side of the telephone conversation, but Mr.
16 Pierce indicated to me that Mr. Leach had indicated that he would
17 not be available to go to the court until 3:45 p.m. and he would
18 meet us at the ex-parte department.

19 Apparently, after our telephone call, and before the hearing
20 on the temporary restraining orders, the three Senior Elders held
21 meetings as shown by the affidavit of Scott Hartley. The docu-
22 ments indicate that a Resolution to Amend Bylaws were adopted and
23 approved on the 4th day of March, 1988 at 3:25 p.m. at a duly held
24 Board of Directors meeting by three-fourths (3/4) affirmative
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1 majority vote. No notice had been given to me of this meeting.

2 Likewise, a Resolution to Remove Donald L. Barnett as a member
3 of Board of Directors was held on the 4th day of March, 1988 at
4 3:30 p.m. at a duly held Board of Directors Meeting by three-
5 fourths (3/4) affirmative majority vote. No notice was given to
6 me of any meeting after the three Senior Elders left my residence.
7 At no time did I indicate to any of them that I was waiving any
8 right to receive notice or to do anything in my capacity as the
9 Chairman of the Board of Senior Elders.

10 I believe and therefore allege that counsel for the defendants
11 knew of the meetings which were being held or which were going to
12 be held at the time that I intended to go into court to seek a
13 temporary restraining order. At the time of being in court,
14 copies of a Resolution to Amend Bylaws and a Resolution to remove
15 me as a member of the Board of Directors were given to us by
16 defendant's counsel with the representation that the Board of
17 Directors had moved to take the action to amend the bylaws and
18 remove me from the Board.

19 Since we had called at 3:10 p.m., and the action of the three
20 defendants was not taken until 3:25 and 3:30 p.m. on said date, I
21 believe that these individual defendants knew of the proceedings
22 for a temporary restraining order at the time that they were
23 holding meetings to vote on resolutions.

24 A copy of the resolutions provided to us by counsel for the
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defendants at the temporary restraining order hearing are attached hereto as evidence.

I declare at Seattle, Washington on the below signed date under penalty of perjury according to the laws of the State of Washington that the foregoing is true and correct.

Dated this 11th day of March, 1988.

Donald L. Barnett

RESOLUTION TO AMEND BYLAWS

WHEREAS, the directors of Community Chapel and Bible Training Center, a Washington non-profit corporation ("Chapel" herein), desire to amend the Bylaws of the Chapel to provide that the board of directors be governed by a majority of the board of directors, to provide that the Chapel is governed by a majority of the board of directors, and to provide that no one director is able to control Chapel corporate matters by vetoing or overruling a majority of the board of directors, it is hereby

RESOLVED, that the Bylaws of the Chapel be amended as follows:

1. By striking from Division One, Section II, Article Two (p.3), the following: "except when the original Pastor is that Division head."

And by amending it to read as follows:

"Community Chapel and Bible Training Center shall consist of various Divisions of the single Corporation. Each Division head governs his own Division (without direct supervision by the Board of Senior Elders of the Corporation), yet the Board of Senior Elders governs all Divisions through these Bylaws and appoints and removes all Division heads."

2. By striking from Division One, Section IV, Article One (p.4), the following: "except in areas reserved for the Pastor of the Corporation Church alone."

And by amending it to read as follows:

"The Board of Senior Elders shall consist of not less than three members, which shall govern Community Chapel and Bible

Training Center in all areas, as defined in these Bylaws and in accordance with the following rules."

3. By striking Division One, Section IV, Article Two (p. 4), Item B, in its entirety, and by reading Item C as B.

4. By striking Division One, Section IV, Article Three (p.5), the following: "of the Pastor and at least all other Board of Senior Elder members, save one." And by amending it to read as follows:

"Additional members of the Board of Senior Elders may be appointed by the Board of Senior Elders from among the Elders of the Corporation Church by the affirmative vote of all Board of Senior Elder members, save one."

5. By striking Division One, Section IV, Article Five (p.5), Item F in its entirety.

6. By striking from Division One, Section IV, Article Six (p.6), Item G, the following:

"(This clause shall not be interpreted to give the Board of Senior Elders authority over those areas that are specifically stated to be outside the jurisdiction of the Board of Senior Elders being exclusively the prerogative of the office involved.)"

~~7. By striking Division One, Section IV, Article Seven (p.5) in its entirety.~~

8. By striking Division One, Section IV, Article Eight (p.6) in its entirety.

9. By striking Division One, Section IV, Article Eleven (p.7) in its entirety.

10. By striking Division One, Section V, Article Two (p.7) in its entirety.

11. By striking from Division One, Section V, Article Three (p.7) the following:

The President of the Corporation shall have the authority to make any interpretation of these Bylaws or necessary on-the-spot decisions, arbitrations, regulations, etc., regarding areas not covered by these Bylaws."

And striking from the above Article, Paragraph 2,

the following:

"except the original President of the Corporation."

And by amending it so it reads as follows:

"The Board of Senior Elders shall have the power to overturn decisions made by the President of the Corporation regarding his decisions about interpretation of these Bylaws and areas not covered by these Bylaws. Such a decision to overturn must be by a unanimous vote of all members of the Board of Senior Elders except the Chairman."

12. By striking from Division One, Section V, Article Five (p.7), the following:

"except for the original President of the Corporation."

And by amending it to read as follows:

"Removal of the President of the Corporation: The President of the Corporation may be removed from office by a two-thirds (2/3) majority vote of the Board of Senior Elders."

13. By striking from Division One, Section V, Article Seven (p.7), the following:

"Once set and accepted, his salary shall not be decreased, unless there is a general recession or depression, and then only to the same ratio as the published wage or consumer price index for the local area."

And by amending it to read as follows:

"ARTICLE SEVEN: The salary of the President of the Corporation shall be determined by the Board of Senior Elders, which shall re-evaluate this salary rate annually."

14. By striking from Division One, Section VII, Article Two (p.3), the following:

"Except for the Chairman."

And by amending it to read as follows:

"Explanation of Office: All members of the Board of Senior Elders hold positions of equal authority. Thus, on corporate business, the Secretary of the Corporation shall have no more authority than any other regular member of the Board of Senior Elders. However, he shall have additional responsibilities as outlined in Article Three below."

15. By striking from Division One, Section XI, Article One (p.13), the following:

"and the original Pastor's concurrence, if still presiding."

And by amending it to read as follows:

"ARTICLE ONE: Amendments.

A minimum three-fourths (3/4) majority affirmative vote of the Board of Senior Elders is necessary to amend any of the Bylaws stated in this document."

16. By striking from Division One, Section 1, Article One, Item B2(p.17), the following:

"having established the original Church by the direction of God and with support

of the congregation, shall have oversight of same until the Pastor agrees to change. He"

And by amending it to read as follows:

"The original Pastor shall have the authority to take extended leaves of absence as he feels led without relinquishing the position of Pastor. An Associate Pastor, Assistant Pastor, or Acting Pastor may stand in for him, subject to his oversight, and relinquish the position and authority upon demand by the Pastor, if the Pastor so wishes.

17. By striking from Division Two, Section 1, Article One, Item E (p.18), the following:

"Once set and accepted, each Pastor's salary shall not be decreased, unless there is a general recession or depression, and then only to the same ratio as the published wage/price index decline for the local area."

And by amending it to read as follows:

"E. The Pastor's salary shall be determined by the Board of Senior Elders, which shall re-evaluate the salary rate annually."

18. By striking from Division Two, Section VII, Article One, Item A4 (p.30), the following:

"(with the exception of the original Pastor, who cannot be removed from office while living)."

And by amending it to read as follows:

"The ordination of the Pastor shall be in effect until he is removed from the position of Pastor, until he resigns, or until this Church no longer exists."

19. By striking from Division Four, Article Eight (p.37), Item B, in its entirety.

RESOLVED further, that said amendments are hereby adopted and approved this _____ day of _____, 1988,

at ____m., at a duly held Board of Director's Meeting by a
three-fourths (3/4) affirmative majority vote.

COMMUNITY CHAPEL AND
BIBLE TRAINING CENTER

By: _____
Secretary/Director

Senior Elder/Director

Senior Elder/Director

**RESOLUTION TO REMOVE DONALD L. BARNETT
AS MEMBER OF BOARD OF DIRECTORS**

WHEREAS, the directors of Community Chapel and Bible Training Center, a Washington non-profit corporation, ("Chapel") (herein), desire to remove Donald L. Barnett as a Board of Director's member for the Chapel, pursuant to its authority under Article III, Section Three, of the Chapel's Articles of Incorporation, it is hereby

RESOLVED that Donald L. Barnett is removed as a Board of Director's member by a three-fourths (3/4) majority vote.

RESOLVED further that this removal be effective immediately and that this resolution is hereby adopted and approved this ___ day of March, 1988, at ___ .m. at a duly held Board of Director's Meeting by a three-fourths (3/4) affirmative majority vote.

COMMUNITY CHAPEL AND
BIBLE TRAINING CENTER

By: _____
Secretary/Director

Senior Elder/Director

Senior Elder/Director