

RECORDED & INDEXED  
G. J. BURKE  
CLERK, IDAHO

1 John R. Rizzardi, WSBA No. 9388  
2 Admitted Pro Hac Vice  
3 Cairncross & Hempelmann, P.S.  
4 524 Second Avenue, Suite 500  
5 Seattle, WA 98104-2323  
6 Telephone: (206) 587-0700  
7 Facsimile: (206) 587-2308  
8

9 UNITED STATES BANKRUPTCY COURT FOR THE  
10 DISTRICT OF IDAHO

11 In re:

NO. 02-20218

12 FRANK L. CHAPIN and  
13 SYDNEY L. GUTIERREZ-CHAPIN,

DECLARATION OF JOHN R. RIZZARDI

14 Debtors.

15 I, John R. Rizzardi, under the penalty of perjury under the laws of the State of  
16 Washington, declare as follows:

17 1. I am one of the attorneys of record for plan proponent Frederick A. Leaf, M.D.  
18 ("Leaf").

19 2. I have personal knowledge of the facts and circumstances stated herein. The  
20 exhibits attached hereto are true and correct, to the best of my knowledge.

21 3. Attached are the following exhibits:

22 A-1. Application for 1. Entry of Default; and 2. Entry of Judgment for Default;

23 A-2. Affidavit of Tamara W. Murock;

24 A-3. Affidavit of Maris Baltins;

25 A-4. Affidavit of Paul M. Fruci;  
26

{00172773.DOC:1}

DECLARATION OF JOHN R. RIZZARDI - 1

Cairncross & Hempelmann, P.S.

Law Offices

524 Second Avenue, Suite 500

Seattle, Washington 98104-2323

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**ORIGINAL**

174

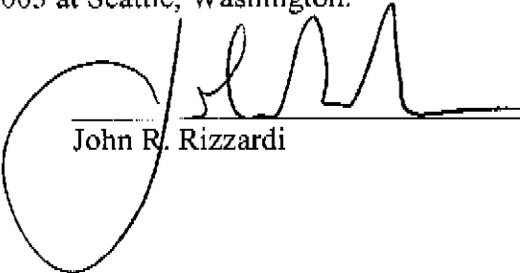
- 1 B. Order for Entry of Default;  
2 C. Clcrk's Entry of Default;  
3 D. Letter from James Magnuson to Judge Verby  
4 E. Letter from Tamara Murock to James Magnuson  
5 F. Letter from Tamara Murock to Judge Verby  
6 G. Original Chapter 11 Petition  
7 H. Final Amended Schedule B, dated June 19, 2003.

8 4. On September 15, 2003, and in a subsequent facsimile memorandum, I requested  
9 of Mr. Zimmerman that he retract the letter that caused Judge Verby to not enter the proposed  
10 Default Judgment. To date, these requests to Mr. Zimmerman have been refused.

11 5. Dr. Leaf would reserve all requests for an award of attorneys' fees and costs  
12 against the Chapter 7 Trustee pending this court's consideration of the motion.

13 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE  
14 OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

15 Dated this 1st day of October, 2003 at Seattle, Washington.

16  
17   
18 John R. Rizzardi  
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25  
26

# **EXHIBIT A-1**

1 TAMARA W. MUROCK  
2 BRIAN T. MCGINN  
3 WINSTON & CASHATT  
4 250 Northwest Boulevard, Suite 107A  
5 Coeur d'Alene, Idaho 83814  
6 Telephone: (208) 667-2103

7 Attorneys for Plaintiff

8  
9  
10 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
11 OF IDAHO, IN AND FOR THE COUNTY OF BONNER

12 FREDRICK A. LEAF, )

13 Plaintiff, )

) Case No. CV-02-01655

14 vs. )

) APPLICATION FOR:

15 FINANCIAL MANAGAMENT SERVICES, )  
16 INC., an Idaho corporation; S and F, LLC, an )  
17 Idaho limited liability company; FRANK L. )  
18 CHAPIN, P.A., an Idaho professional )  
19 association; and HOODOO MOUNTAIN )  
20 RANCHETTE TRUST, an Idaho irrevocable )  
21 trust, )

) 1. ENTRY OF DEFAULT; AND  
) 2. ENTRY OF JUDGMENT UPON  
) DEFAULT

22 Defendants. )

23 Comes now Frederick A. Leaf, M.D., plaintiff herein, by and through his attorney, and hereby  
24 makes Application to the Clerk of the above-entitled Court for entry of default against the above-named  
25 defendants, Financial Management Services, Inc., S and F, LLC, Frank L. Chapin, P.A., and Hoodoo  
26 Mountain Ranchette Trust, on the grounds that said defendants, having been served with the Complaint

APPLICATION FOR: 1. ENTRY OF DEFAULT; AND  
2. ENTRY OF JUDGMENT UPON DEFAULT  
PAGE 1

LAW OFFICES OF  
*Winston & Cashatt*  
250 NORTHWEST BLVD., SUITE 107A  
COEUR D'ALENE, IDAHO 83814  
(208) 667-2103  
FAX (208) 765-2121

**received**  
8/15/03 AOB

1 and Demand for Jury Trial (hereinafter "Complaint) and Summons filed in this matter, have failed to file  
2 an Answer to said Complaint pursuant to Rule 12(a) of the Idaho Rules of Civil Procedure (I.R.C.P.),  
3 appear or otherwise defend this matter as provided by the I.R.C.P.

4 Plaintiff further makes Application to this Honorable Court for entry of judgment upon default  
5 against all defendants, jointly and severally, in favor of plaintiff as follows:

6 1. For judgment for the sum certain amount of \$1,008,429.18.

7  
8 2. For imposition of a constructive trust against the following properties owned by  
9 defendant S and F, LLC, described as follows:

10 A. Linden Property.

11 The Southwest Quarter of the Northeast Quarter of Section 29, Township 55  
12 North, Range 4 West, Boise Meridian, Bonner County, Idaho.

13 LESS any portion lying within the County Road right of way.

14 B. Dunromin Property.

15 LEGAL: The East half of the Northwest Quarter of the Southwest Quarter of  
16 Section 10, Township 55 North, Range 4 West, Boise Meridian, Bonner County,  
17 Idaho.

18 TOGETHER WITH an easement for ingress, egress and utilities 60.00 feet wide  
19 over, under and across the existing road located in the North portion of the  
20 Southwest Quarter of the Southwest Quarter of said Section 10 from the County  
21 Road along the West line thereof.

22 ALSO TOGETHER WITH an easement 60 feet wide for ingress, egress and  
23 utilities and maintenance over, under and across the East 60 feet of the Southwest  
24 Quarter of the Southwest Quarter of said Section 10 lying North of the  
25 aforementioned road right of way.

26 C. Glabb Ranch Property.

The East half of the Southwest Quarter, Government Lots 5 and 6, and the  
Northwest Quarter of the Southeast Quarter, all in Section 34, Township 55  
North, Range 4 West, Boise Meridian, Bonner County, Idaho;

1 EXCEPT the Spokane International Railroad right of way.  
2

3 D. Home Place 1 Property.

4 The South half of the South half of the Northeast quarter of the Northwest quarter  
5 and the Southeast quarter of the Northwest quarter of Section 29, Township 55  
6 North, Range 4 West, Boise Meridian, Bonner County, Idaho, lying North of the  
7 County Road;

8 LESS the East 330 feet thereof.

9 E. Home Place 2 Property.

10 The East 330 feet of the South half of the South half of the Northeast quarter of  
11 the Northwest quarter and the East 300 feet of the Southeast quarter of the  
12 Northwest quarter of Section 29, Township 55 North, Range 4 West, Boise  
13 Meridian, Bonner County, Idaho, all lying North of the County Road.

14 F. Jachetta Property.

15 The North half of the Northwest Quarter of the Northwest Quarter of Section 10,  
16 Township 55 North, Range 4 West, Boise Meridian, Bonner County, Idaho;

17 EXCEPTING THEREFROM rights of way of FAS-5780 and FAS-5781.

18 3. For imposition of a constructive trust against the following property held by defendant

19 Hoodoo Mountain Ranchette Trust, described as follows:

20 A. 319 Church St., Sandpoint, ID Property.

21 Lots 9 and 10 in Block 8 of Sandpoint Addition to Sandpoint, According to the  
22 plat thereof, recorded in Book 1 of Plats, Page 10, records of Bonner County,  
23 Idaho;

24 LESS the South 40 feet thereof.

25 This application is made pursuant to I.R.C.P. 55(a)(1), 55(b)(1) and 55(b)(2) and is based upon  
26 the Affidavit of Paul M. Fruci, the Affidavit of Maris Baltins, the Affidavit of Tamara W. Murock, and  
the records and files of the instant matter, incorporated herein by reference.



1 DATED this 14th day of August, 2003.

2  
3 *Tamara J. Murock*  
4 TAMARA W. MUROCK, ISBA No. 5886  
5 BRIAN T. MCGINN, ISBA No. 5882  
6 WINSTON & CASHATT  
7 Attorneys for Plaintiff  
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APPLICATION FOR: 1. ENTRY OF DEFAULT; AND  
2. ENTRY OF JUDGMENT UPON DEFAULT  
PAGE 5

LAW OFFICES OF  
*Winston & Cashatt*  
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FAX (208) 765-2121

# **EXHIBIT A-2**

1 TAMARA W. MUROCK  
BRIAN T. MCGINN  
2 WINSTON & CASHATT  
250 Northwest Boulevard, Suite 107A  
3 Coeur d'Alene, Idaho 83814  
4 Telephone: (208) 667-2103

5 Attorneys for Plaintiff  
6  
7  
8  
9

10 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
11 OF IDAHO, IN AND FOR THE COUNTY OF BONNER

12 FREDRICK A. LEAF, )

13 Plaintiff, )

) Case No. CV-02-01655

14 vs. )

) AFFIDAVIT OF TAMARA W. MUROCK  
)

15 FINANCIAL MANAGMENT SERVICES, )  
16 INC., an Idaho corporation; S and F, LLC, an )  
Idaho limited liability company; FRANK L. )  
17 CHAPIN, P.A., an Idaho professional )  
association; and HOODOO MOUNTAIN )  
18 RANCHETTE TRUST, an Idaho irrevocable )  
trust, )  
19 )

20 Defendants. )

21 STATE OF WASHINGTON )

22 : ss

23 County of Spokane )

24 Tamara W. Murock, being first duly sworn on oath, deposes and says that:  
25  
26

AFFIDAVIT OF TAMARA W. MUROCK  
PAGE 1

LAW OFFICES OF  
*Winston & Cashatt*  
250 NORTHWEST BLVD., SUITE 107A  
COEUR D'ALENE, IDAHO 83814  
(208) 667-2103  
FAX (208) 765-2121

received  
8/15/03 AOB

1           1.       I am an attorney licensed to practice law in the States of Idaho and Washington. I make  
2 this Affidavit on personal knowledge and am competent to testify thereto.

3           2.       I am one of the attorneys representing plaintiff Frederick A. Leaf, M.D. in the above-  
4 captioned matter.

5           3.       Plaintiff's Complaint and Demand for Jury Trial (hereinafter "Complaint") was filed in  
6 this matter on December 11, 2002. The defendants, Financial Management Services, Inc., S and F,  
7 LLC, Frank L. Chapin, P.A., and Hoodoo Mountain Ranchette Trust, were served with the Summons  
8 and Complaint on December 19, 2002, as set forth in the Affidavit of Service executed by Cathy  
9 Lamanna filed herein. A true and correct copy of the Affidavit of Service, is attached hereto as Exhibit  
10 "A".  
11

12           4.       To date, the defendants have failed to answer the Complaint pursuant to Rule 12(a)(1) of  
13 the Idaho Rules of Civil Procedure.

14           5.       No entry of appearance has been filed on behalf of any of the defendants.

15           6.       The defendants are legal entities created under the laws of the State of Idaho and  
16 therefore, to the best of my knowledge, information and belief after reasonable investigation, none of the  
17 defendants is in the military service.  
18

19           7.       No defendant is an infant or incompetent person.

20           8.       Defendants Financial Management Services, Inc., S and F, LLC, and Frank L. Chapin,  
21 P.A. are businesses wholly owned and managed by Frank L. Chapin and his wife, Sydney L. Gutierrez-  
22 Chapin.  
23

24           9.       Defendant Hoodoo Mountain Ranchette Trust is an Idaho Irrevocable Trust, administered  
25 by its Trustee, Frank L. Chapin.  
26

1           10.     On February 22, 2002, Chapin filed a Petition in the United States Bankruptcy Court for  
2 the District of Idaho initiating bankruptcy proceedings under Chapter 11 of the United States  
3 Bankruptcy Code.

4           11.     The bankruptcy matter, *In Re: Frank L. Chapin and Sydney L. Gutierrez-Chapin a/k/a*  
5 *Sydney L. Gutierrez*, Bankruptcy No. 02-20218, pending the in the United States Bankruptcy Court, is  
6 personal to Chapin and Gutierrez-Chapin. The defendants herein, entities owned and controlled by  
7 Chapin, are not within the bankruptcy matter. A true and correct copy of the caption of the Petition filed  
8 in the Chapin bankruptcy matter and excerpts from Chapin's Statement of Financial Affairs is attached  
9 hereto as Exhibit "B".

10           12.     Plaintiff's claim against the defendants is based upon losses caused by Frank L. Chapin  
11 during the administration of probate matters before the Superior Court of Spokane County, *In the Matter*  
12 *of the Estate of Christina Leaf*, No. 96 4 00617-5 (hereinafter "Christina Leaf Estate matter") and *In the*  
13 *Matter of the Estate of Wilbur A. Leaf*, No. 94 4 00731-1 in which Dr. Leaf and Chapin served as co-  
14 personal representatives. See Complaint at ¶¶ 3.1-3.20.

15           13.     During the course of administration of the Christina Leaf Estate, Chapin, during the  
16 month of September 1996, caused to be liquidated a New York Life Insurance Company annuity, policy  
17 no. N3-201-681, held by the Estate of Christina Leaf, thereby obtaining funds in the amount of  
18 \$748,809.14. See Complaint at ¶¶ 3.10-3.11.

19           14.     These funds were diverted from the Estate of Christina Leaf by Chapin to the defendants  
20 and used to purchase various parcels of real estate and otherwise support the operations of the defendant  
21 entities. See Complaint at ¶¶ 3.43-3.74.

1           15.     As a result, the beneficiaries of the Estate of Christina Leaf brought suit against Dr. Leaf  
2 and Chapin in the case of *American Lutheran Church, et al. v. Frank L. Chapin and Frederick A. Leaf*,  
3 No. 01-206413-9 (hereinafter "ALC matter"), which is pending in the Superior Court of Spokane  
4 County. I am one of the attorneys representing Dr. Leaf in the ALC matter. *See* Complaint at ¶¶ 3.20.

5  
6           16.     On or about January 7, 2002, the plaintiffs in the ALC matter filed a Motion for Partial  
7 Summary Judgment against Dr. Leaf. *See* Complaint at ¶ 3.27.

8           17.     On March 22, 2002, the Court, in a Letter Ruling, granted summary judgment in favor of  
9 the beneficiaries of the Estate of Christina Leaf against Dr. Leaf. A true and correct copy of the Court's  
10 Letter Ruling is attached hereto as Exhibit "C".

11           18.     The Court's Order Granting Partial Summary Judgment Against Frederick A. Leaf, M.D.,  
12 entered on April 23, 2003, specified judgment against Dr. Leaf in the amount of \$915,689.07 plus post-  
13 judgment interest of 12% in the per diem rate of \$185.11 from March 22, 2002. A true and correct copy  
14 of the Order Granting Partial Summary Judgment Against Frederick A. Leaf, M.D. is attached hereto as  
15 Exhibit "D".

16  
17           19.     Plaintiff's claim against defendants is for a sum certain or for a sum, which can by  
18 computation, be made certain. Paul M. Fruci, a Certified Public Accountant, has prepared Dr. Leaf's  
19 loss calculations based upon the Order Granting Partial Summary Judgment Against Frederick A. Leaf,  
20 M.D. *See* Affidavit of Paul M. Frucci at ¶ 14.

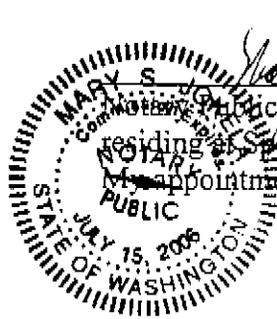
21  
22           20.     The total amount of the judgment sought is \$1,008,429.18. The total is based upon a  
23 judgment amount of \$915,689.07 plus post-judgment interest of 12% in the per diem rate of \$185.11  
24 from March 22, 2002, set forth in the Order Granting Partial Summary Judgment Against Frederick A.  
25 Leaf, M.D. *See* Affidavit of Paul M. Frucci at ¶ 15.

1 DATED this 11 day of August, 2003.

2  
3 Tamara W. Murock  
4 TAMARA W. MUROCK

5 SUBSCRIBED and SWORN TO before me this 12 day of August, 2003.

6  
7 Mary S. Johnson  
8 Notary Public in and for the State of Washington,  
9 residing at Spokane, Boise, Idaho  
10 My appointment expires: 7/15/06  
11  
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(Official Form 1) (9/97)

FORM B1		United States Bankruptcy Court District of Idaho - 20218		Voluntary Petition U.S. COURTS	
Name of Debtor (if individual, enter Last, First, Middle): Chapin, Frank L.		Name of Joint Debtor (Spouse)(Last, First, Middle): Gutierrez-Chapin, Sydney L.		02 FEB 22 PM 1:27	
All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names): Frank L. Chapin, L.P.A.		All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names): Sydney L. Gutierrez		RECD FILED CAMERON S. BURKE, CLERK. IDAHO	
Soc. Sec./Tax I.D. No. (if more than one, state all): 518-44-6544		Soc. Sec./Tax I.D. No. (if more than one, state all): 268-38-7542			
Street Address of Debtor (No. & Street, City, State & Zip Code): 2872 Hon Doo Mountain Road Priest River, ID 83856		Street Address of Joint Debtor (No. & Street, City, State & Zip Code): 2872 Hon Doo Mountain Road Priest River, ID 83856			
County of Residence or of the Principal Place of Business: Bonner		County of Residence or of the Principal Place of Business: Bonner			
Mailing Address of Debtor (if different from street address): P.O. Box 781 Sandpoint, ID 83864		Mailing Address of Joint Debtor (if different from street address): P.O. Box 2028 Sandpoint, ID 83864			
Location of Principal Assets of Business Debtor (if different from street address above):					
<b>Information Regarding the Debtor (Check the Applicable Boxes)</b>					
Venue (Check any applicable box)					
<input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.					
Type of Debtor (Check all boxes that apply)			Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box)		
<input checked="" type="checkbox"/> Individual(s) <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other			<input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding		
<input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker			<input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13		
Nature of Debts (Check one box)			Filing Fee (Check one box)		
<input type="checkbox"/> Consumer/Non-Business <input checked="" type="checkbox"/> Business			<input checked="" type="checkbox"/> Full Filing Fee Attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to Individuals only) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.		
Chapter 11 Small Business (Check all boxes that apply)					
<input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional)					
Statistical/Administrative Information (Estimates only)					
<input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					
Estimated Number of Creditors					
1-15      16-49      50-99      100-199      200-999      1000+					
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Estimated Assets					
\$0 to \$50,000      \$50,001 to \$100,000      \$100,001 to \$500,000      \$500,001 to \$1 million      \$1,000,001 to \$10 million      \$10,000,001 to \$50 million      \$50,000,001 to \$100 million      More than \$100 million					
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
Estimated Debts					
\$0 to \$50,000      \$50,001 to \$100,000      \$100,001 to \$500,000      \$500,001 to \$1 million      \$1,000,001 to \$10 million      \$10,000,001 to \$50 million      \$50,000,001 to \$100 million      More than \$100 million					
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
THIS SPACE IS FOR COURT USE ONLY					



COPY

(Official Form 1) (9/97)

<b>Voluntary Petition</b> <i>(This page must be completed and filed in every case)</i>	Name of Debtor(s): <b>Frank L. Chapin</b> <b>Sydney L. Gutierrez-Chapin</b>
---	---

FORM B1, Page 1

**Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attach additional sheet)**

Location Where Filed: <b>NONE</b>	Case Number:	Date Filed:
-----------------------------------	--------------	-------------

**Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)**

Name of Debtor: <b>NONE</b>	Case Number:	Date Filed:
District:	Relationship:	Judge:

**Signatures**

**Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.  
 (If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7) I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.  
 I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

*Frank L. Chapin*  
 Signature of Debtor

*Sydney L. Gutierrez-Chapin*  
 Signature of Joint Debtor

Telephone Number (if not represented by attorney)  
2/22/02

Date

**Signature of Debtor (Corporation/Partnership)**

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

**Not Applicable**

Signature of Authorized Individual \_\_\_\_\_

Printed Name of Authorized Individual \_\_\_\_\_

Title of Authorized Individual \_\_\_\_\_

Date \_\_\_\_\_

**Signature of Attorney**

*Bruce Anderson*

**Bruce A. Anderson, 3392**  
 Printed Name of Attorney for Debtor(s)/Bar No.

**Elsasser Jarzabek Anderson Marks & Elliott, Chd.**  
 Firm Name

**P.O. Box 1049**  
 Address

**Sandpoint, ID 83864**

**208-263-8517**  
 Telephone Number

**2/22/02**  
 Date

**Signature of Non-Attorney Petition Preparer**

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

**Not Applicable**

Printed Name of Bankruptcy Petition Preparer \_\_\_\_\_

Social Security Number \_\_\_\_\_

Address \_\_\_\_\_

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

**Exhibit A**

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)

Exhibit A is attached and made a part of this petition.

**Exhibit B**

(To be completed if debtor is an individual whose debts are primarily consumer debts)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

\_\_\_\_\_  
 Signature of Attorney for Debtor(s) Date

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

**Not Applicable**

Signature of Bankruptcy Petition Preparer \_\_\_\_\_

Date \_\_\_\_\_

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

**UNITED STATES BANKRUPTCY COURT**

District of Idaho

In re: **Frank L. Chapin**  
518-44-6544

**Sydney L. Gutierrez-Chapin**  
268-38-7542

Case No. 02-20218  
Chapter 11

**STATEMENT OF FINANCIAL AFFAIRS**

**1. Income from employment or operation of business**

None  State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the two years immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE	FISCAL YEAR PERIOD
12,000.00	Frank L. Chapin, P.A. Sydney L. Gutierrez-Chapin	2000
16,500.00	S and F, LLC for Sydney L. Gutierrez-Chapin	2000
17,330.00	Hoodoo Mountain Ranchette Trust Life Interest for Frank L. Chapin	2000
20,600.00	Independent Contractor for Frank L. Chapin	2000
16,150.00	Independent Contractor for Sydney L. Gutierrez-Chapin	2000
12,000.00	Frank L. Chapin, P.A. For Frank L. Chapin	2000
16,500.00	S and F, LLC for Frank L. Chapin	2000
16,150.00	Independent Contractor for Sydney L. Gutierrez-Chapin	2001
12,000.00	Frank L. Chapin, P.A. for Sydney L. Gutierrez-Chapin	2001
20,600.00	Independent Contractor for Frank L. Chapin	2001
25,583.00	Hoodoo Mountain Ranchette Trust-Life Interest for Frank L. Chapin	2001
12,000.00	Frank Chapin, P.A. for Frank Chapin	2001
16,500.00	S and F, LLC for Frank L. Chapin	2001
16,500.00	S and F, LLC for Sydney L. Gutierrez-Chapin	2001

**2. Income other than from employment or operation of business**

None

## 12. Safe deposit boxes

None

List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
Horizon Credit Union Sandpoint, ID 83864	Sydney L. Gutierrez	Personal papers	

## 13. Setoffs

None

List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
------------------------------	-------------------	---------------------

## 14. Property held for another person

None

List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
Financial Management Service, Inc. P.O. Box 1997 Sandpoint, ID 83864	See attached description of assets and liabilities	Debtor's Possession
Frank L. Chapin, P.A. P.O. Box 781 Sandpoint, ID 83864	See attached description of assets and liabilities	Debtor's Possession
Hoodoo Mtn. Rnch Trust P.O. Box 781 Sandpoint, ID 83864 (Co-Trustee)	See attached description of assets and liabilities	Debtor's Possession
S and F, LLC 2872 Hoodoo Mountain Rd. Priest River, ID 83858	See attached description of assets and liabilities	Debtor's Possession

## 15. Prior address of debtor

None

If the debtor has moved within the two years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
---------	-----------	--------------------

## 16. Spouses and Former Spouses

None

**24. Tax Consolidation Group.**

None

If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION

TAXPAYER IDENTIFICATION NUMBER

**25. Pension Funds.**

None

If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PENSION FUND

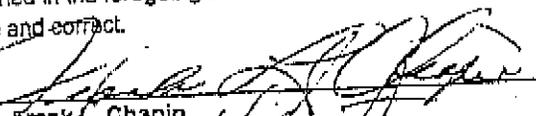
TAXPAYER IDENTIFICATION NUMBER

*[If completed by an individual or individual and spouse]*

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

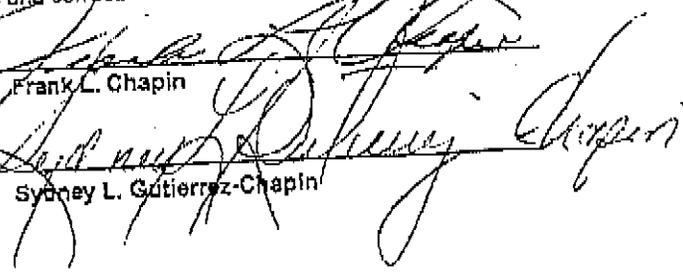
Date 3-22-02

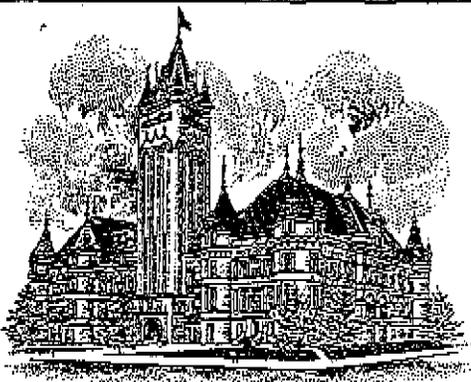
Signature  
of Debtor

  
Frank L. Chapin

Date 3-22-02

Signature  
of Joint  
Debtor

  
Sydney L. Gutierrez-Chapin



SPOKANE COUNTY COURT HOUSE

# SPOKANE COUNTY SUPERIOR COURT

Department No. 2

**NEAL Q. RIELLY**  
Judge

**MARY A. BENNETT**  
Bailliff

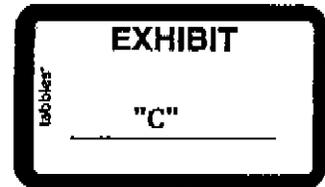
SPOKANE COUNTY COURTHOUSE  
1116 W. BROADWAY, SPOKANE, WASHINGTON 99260-0350  
(509) 477-5713 • FAX: (509) 477-5714 • TDD: (509) 477-5790  
dept2@spokanecounty.org

March 22, 2002

Maris Baltins  
Attorney at Law  
601 W Riverside Ave #1900  
Spokane, WA 99201

William John Schroeder  
Attorney at Law  
717 West Sprague, #1200  
Spokane, WA 99201-3505

Re: American Lutheran Church, et. al. v. Chapin, et. al.  
Spokane County Cause No. 01-2-06413-9



Dear Counsel,

Please be advised that I have reviewed all pleadings submitted by both counsel in support of Summary Judgment against Dr. Leaf and opposed to Summary Judgment against Dr. Leaf. I have reviewed the authorities cited by both counsel and I have in mind argument of counsel.

Based on the evidence and hopefully consistent with the comments that I made in court following argument on this motion and the other motions brought before the court, I am of the opinion that Dr. Leaf's relationship with his aunt and uncle Christina and Wilbur Leaf was a loving and trusting relationship. There is no evidence of which I am aware that leads me to believe that Dr. Leaf assumed his responsibilities as a personal representative for any reason other than to support Christina Leaf.

The evidence also seems clear that he was aware of the long-standing relationship between his aunt and uncle and Mr. Chapin. It appears that there was an informal

Maris Baltins  
William John Schroeder  
March 22, 2002  
Page 2

relationship in which Mr. Leaf expected that Mr. Chapin and Mr. Kovacevich would perform the bulk of the administrative duties of the estate as Dr. Leaf lived in Seattle and is a busy medical practitioner.

There is no dispute that Dr. Leaf accepted the appointment as co-personal representative and that he signed the Petition for an Order probating the will and appointing personal representatives, adjudicating the estate to be solvent and directing administration without court intervention. Dr. Leaf also signed a Petition of Co-Personal Representatives Requesting Appointment without Bond. Based on those Petitions, Mr. Kovacevich appeared in front of Commissioner Ellen Clark (now Judge Clark) and presented an Order Admitting Will to Probate, Adjudicating and Appointing Frederick A. Leaf and Frank L. Chapin as Co-Personal Representatives to Act without Bond. Commissioner Clark signed the Order appointing Dr. Leaf. Commissioner Clark declared the estate solvent and allowed administration of the Estate without the intervention of the court. The court Order limited that administration without court intervention to assets not exceeding \$104,000.00. The evidence suggests that a copy of this Order was not sent to Dr. Leaf after it was signed by Commissioner Clark. However, all of the conditions of the appointment were outlined in the petition that Dr. Leaf verified.

At the time the Order appointing Dr. Leaf was entered there was on deposit with New York Life, the sum of \$719,000 plus. The Order specifically provided those funds could not be distributed from New York Life without further court order. The Order also provided that counsel for the estate was to provide a certified copy of the Order blocking transfer of the funds out of the estate within 10 days. For purpose of this hearing, there is no evidence to indicate that a certified copy of the Order was served on New York Life by either co-personal representative or Mr. Kovacevich. In fact the evidence indicates that none of them provided a copy of the Order Blocking Distribution of the Funds to New York Life.

Subsequently, Mr. Chapin withdrew the funds in violation of the existing Order. He forwarded the check to Dr. Leaf. Dr. Leaf endorsed the check and Mr. Chapin deposited the money in another account. Mr. Chapin subsequently loaned certain funds to himself out of that account to the detriment of the estate.

Maris Baltins  
William John Schroeder  
March 22, 2002  
Page 3

I have no doubt that Dr. Leaf trusted both Mr. Chapin and Mr. Kovacevich. I have no reason to disbelieve that he relied heavily on them to perform the administrative duties of the estate. Other than negotiating the check from New York Life, I do not know of any other affirmative acts done by Dr. Leaf. He did make numerous telephone calls to Mr. Chapin and Mr. Kovacevich, but those were in the form of inquiry and it would be difficult to find that making inquiries regarding the status of the case were acts of administration of the estate.

The administration has gone on for years, the petition having been filed in Sept of 1996. It is clear from the evidence that Dr. Leaf did call both Mr. Chapin and Mr. Kovacevich to question why the estate was not completed and the heirs receiving their shares of the estate. However there is no evidence that Dr. Leaf took any other action to administer this estate. It appears that he relied solely on Mr. Chapin and Mr. Kovacevich to administer this estate.

I don't believe anyone disputes that a Personal Representative stands in a Fiduciary relationship to the heirs of the estate. Plaintiffs ask me to determine by summary judgment that Dr. Leaf breached his fiduciary responsibility and that I should enter judgment against Dr. Leaf for the damages to the estate as a matter of law.

In Hesthagen v. Harby 78 Wn.2d 934, our court said "It is, however the general rule that, if an administrator exercised due care in the selection and employment of an attorney or other agent to assist him in the management of his trust, he is not absolutely bound by the dereliction of such agent or attorney. Nevertheless, an administrator may not remain totally passive and surrender or delegate all of the duties and functions of his trust to his agent or attorney without himself becoming responsible for losses occasioned by their conduct. In such instances liability arises out of his failure to exercise the attention to and/or superintendence over the activities of his counsel or other agent which a reasonably prudent person, impressed with a trust responsibility, would exercise."

There are no genuine issues of material fact to dispute that Dr. Leaf breached his fiduciary duty to the heirs of this estate. There is also no question that judgment should be entered as a matter of law. There are disputed issues but I do not consider them material to this claim. They certainly may be material to any claim that Dr. Leaf might have against Mr. Chapin or Mr. Kovacevich, but not to the heirs of this estate. The Motion for Summary Judgment shall be and is hereby granted.

Maris Baltins  
William John Schroeder  
March 22, 2002  
Page 4

I would request that the parties submit an Order for my signature. If the parties cannot agree on the form of the Order, presentment is set for April 12, 2002, at 3:00 pm. Any Motion for Reconsideration shall be submitted in writing and heard without oral argument.

Thank you.

Sincerely,



NEAL Q. RIELLY  
Superior Court Judge

cc: Lewis Wilson  
Frank Chapin  
James O'Connor  
Tim Graham  
Alan Rubens  
Robert Kovacevich  
John Murray

FILED

APR 23 2002

THOMAS R. FALLQUIST  
SPOKANE COUNTY CLERK

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

AMERICAN LUTHERAN CHURCH, JERILYN )  
A. KLUNGTVEDT, JOHN C. WAGNER, )  
DANIEL C. WAGNER, LYNETTE J. BREKKE, )  
KAREN SAXOWSKY, DONALD WAGNER, )  
LINDA WAGNER, and JERILYN BIEREMA, )  
AND PLAINTIFF INTERVENOR, THE )  
FOUNDATION FOR DEACONESS AND )  
VALLEY HEALTHCARE, )

No. 01 2 06413-9

ORDER GRANTING PARTIAL  
SUMMARY JUDGMENT  
AGAINST FREDERICK A.  
LEAF, M.D.

Plaintiffs,

vs.

FRANK L. CHAPIN, Individually and as Co-  
Personal Representative of the Estate of Christina  
Leaf, and FREDERICK A. LEAF, Individually,  
and as Co-Personal Representative of the Estate  
of Christina Leaf,

Defendants.

FREDERICK A. LEAF,

Third Party Plaintiff,

vs.

JOHN MURRAY AND HIS MARITAL  
COMMUNITY; and ROBERT E.  
KOVACEVICH AND HIS MARITAL  
COMMUNITY,

Third Party Defendants.

NO SUMMARY  
NO JUDGMENT  
RCW 4.64.030

ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D.- 1

PAINE, HAMBLEN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000



105

Handwritten initials

1 THIS MATTER came on for hearing on March 22, 2002, on Plaintiffs' Motion for Partial

2 Summary Judgment against Frederick A. Leaf, M.D. The Court heard oral argument of William J.  
3 Schroeder for the Plaintiffs, and Maris Baltins for the Defendant. The Court considered the  
4 pleadings on file herein and:  
5

- 6 • Plaintiffs' Motion for Partial Summary Judgment re Defendants Chapin  
7 and Leaf;
- 8 • Plaintiffs' Memorandum in Support of Motion for Partial Summary  
9 Judgment re Defendants Chapin and Leaf;
- 10 • Declaration of Laura D. McAloon in support of Plaintiffs' Motion for  
11 Partial Summary Judgment re Defendants Chapin and Leaf and all  
12 attachments thereto;
- 13 • Plaintiff The Foundation for Deaconess and Valley Healthcare's Notice  
14 of Joinder in Plaintiffs' Motion for Partial Summary Judgment re  
15 Defendants Chapin and Leaf;
- 16 • Plaintiffs' Supplemental Declaration of Laura D. McAloon in Support of  
17 Plaintiffs' Motions for Partial Summary Judgment re Defendants Chapin  
18 and Leaf and Re Third-Party Defendant Kovacevich and all attachments  
19 thereto;
- 20 • Defendant Frederick A. Leaf's Response to Plaintiffs' Motion for Partial  
21 Summary Judgment re Defendants Chapin and Leaf;
- 22 • Affidavit of Frederick A. Leaf, M.D. in Support of Response to Plaintiffs;  
23 Motion for Partial Summary Judgment re Defendants Chapin and Leaf and  
24 all attachments thereto;
- 25 • Affidavit of Maris Baltins in Support of Response to Plaintiffs' Motion for  
26 Partial Summary Judgment re Defendants Chapin and Leaf and all  
27 attachments thereto;
- 28 • Plaintiffs' Reply to Frederick A. Leaf's Response to Plaintiffs' Motion for Partial  
Summary Judgment;
- Second Supplemental Declaration of Laura D. McAloon in support of  
Plaintiffs' Motion for Partial Summary Judgment re Defendants Chapin  
and Leaf and all attachments thereto;

ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D. - 2

PAINE, HAMBLEN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

1 Defendant Frederick A. Leaf's Supplemental Response to Plaintiffs'  
2 Motion for Partial Summary Judgment re Defendants Chapin and Leaf;

3 Affidavit of Maris Baltins in Support of Supplemental Response to  
4 Plaintiffs' Motion for Partial Summary Judgment and all attachments  
5 thereto; and

6 The pleadings filed in Spokane County Superior Court Probate Cause No.  
7 96-4-00617-5.

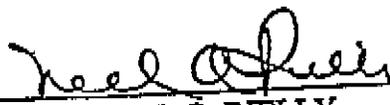
8 THE COURT FINDS:

9 Partial summary judgment should be granted in favor of Plaintiffs in the principal amount  
10 of \$563,054.52, plus pre-judgment interest through March 22, 2002 of \$352,634.55, for a total  
11 partial summary judgment amount of \$915,689.07. Post-judgment interest at the per diem rate  
12 of \$185.11 should continue to accrue from March 22, 2002, until payment of the partial summary  
13 judgment amount has been made in full, therefore,

14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- 15 1. That partial summary judgment in the amount of \$915,689.07 is hereby entered  
16 against Defendant, Frederick A. Leaf; and  
17  
18 2. That post-judgment interest of 12% in the per diem rate of \$185.11 shall accrue  
19 from March 22, 2002, until payment of the judgment is made in full.

20 DATED this 22<sup>nd</sup> day of April, 2002.

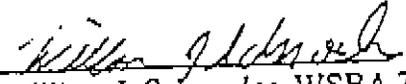
21  
22   
23 \_\_\_\_\_  
24 JUDGE NEAL Q. RIELLY

25  
26  
27  
28 ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D.- 3

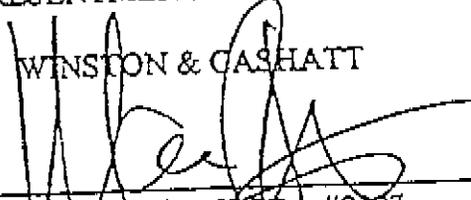
PAINE, HAMBLEN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

1 Presented by:

2 PAINE, HAMBLIN, COFFIN,  
3 BROOKE & MILLER LLP

4  
5 By:   
6 William J. Schroeder, WSBA 7942  
7 Attorneys for Plaintiffs American Lutheran  
8 Church, Jerilyn A. Klungtvedt, John C. Wagner,  
9 Daniel C. Wagner, Lynette J. Brekke, Karen Saxowsky,  
10 Donald Wagner, Linda Wagner and  
11 Jeryln Bierema

10 APPROVED AS TO FORM AND NOTICE  
11 OF PRESENTMENT WAIVED:

12   
13 WINSTON & CASHATT  
14 By:   
15 Maris Baltins, WSBA #9107  
16 Attorney for Defendant Frederick A. Leaf, M.D.

00029796.WPD:jah:kc

17  
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28  
ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D. - 4

PAINE, HAMBLIN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

CERTIFICATE OF SERVICE

THOMAS F. FALLON  
SPOKANE COUNTY CLERK

I hereby certify that on this \_\_\_\_\_ day of April, 2002, I caused to be served a true and correct copy of the foregoing ORDER GRANTING PARTIAL SUMMARY JUDGMENT AGAINST FREDERICK A. LEAF, M.D., by the method indicated below and addressed as follows:

Joseph P. Delay  
Delay, Curran, Thompson, Pontarolo & Walker, P.S.  
601 West Main, Suite 1212  
Spokane, Washington 99202-0684

\_\_\_\_\_ U.S. MAIL  
\_\_\_\_\_ DELIVERED  
\_\_\_\_\_ OVERNIGHT MAIL  
\_\_\_\_\_ TELECOPY (FACSIMILE)

D. Michael Reilly  
Timothy J. Graham  
Lane Powell Spears Lubersky LLP  
1420 Fifth Avenue, Suite 4100  
Seattle, Washington 98101-2338

\_\_\_\_\_ U.S. MAIL  
\_\_\_\_\_ DELIVERED  
\_\_\_\_\_ OVERNIGHT MAIL  
\_\_\_\_\_ TELECOPY (FACSIMILE)

Lewis M. Wilson  
1519 West Broadway  
Spokane, Washington 99201

\_\_\_\_\_ U.S. MAIL  
\_\_\_\_\_ DELIVERED  
\_\_\_\_\_ OVERNIGHT MAIL  
\_\_\_\_\_ TELECOPY (FACSIMILE)

John P. Murray  
3405 South Altamont Street  
Spokane, Washington 99223-4637

\_\_\_\_\_ U.S. MAIL  
\_\_\_\_\_ DELIVERED  
\_\_\_\_\_ OVERNIGHT MAIL  
\_\_\_\_\_ TELECOPY (FACSIMILE)

James V. O'Conner  
O'Conner Law Corporation P.S.  
2349 Yale Avenue East, Suite 1  
Seattle, Washington 98102-3336

\_\_\_\_\_ U.S. MAIL  
\_\_\_\_\_ DELIVERED  
\_\_\_\_\_ OVERNIGHT MAIL  
\_\_\_\_\_ TELECOPY (FACSIMILE)

Michael H. Church  
Stamper, Rubens, Stocker & Smith, P.S.  
720 West Boone, Suite 200  
Spokane, Washington 99201-2560

\_\_\_\_\_ U.S. MAIL  
\_\_\_\_\_ DELIVERED  
\_\_\_\_\_ OVERNIGHT MAIL  
\_\_\_\_\_ TELECOPY (FACSIMILE)

Maris Baltins  
Tamara W. Murock  
Winston & Cashatt  
601 West Riverside Avenue, Suite 1900  
Spokane, Washington 99201

\_\_\_\_\_ U.S. MAIL  
\_\_\_\_\_ DELIVERED  
\_\_\_\_\_ OVERNIGHT MAIL  
\_\_\_\_\_ TELECOPY (FACSIMILE)

Marsha A. Ungricht

1:\Spokane\2001\400001\plead\000227795.WPD

ORDER GRANTING PARTIAL SUMMARY JUDGMENT AGAINST FREDERICK A. LEAF, M.D. - 5

PAINÉ, HAMBLEH, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

# **EXHIBIT A-3**

1 TAMARA W. MUROCK  
2 BRIAN T. MCGINN  
3 WINSTON & CASHATT  
4 250 Northwest Boulevard, Suite 107A  
5 Coeur d'Alene, Idaho 83814  
6 Telephone: (208) 667-2103

7 Attorneys for Plaintiff

8  
9  
10 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
11 OF IDAHO, IN AND FOR THE COUNTY OF BONNER

12 FREDRICK A. LEAF, )  
13 )  
14 Plaintiff, ) Case No. CV-02-01655  
15 vs. ) AFFIDAVIT OF MARIS BALTINS  
16 )  
17 FINANCIAL MANAGAMENT SERVICES, )  
18 INC., an Idaho corporation; S and F, LLC, an )  
19 Idaho limited liability company; FRANK L. )  
20 CHAPIN, P.A., an Idaho professional )  
21 association; and HOODOO MOUNTAIN )  
22 RANCHETTE TRUST, an Idaho irrevocable )  
23 trust, )  
24 Defendants. )

25 STATE OF WASHINGTON )  
26 : ss  
County of Spokane )

Maris Baltins, being first duly sworn on oath, deposes and says that:

AFFIDAVIT OF MARIS BALTINS  
PAGE 1

LAW OFFICES OF  
*Winston & Cashatt*  
250 NORTHWEST BLVD., SUITE 107A  
COEUR D'ALENE, IDAHO 83814  
(208) 667-2103  
FAX (208) 765-2121

**received**  
8/15/03 AOB

1           1.     I am an attorney licensed to practice law in the State of Washington. I make this  
2 Affidavit on personal knowledge and am competent to testify thereto.

3           2.     I am one of the attorneys representing plaintiff Frederick A. Leaf, M.D. (hereinafter "Dr.  
4 Leaf") in two cases which are pending in the Superior Court of Spokane County: (1) *In the Matter of the*  
5 *Estate of Christina Leaf*, No. 96 4 00617-5 (hereinafter "Christina Leaf Estate matter"); and (2)  
6 *American Lutheran Church, et al. v. Frank L. Chapin and Frederick A. Leaf*, No. 01-206413-9  
7 (hereinafter "ALC matter").  
8

9           3.     This matter was initiated by Dr. Leaf on December 11, 2002 with the filing of Plaintiff's  
10 Complaint and Demand for Jury Trial (hereinafter "Complaint").

11           4.     The Complaint seeks recovery from the named defendants, Financial Management  
12 Services, Inc. (hereinafter, "FMS, Inc."), S and F, LLC, Frank L. Chapin, P.A., and Hoodoo Mountain  
13 Ranchette Trust, for damages sustained by Dr. Leaf in the ALC matter. Relief sought includes monetary  
14 damages as well as imposition of a constructive trust on certain assets held by defendants S and F, LLC  
15 and Hoodoo Mountain Ranchette Trust.  
16

17           5.     Dr. Leaf and Frank L. Chapin served as co-personal representatives in the Christina Leaf  
18 Estate matter. During the course of the administration of the Christina Leaf Estate, Chapin, during the  
19 month of September 1996, caused to be liquidated a New York Life Insurance Company annuity, policy  
20 no. N3-201-681, held by the Estate of Christina Leaf, thereby obtaining funds in the amount of  
21 \$748,809.14. See Complaint at ¶¶ 3.10-3.11.  
22

23           6.     These funds were diverted from the Estate of Christina Leaf by Chapin to the above-  
24 named defendants and used to purchase and maintain various parcels of real estate and otherwise  
25 support the operations of the defendant entities. See Complaint at ¶¶ 3.43-3.74.  
26

1           7.     As a result of these actions the ALC matter was initiated by the beneficiaries in the  
2 Christina Leaf Estate matter, seeking recovery of these monies. See Complaint at ¶ 3.20.

3           8.     On or about January 7, 2002, the plaintiffs in the ALC matter filed a Motion for Partial  
4 Summary Judgment against Dr. Leaf. See Complaint at ¶ 3.27.

5           9.     On February 22, 2002, Chapin filed a Petition in the United States Bankruptcy Court for  
6 the District of Idaho initiating bankruptcy proceedings under Chapter 11 of the United States  
7 Bankruptcy Code. The automatic stay entered in the bankruptcy matter precluded further action against  
8 Chapin to recover losses the losses allegedly sustained by the beneficiaries of the Estate of Christina  
9 Leaf.  
10

11           10.    The bankruptcy matter, *In Re: Frank L. Chapin and Sydney L. Gutierrez-Chapin a/k/a*  
12 *Sydney L. Gutierrez*, Bankruptcy No. 02-20218 (hereinafter "Chapin bankruptcy"), pending in the  
13 United States Bankruptcy Court, is personal to Chapin and Gutierrez-Chapin. The defendants herein,  
14 entities owned and controlled by Chapin, are not within the Chapin bankruptcy. A true and correct copy  
15 of the caption of the Petition filed in the Chapin bankruptcy matter and excerpts from Chapin's  
16 Statement of Financial Affairs is attached hereto as Exhibit "A".  
17

18           11.    On March 22, 2002, the Court, in a Letter Ruling, granted summary judgment in favor of  
19 the beneficiaries of the Estate of Christina Leaf against Dr. Leaf. A true and correct copy of the Court's  
20 Letter Ruling is attached hereto as Exhibit "B".  
21

22           12.    The Court's Order Granting Partial Summary Judgment Against Frederick A. Leaf, M.D.,  
23 entered on April 23, 2003, specified judgment against Dr. Leaf in the amount of \$915,689.07 plus post-  
24 judgment interest of 12% in the per diem rate of \$185.11 from March 22, 2002. A true and correct copy  
25  
26

1 of the Order Granting Partial Summary Judgment Against Frederick A. Leaf, M.D. is attached hereto as  
2 Exhibit "C".

3 13. On May 28, 2002, I participated in a deposition of Chapin taken in the Chapin  
4 bankruptcy. See Exhibit "D", *Excerpts of Deposition of Frank L. Chapin, 5-28-02* (hereinafter "Chapin  
5 Depo.").  
6

7 14. During the course of the deposition, Chapin acknowledged, under oath, the following  
8 points:

9 a. That upon his appointment as co-personal representative of the Christina Leaf  
10 Estate in September of 1996 he caused the New York Life annuity held by Christina Leaf to be  
11 liquidated and as a result, he received the proceeds from the annuity in the amount of \$748,809.14,  
12 which he caused to be deposited into the FMS, Inc. account and then into a New York Life "pooled  
13 annuity" which he owned:  
14

15 Q. Mr. Chapin, Exhibit 1 is a check from New York Life made payable to the  
16 Christina Leaf's estate; is that correct?

17 A. Yes, it is.

18 Q. And you endorsed this check?

19 A. Yes, I did.

20 Q. The check represents money that belongs to the Christina Leaf estate; is  
21 that correct?

22 A. That's correct.

23 Q. Now, as I understand it, after the check was endorsed, you deposited the  
24 money at Panhandle State Bank?

25 A. Yes, a copy of the deposit slip is also attached here.  
26

1 Q. Now, on September 30, 1996, or within a few days thereafter, you then  
2 transferred the \$748,809.14 to a bank account for Financial Management  
3 Services; is that correct?

4 A. I'm not sure that it went into Financial Management Services. It may have  
5 went directly to New York Life.

6 Q. And when you say it may have went directly to New York Life, are you  
7 talking about the money that was used to purchase another annuity?

8 A. No, it was deposited into an existing annuity. What I would think is that  
9 we would have written a check out of the Christina Leaf estate account  
10 directly to New York Life, as opposed to putting it into Financial  
11 Management Services first.

12 \* \* \*

13 A. May I clarify something first? You had asked previously, unrelated to  
14 this, about the deposit, whether it went into Financial Management  
15 Services. And this reflects that yes, it did go into Financial Management  
16 Services, and yes, it did come out and go to New York Life from Financial  
17 Management Services. I can identify it when we come to it if you want. I  
18 wanted to clarify that.

19 See Chapin Depo. at 8, ll. 5-25; 9, ll. 1-8; 20, ll. 2-9.

20 b. That monies from the pooled annuity would be deposited into FMS, Inc. account:

21 Q. Let's take Exhibit 2. Tell me how one would read this document.

22 \* \* \*

23 A. Basically, at the top, they tell what they are. The funds – the first one,  
24 which I have as No. 2, is the deposits that were made to the Financial  
25 Management Services Maxim account.

26 \* \* \*

Q. Okay, Mr. Chapin, I'm going to hand you the original of Exhibits 2  
through 11, and what I would like you to do for me is take your pen and  
circle that transactions that relate to the Christina Leaf Estate money.

A. Okay. Any Christina Leaf Estate money?

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Q. Yes.

A. Okay, circle them?

Q. Yes. Mr. Chapin, it's my understanding that you've taken Exhibits 2 through 11 and you circled all those entries that relate in some way to Christina Leaf's estate's money; is that correct?

A. I circled all Leaf, Christina or Wilbur.

Q. Combination?

A. Yes.

\* \* \*

Q. Exhibits 8, 9, 10 and 11 doesn't reflect any money coming in or going out pertaining to that New York Life annuity; correct?

A. 8 docs.

Q. Okay, what does 8 show?

A. Well that there was a deposit of \$170,000 from New York Life on October 19, 1997.

Q. Okay. You don't have that circled.

A. No.

Q. Should that be circled?

A. Probably.

Q. So you're saying that this is \$170,000 from New York Life and this represents money from Christina Leaf's estate?

A. I would think so, yes.

Q. Then on Exhibit 11, it shows the \$170,000 going back out?

A. No this is a deposit.

Q. No. 11 is a deposit?

1 A. Yes, it's a deposit.

2 Q. So, 11, Exhibit 11, represents another \$170,000 from New York Life?

3 A. Correct.

4 Q. Where is that money?

5 A. I don't know without going and doing a flow through on it.

6 \* \* \*

7 Q. Did Financial Management Services take the money or did you take the  
8 money?

9 A. All the moneys went through Financial Management Services initially.  
10 That was the intent as the – that Financial Management Services would be  
11 the controlling entity of these moneys coming in and out of the estates.

12 See Chapin Depo. at 19, l. 25; 20, ll. 1, 11-14; 23, ll. 5-19; 39, ll. 4-25; 40, ll. 1-6; 42, ll. 16-22.

13 c. That monies in the FMS, Inc. account would be withdrawn to support the  
14 acquisition and maintenance of various investments and operating expenses of properties  
15 currently held by S and F, LLC, which was created to hold properties acquired by FMS, Inc.:

16 Q. But as you needed money, you would take from the pooled annuity when  
17 you needed it; isn't that right?

18 A. We would make partial withdrawals for whatever was going on at the  
19 time. That's correct.

20 Q. And from what you've prepared here, Exhibit 25 and 26, we know that as  
21 far as the Leaf money is concerned there wasn't anything in the pooled  
22 annuity until what date?

23 A. June of '94.

24 Q. Okay.

25 A. When the first \$300,000 –  
26

1 Q. And that's the date - basically your testimony - and I want to isolate the  
2 date, because I'm not interested in your records prior to that, but I am  
3 interested in your records after the date that the money - the Leaf money  
4 went into the pooled annuity, and then, like you testified, you took - on  
5 occasion you would take money out of the pooled annuity to be used for  
6 your other purposes, and so that was Leaf money that may have been  
7 being used; right?

8 A. Yes, that's correct.

9 \* \* \*

10 Q. . . . Going back to S and F, what was the purpose of S and F?

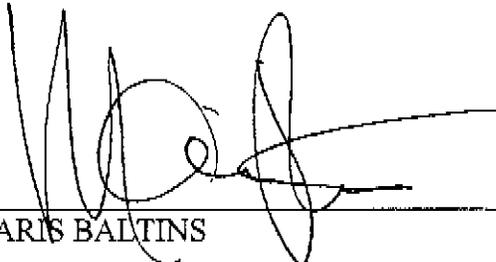
11 A. The Financial Management got too cumbersome; because originally when  
12 we purchased properties for our own use, if you will, it became really  
13 cumbersome to keep the accounting separate from the client transactions.  
14 So we created the LLC and transferred all the properties, all the real estate  
15 and equipment, over to the LLC.

16 *See Chapin Depo. at 79, ll. 11-25; 80, ll 1-7; 98, 1-10.*

17 15. In October of 2002, on behalf of Dr. Leaf, I engaged the services of Paul M. Fruci, a  
18 Certified Public Accountant, to provide an accounting analysis of the FMS, Inc. General Ledgers,  
19 including, but not limited to, the financial interrelationships between FMS, Inc. and S and F, LLC and  
20 Hoodoo Mountain Ranchette Trust.

21 16. In connection therewith, I provided Mr. Fruci with the 1994 to 2001 FMS, Inc. General  
22 Ledgers.

23 DATED this 13<sup>th</sup> day of August, 2003.

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26 MARIS BALTINS

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SUBSCRIBED and SWORN TO before me this 13<sup>th</sup> day of August, 2003.



Linda Sue Milliken  
Notary Public in and for the State of Washington,  
residing at Spokane  
My appointment expires: 6/27/07

(Official Form 1) (9/97)

FORM 91 <b>United States Bankruptcy Court</b> District of Idaho <b>02-20218</b>		<b>Voluntary Petition</b> U.S. COURTS	
Name of Debtor (if individual, enter Last, First, Middle): <b>Chapin, Frank L.</b>		Name of Joint Debtor (Spouse)(Last, First, Middle): <b>Gutierrez-Chapin, Sydney L.</b> 02 FEB 22 PM 1:27	
All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names): <b>Frank L. Chapin, L.P.A.</b>		All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names): <b>Sydney L. Gutierrez</b> REC'D. FILED CAMERON S. BURKE, CLERK. BOARD	
Soc. Sec./Tax I.D. No. (if more than one, state all): <b>51A-44-6544</b>		Soc. Sec./Tax I.D. No. (if more than one, state all): <b>268-38-7542</b>	
Street Address of Debtor (No. & Street, City, State & Zip Code): <b>2872 Hoo Doo Mountain Road Priest River, ID 83856</b>		Street Address of Joint Debtor (No. & Street, City, State & Zip Code): <b>2872 Hoo Doo Mountain Road Priest River, ID 83856</b>	
County of Residence or of the Principal Place of Business: <b>Banner</b>		County of Residence or of the Principal Place of Business: <b>Banner</b>	
Mailing Address of Debtor (if different from street address): <b>P.O. Box 781 Sandpoint, ID 83864</b>		Mailing Address of Joint Debtor (if different from street address): <b>P.O. Box 2028 Sandpoint, ID 83864</b>	
Location of Principal Assets of Business Debtor (if different from street address above):			
<b>Information Regarding the Debtor (Check the Applicable Boxes)</b>			
Venue (Check any applicable box) <input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.			
Type of Debtor (Check all boxes that apply) <input checked="" type="checkbox"/> Individual(s) <input type="checkbox"/> Railroad <input type="checkbox"/> Corporation <input type="checkbox"/> Stockbroker <input type="checkbox"/> Partnership <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Other _____		Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input type="checkbox"/> Chapter 7 <input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding	
Nature of Debts (Check one box) <input type="checkbox"/> Consumer/Non-Business <input checked="" type="checkbox"/> Business		Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee Attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.	
Chapter 11 Small Business (Check all boxes that apply) <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional)			
Statistical/Administrative Information (Estimates only) <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.			THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors 1-13      14-19      20-99      100-199      200-999      1000-4999 <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Estimated Assets \$0 to \$50,000      \$50,001 to \$100,000      \$100,001 to \$500,000      \$500,001 to \$1 million      \$1,000,001 to \$10 million      \$10,000,001 to \$50 million      \$50,000,001 to \$100 million      More than \$100 million <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Estimated Debts \$0 to \$50,000      \$50,001 to \$100,000      \$100,001 to \$500,000      \$500,001 to \$1 million      \$1,000,001 to \$10 million      \$10,000,001 to \$50 million      \$50,000,001 to \$100 million      More than \$100 million <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			



COPY

(Official Form 1) (9/97)

<b>Voluntary Petition</b> <i>(This page must be completed and filed in every case)</i>	Name of Debtor(s): <b>Frank L. Chaplin Sydney L. Gutierrez-Chaplin</b>
---	---

FORM B1, Page 2

Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attach additional sheet)

Location Where Filed: <b>NONE</b>	Case Number:	Date Filed:
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Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor: <b>NONE</b>	Case Number:	Date Filed:
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District:	Relationship:	Judge:
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**Signatures**

**Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.  
 (If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7) I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.  
 I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X *Frank L. Chaplin*  
 Signature of Debtor

X *Sydney L. Gutierrez-Chaplin*  
 Signature of Joint Debtor

Telephone Number (if not represented by attorney)  
2/22/02

Date

**Signature of Debtor (Corporation/Partnership)**

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X Not Applicable  
 Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

**Signature of Attorney**

X *Bruce Anderson*

**Bruce A. Anderson, 3392**  
 Printed Name of Attorney for Debtor(s)/Bar No.

**Elsasser Jarzabek Anderson Marks & Elliott, Chd.**  
 Firm Name

**P.O. Box 1049**  
 Address

**Sandpoint, ID 83864**

**208-263-8517**  
 Telephone Number

**2/22/02**  
 Date

**Signature of Non-Attorney Petition Preparer**

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

Not Applicable  
 Printed Name of Bankruptcy Petition Preparer

Social Security Number

Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

X Not Applicable  
 Signature of Bankruptcy Petition Preparer

Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

**Exhibit A**

(To be completed if debtor is required to file periodic reports (e.g., forms 10-K and 10-Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)

Exhibit A is attached and made a part of this petition.

**Exhibit B**

(To be completed if debtor is an individual whose debts are primarily consumer debts)  
 I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that (he or she) may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

X \_\_\_\_\_  
 Signature of Attorney for Debtor(s) Date

**UNITED STATES BANKRUPTCY COURT**

District of Idaho

In re: **Frank L. Chapin**  
518-44-6544

**Sydney L. Gutierrez-Chapin**  
268-38-7542

Case No. 02-2021B  
Chapter 11

**STATEMENT OF FINANCIAL AFFAIRS**

**1. Income from employment or operation of business**

None  State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the two years immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE	FISCAL YEAR PERIOD
12,000.00	Frank L. Chapin, P.A., Sydney L. Gutierrez-Chapin	2000
18,500.00	S and F, LLC for Sydney L. Gutierrez-Chapin	2000
17,330.00	Hoodoo Mountain Ranchette Trust Life Interest for Frank L. Chapin	2000
20,600.00	Independent Contractor for Frank L. Chapin	2000
16,150.00	Independent Contractor for Sydney L. Gutierrez-Chapin	2000
12,000.00	Frank L. Chapin, P.A. For Frank L. Chapin	2000
16,500.00	S and F, LLC for Frank L. Chapin	2000
16,150.00	Independent Contractor for Sydney L. Gutierrez-Chapin	2001
12,000.00	Frank L. Chapin, P.A. for Sydney L. Gutierrez-Chapin	2001
20,600.00	Independent Contractor for Frank L. Chapin	2001
25,383.00	Hoodoo Mountain Ranchette Trust-Life Interest for Frank L. Chapin	2001
12,000.00	Frank Chapin, P.A. for Frank Chapin	2001
16,500.00	S and F, LLC for Frank L. Chapin	2001
16,500.00	S and F, LLC for Sydney L. Gutierrez-Chapin	2001

**2. Income other than from employment or operation of business**

None

**12. Safe deposit boxes**

None

List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
Horizon Credit Union Sandpoint, ID 83864	Sydney L. Gutierrez	Personal papers	

**13. Setoffs**

None

List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
------------------------------	----------------	------------------

**14. Property held for another person**

None

List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
Financial Management Service, Inc. P.O. Box 1997 Sandpoint, ID 83864	See attached description of assets and liabilities	Debtor's Possession
Frank L. Chapin, P.A. P.O. Box 781 Sandpoint, ID 83864	See attached description of assets and liabilities	Debtor's Possession
Hoodoo Mtn. Rnch Trust P.O. Box 781 Sandpoint, ID 83864 (Co-Trustee)	See attached description of assets and liabilities	Debtor's Possession
S and F, LLC 2872 Hoodoo Mountain Rd. Priest River, ID 83856	See attached description of assets and liabilities	Debtor's Possession

**15. Prior address of debtor**

None

If the debtor has moved within the two years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
---------	-----------	--------------------

**16. Spouses and Former Spouses**

None

**24. Tax Consolidation Group.**

None

If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION

TAXPAYER IDENTIFICATION NUMBER

**25. Pension Funds.**

None

If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PENSION FUND

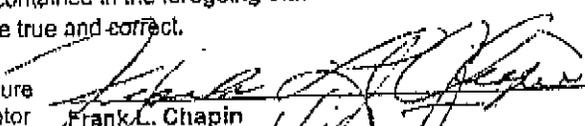
TAXPAYER IDENTIFICATION NUMBER

*[if completed by an individual or individual and spouse]*

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

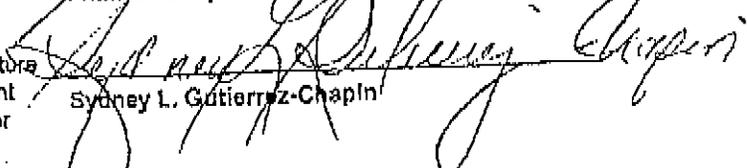
Date 3-22-02

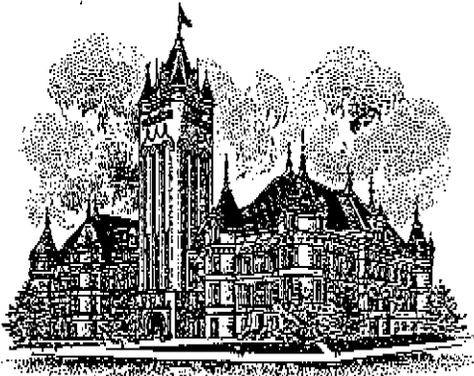
Signature  
of Debtor

  
Frank L. Chapin

Date 3-22-02

Signature  
of Joint  
Debtor

  
Sydney L. Gutierrez-Chapin



SPOKANE COUNTY COURT HOUSE

# SPOKANE COUNTY SUPERIOR COURT

Department No. 2

**NEAL Q. RIELLY**  
Judge

**MARY A. BENNETT**  
Bailiff

SPOKANE COUNTY COURTHOUSE  
1116 W. BROADWAY, SPOKANE, WASHINGTON 99260-0350  
(509) 477-5713 • FAX: (509) 477-5714 • TDD: (509) 477-5790  
dept2@spokanecounty.org

March 22, 2002

Maris Baltins  
Attorney at Law  
601 W Riverside Ave #1900  
Spokane, WA 99201

William John Schroeder  
Attorney at Law  
717 West Sprague, #1200  
Spokane, WA 99201-3505

Re: American Lutheran Church, et. al. v. Chapin, et. al.  
Spokane County Cause No. 01-2-06413-9



Dear Counsel,

Please be advised that I have reviewed all pleadings submitted by both counsel in support of Summary Judgment against Dr. Leaf and opposed to Summary Judgment against Dr. Leaf. I have reviewed the authorities cited by both counsel and I have in mind argument of counsel.

Based on the evidence and hopefully consistent with the comments that I made in court following argument on this motion and the other motions brought before the court, I am of the opinion that Dr. Leaf's relationship with his aunt and uncle Christina and Wilbur Leaf was a loving and trusting relationship. There is no evidence of which I am aware that leads me to believe that Dr. Leaf assumed his responsibilities as a personal representative for any reason other than to support Christina Leaf.

The evidence also seems clear that he was aware of the long-standing relationship between his aunt and uncle and Mr. Chapin. It appears that there was an informal

Maris Baltins  
William John Schroeder  
March 22, 2002  
Page 2

relationship in which Mr. Leaf expected that Mr. Chapin and Mr. Kovacevich would perform the bulk of the administrative duties of the estate as Dr. Leaf lived in Seattle and is a busy medical practitioner.

There is no dispute that Dr. Leaf accepted the appointment as co-personal representative and that he signed the Petition for an Order probating the will and appointing personal representatives, adjudicating the estate to be solvent and directing administration without court intervention. Dr. Leaf also signed a Petition of Co-Personal Representatives Requesting Appointment without Bond. Based on those Petitions, Mr. Kovacevich appeared in front of Commissioner Ellen Clark (now Judge Clark) and presented an Order Admitting Will to Probate, Adjudicating and Appointing Frederick A. Leaf and Frank L. Chapin as Co-Personal Representatives to Act without Bond. Commissioner Clark signed the Order appointing Dr. Leaf. Commissioner Clark declared the estate solvent and allowed administration of the Estate without the intervention of the court. The court Order limited that administration without court intervention to assets not exceeding \$104,000.00. The evidence suggests that a copy of this Order was not sent to Dr. Leaf after it was signed by Commissioner Clark. However, all of the conditions of the appointment were outlined in the petition that Dr. Leaf verified.

At the time the Order appointing Dr. Leaf was entered there was on deposit with New York Life, the sum of \$719,000 plus. The Order specifically provided those funds could not be distributed from New York Life without further court order. The Order also provided that counsel for the estate was to provide a certified copy of the Order blocking transfer of the funds out of the estate within 10 days. For purpose of this hearing, there is no evidence to indicate that a certified copy of the Order was served on New York Life by either co-personal representative or Mr. Kovacevich. In fact the evidence indicates that none of them provided a copy of the Order Blocking Distribution of the Funds to New York Life.

Subsequently, Mr. Chapin withdrew the funds in violation of the existing Order. He forwarded the check to Dr. Leaf. Dr. Leaf endorsed the check and Mr. Chapin deposited the money in another account. Mr. Chapin subsequently loaned certain funds to himself out of that account to the detriment of the estate.

Maris Baltins  
William John Schroeder  
March 22, 2002  
Page 3

I have no doubt that Dr. Leaf trusted both Mr. Chapin and Mr. Kovacevich. I have no reason to disbelieve that he relied heavily on them to perform the administrative duties of the estate. Other than negotiating the check from New York Life, I do not know of any other affirmative acts done by Dr. Leaf. He did make numerous telephone calls to Mr. Chapin and Mr. Kovacevich, but those were in the form of inquiry and it would be difficult to find that making inquiries regarding the status of the case were acts of administration of the estate.

The administration has gone on for years, the petition having been filed in Sept of 1996. It is clear from the evidence that Dr. Leaf did call both Mr. Chapin and Mr. Kovacevich to question why the estate was not completed and the heirs receiving their shares of the estate. However there is no evidence that Dr. Leaf took any other action to administer this estate. It appears that he relied solely on Mr. Chapin and Mr. Kovacevich to administer this estate.

I don't believe anyone disputes that a Personal Representative stands in a Fiduciary relationship to the heirs of the estate. Plaintiffs ask me to determine by summary judgment that Dr. Leaf breached his fiduciary responsibility and that I should enter judgment against Dr. Leaf for the damages to the estate as a matter of law.

In Hesthagen v. Harby 78 Wn.2d 934, our court said "It is, however the general rule that, if an administrator exercised due care in the selection and employment of an attorney or other agent to assist him in the management of his trust, he is not absolutely bound by the dereliction of such agent or attorney. Nevertheless, an administrator may not remain totally passive and surrender or delegate all of the duties and functions of his trust to his agent or attorney without himself becoming responsible for losses occasioned by their conduct. In such instances liability arises out of his failure to exercise the attention to and/or superintendence over the activities of his counsel or other agent which a reasonably prudent person, impressed with a trust responsibility, would exercise."

There are no genuine issues of material fact to dispute that Dr. Leaf breached his fiduciary duty to the heirs of this estate. There is also no question that judgment should be entered as a matter of law. There are disputed issues but I do not consider them material to this claim. They certainly may be material to any claim that Dr. Leaf might have against Mr. Chapin or Mr. Kovacevich, but not to the heirs of this estate. The Motion for Summary Judgment shall be and is hereby granted.

Maris Baltins  
William John Schroeder  
March 22, 2002  
Page 4

I would request that the parties submit an Order for my signature. If the parties cannot agree on the form of the Order, presentment is set for April 12, 2002, at 3:00 pm. Any Motion for Reconsideration shall be submitted in writing and heard without oral argument.

Thank you.

Sincerely,



NEAL Q. RIELLY  
Superior Court Judge

cc: Lewis Wilson  
Frank Chapin  
James O'Connor  
Tim Graham  
Alan Rubens  
Robert Kovacevich  
John Murray

FILED

APR 23 2002

THOMAS R. FALLOQUIST  
SPOKANE COUNTY CLERK

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

AMERICAN LUTHERAN CHURCH, JERILYN  
A. KLUNGTVEDT, JOHN C. WAGNER,  
DANIEL C. WAGNER, LYNETTE J. BREKKE,  
KAREN SAXOWSKY, DONALD WAGNER,  
LINDA WAGNER, and JERILYN BIEREMA,  
AND PLAINTIFF INTERVENOR, THE  
FOUNDATION FOR DEACONESS AND  
VALLEY HEALTHCARE,

Plaintiffs,

vs.

FRANK L. CHAPIN, Individually and as Co-  
Personal Representative of the Estate of Christina  
Leaf, and FREDERICK A. LEAF, Individually,  
and as Co-Personal Representative of the Estate  
of Christina Leaf,

Defendants.

FREDERICK A. LEAF,

Third Party Plaintiff,

vs.

JOHN MURRAY AND HIS MARITAL  
COMMUNITY; and ROBERT E.  
KOVACEVICH AND HIS MARITAL  
COMMUNITY,

Third Party Defendants.

No. 01 2 06413-9

ORDER GRANTING PARTIAL  
SUMMARY JUDGMENT  
AGAINST FREDERICK A.  
LEAF, M.D.

NO SUMMARY  
NO JUDGMENT  
RCW 4.64.030

EXHIBIT

"C"

ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D.- 1

PAINE, HAMBLIN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

EXHIBIT A

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1 THIS MATTER came on for hearing on March 22, 2002, on Plaintiffs' Motion for Partial  
2 Summary Judgment against Frederick A. Leaf, M.D. The Court heard oral argument of William J.  
3 Schroeder for the Plaintiffs, and Maris Baltins for the Defendant. The Court considered the  
4 pleadings on file herein and:  
5

- 6 • Plaintiffs' Motion for Partial Summary Judgment re Defendants Chapin  
7 and Leaf;
- 8 • Plaintiffs' Memorandum in Support of Motion for Partial Summary  
9 Judgment re Defendants Chapin and Leaf;
- 10 • Declaration of Laura D. McAloon in support of Plaintiffs' Motion for  
11 Partial Summary Judgment re Defendants Chapin and Leaf and all  
12 attachments thereto;
- 13 • Plaintiff The Foundation for Deaconess and Valley Healthcare's Notice  
14 of Joinder in Plaintiffs' Motion for Partial Summary Judgment re  
15 Defendants Chapin and Leaf;
- 16 • Plaintiffs' Supplemental Declaration of Laura D. McAloon in Support of  
17 Plaintiffs' Motions for Partial Summary Judgment re Defendants Chapin  
18 and Leaf and Re Third-Party Defendant Kovacevich and all attachments  
19 thereto;
- 20 • Defendant Frederick A. Leaf's Response to Plaintiffs' Motion for Partial  
21 Summary Judgment re Defendants Chapin and Leaf;
- 22 • Affidavit of Frederick A. Leaf, M.D. in Support of Response to Plaintiffs;  
23 Motion for Partial Summary Judgment re Defendants Chapin and Leaf and  
24 all attachments thereto;
- 25 • Affidavit of Maris Baltins in Support of Response to Plaintiffs' Motion for  
26 Partial Summary Judgment re Defendants Chapin and Leaf and all  
27 attachments thereto;
- 28 • Plaintiffs' Reply to Frederick A. Leaf's Response to Plaintiffs' Motion for Partial  
Summary Judgment;
- Second Supplemental Declaration of Laura D. McAloon in support of  
Plaintiffs' Motion for Partial Summary Judgment re Defendants Chapin  
and Leaf and all attachments thereto;

ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D.- 2

*PAINE, HAMBLEN, COFFIN, BROOKE & MILLER LLP*  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

- 1 • Defendant Frederick A. Leaf's Supplemental Response to Plaintiffs'  
2 Motion for Partial Summary Judgment re Defendants Chapin and Leaf;  
3 • Affidavit of Maris Baltins in Support of Supplemental Response to  
4 Plaintiffs' Motion for Partial Summary Judgment and all attachments  
5 thereto; and  
6 • The pleadings filed in Spokane County Superior Court Probate Cause No.  
7 96-4-00617-5.

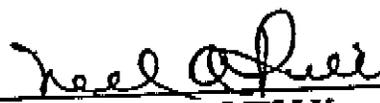
8 THE COURT FINDS:

9 Partial summary judgment should be granted in favor of Plaintiffs in the principal amount  
10 of \$563,054.52, plus pre-judgment interest through March 22, 2002 of \$352,634.55, for a total  
11 partial summary judgment amount of \$915,689.07. Post-judgment interest at the per diem rate  
12 of \$185.11 should continue to accrue from March 22, 2002, until payment of the partial summary  
13 judgment amount has been made in full, therefore,

14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- 15 1. That partial summary judgment in the amount of \$915,689.07 is hereby entered  
16 against Defendant, Frederick A. Leaf; and  
17 2. That post-judgment interest of 12% in the per diem rate of \$185.11 shall accrue  
18 from March 22, 2002, until payment of the judgment is made in full.  
19

20 DATED this 22<sup>nd</sup> day of April, 2002.

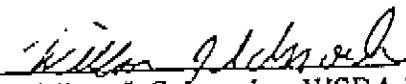
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23 JUDGE NEAL Q. RIBLLY  
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ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D.- 3

PAINE, HAMBLEN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
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1 Presented by:

2 PAINE, HAMBLIN, COFFIN,  
3 BROOKE & MILLER LLP

4  
5 By:   
6 William J. Schroeder, WSBA 7942  
7 Attorneys for Plaintiffs American Lutheran  
8 Church, Jerilyn A. Klungvedt, John C. Wagner,  
9 Daniel C. Wagner, Lynette J. Brekke, Karen Saxowsky,  
Donald Wagner, Linda Wagner and  
Jeryln Bicerema

10 APPROVED AS TO FORM AND NOTICE  
11 OF PRESENTMENT WAIVED:

12   
13 WINSTON & CASHATT  
14 By: \_\_\_\_\_  
15 Maris Baltins, WSBA #9107  
16 Attorney for Defendant Frederick A. Leaf, M.D.

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ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D.- 4

PAINE, HAMBLIN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of April, 2002, I caused to be served a true and correct copy of the foregoing **ORDER GRANTING PARTIAL SUMMARY JUDGMENT AGAINST FREDERICK A. LEAF, M.D.**, by the method indicated below and addressed as follows:

Joseph P. Delay  
Delay, Curran, Thompson, Pontarolo & Walker, P.S.  
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\_\_\_\_\_  
Marsha A. Ungricht

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**ORDER GRANTING PARTIAL SUMMARY JUDGMENT AGAINST FREDERICK A. LEAF, M.D. - 5**

**PAINÉ, HAMBLEN, COFFIN, BROOKE & MILLER LLP**  
717 WEST SPRAGUE AVENUE, SUITE 1200  
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IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF IDAHO

In Re: ) Bankruptcy Case No. 02-20218  
)  
FRANK and SYDNEY CHAPIN, )  
)  
Debtors. )

COPY

DEPOSITION OF FRANK L. CHAPIN  
TAKEN ON BEHALF OF THE ESTATE OF CHRISTINA LEAF  
AT 123 SOUTH 3RD STREET, SANDPOINT, IDAHO  
MAY 28, 2002, AT 10:30 A.M.

REPORTED BY:  
JULIE MCCAUGHAN, C.S.R. NO. 684  
Notary Public



(1)	DEPOSITION EXHIBITS:	PAGE
(2)	31 Panhandle State Bank Statements	160
(3)	32 2001 Form 1065 - Moments, LLC	162
(4)	33 1997 Form 1041 - Hoodoo Mountain Ranchette Trust	172
(5)	34 1998 Form 1041 - Hoodoo Mountain Ranchette Trust	172
(6)	35 1999 Form 1041 - Hoodoo Mountain Ranchette Trust	172
(8)	36 2000 Form 1041 - Hoodoo Mountain Ranchette Trust	172
(9)	37 2001 Form 1041 - Hoodoo Mountain Ranchette Trust	172
(11)		
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(1) THE DEPOSITION OF FRANK L. CHAPIN, was taken on  
(2) behalf of the Estate of Christina Leaf, on this 28th  
(3) day of May, 2002, at the law offices of Elsaesser,  
(4) Jarzabek, Anderson, Marks, Elliott, Sandpoint, Idaho,  
(5) before M & M Court Reporting Services, Inc., by JULIE  
(6) MCCAUGHAN, Court Reporter and Notary Public within and  
(7) for the State of Idaho, to be used in an action pending  
(8) in the United States Bankruptcy Court, District of  
(9) Idaho, said cause being Bankruptcy Case No. 02-20218 in  
(10) said Court.  
(11) AND THEREUPON, the following testimony was  
(12) adduced, to wit:  
(13) MR. PAUKERT: My name's Michael Paukert. I  
(14) represent the Estate of Christina Leaf.  
(15) MR. SCHROEDER: My name is Bill Schroeder, and I  
(16) represent the majority of the heirs of the estate.  
(17) MR. GRAHAM: And my name is Tim Graham, and I  
(18) represent Bob Kovacevich.  
(19) MR. BALTINS: I'm Maris Baltins, M-a-r-i-s  
(20) B-a-l-t-i-n-s, and I represent Dr. Leaf. And with me,  
(21) also, is Seth Thompson. He's from our office, also  
(22) representing - he's a paralegal, with me.  
(23) MR. ANDERSON: And Bruce Anderson for Frank and  
(24) Sydney Chapin.  
(25) THE WITNESS: Frank Chapin.

(1) FRANK L. CHAPIN,  
(2) having been first duly sworn to tell the truth, the  
(3) whole truth, and nothing but the truth, relating to  
(4) said cause, deposes and says:  
(5) EXAMINATION  
(6) QUESTIONS BY MR. SCHROEDER:  
(7) Q. Mr. Chapin, please state your name and  
(8) address for the record?  
(9) A. It's Frank Lee Chapin. 319 Church  
(10) Street, Sandpoint, Idaho.  
(11) Q. Mr. Chapin, you understand that you're  
(12) under oath today?  
(13) A. Yes, I do.  
(14) Q. Are you on any medication?  
(15) A. Yes, some.  
(16) Q. Any medication that would prevent you  
(17) from understanding fully the questions that will be  
(18) asked today?  
(19) A. No.  
(20) Q. Are you prepared to fully and completely  
(21) answer the questions posed to you today?  
(22) A. To the best of my ability.  
(23) Q. And you understand that there could be  
(24) serious legal consequences if you do not answer the  
(25) questions truthfully?

(1) A. Yes.  
(2) (Whereupon, Deposition Exhibit No. 1 was  
(3) marked for identification.)  
(4) BY MR. SCHROEDER:  
(5) Q. Mr. Chapin, Exhibit 1 is a check from New  
(6) York Life made payable to the Christina Leaf's estate;  
(7) is that correct?  
(8) A. Yes, it is.  
(9) Q. And you endorsed this check?  
(10) A. Yes, I did.  
(11) Q. The check represents money that belongs  
(12) to the Christina Leaf estate; is that correct?  
(13) A. That is correct.  
(14) Q. Now, as I understand it, after the check  
(15) was endorsed, you deposited the money at Panhandle  
(16) State Bank?  
(17) A. Yes. A copy of the deposit slip is also  
(18) attached here.  
(19) Q. Now, on September 30th, 1996, or within a  
(20) few days thereafter, you then transferred the  
(21) \$748,809.14 to a bank account for Financial Management  
(22) Services; is that correct?  
(23) A. I'm not sure that it went into Financial  
(24) Management Services. It may have went directly to New  
(25) York Life.

Page 9

- (1) Q. And when you say it may have went  
(2) directly to New York Life, are you talking about the  
(3) money was used to purchase another annuity?  
(4) A. No, it was deposited into an existing  
(5) annuity. What I would think is that we would have  
(6) written a check out of the Christina Leaf estate  
(7) account directly to New York Life, as opposed to  
(8) putting it into Financial Management Services first.  
(9) Q. Okay. Mr. Chapin, as I understand it,  
(10) in August of 2001, you transferred \$170,000 from  
(11) Financial Management Services to Mr. Joe Delay; is that  
(12) correct?  
(13) A. 170,000?  
(14) Q. Yes.  
(15) A. Yes, that is correct.  
(16) Q. And that \$170,000 was put into an account  
(17) at Washington Mutual Bank?  
(18) A. Yes, it was.  
(19) Q. For the benefit of the estate?  
(20) A. Yes.  
(21) Q. Mr. Chapin, I want you to listen  
(22) carefully to this question because it's very important.  
(23) What happened to the \$578,809.14 that's unaccounted  
(24) for?  
(25) A. It could be a number of things. It

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Page 11

- (1) Leaf estate to?  
(2) A. Yes, I do.  
(3) Q. Where are those records?  
(4) A. They should be in the files at the  
(5) office.  
(6) MR. SCHROEDER: Why don't we take a break and  
(7) you can go down to your office and bring those files  
(8) back to us.  
(9) THE WITNESS: They're not going to be that easy  
(10) to dig out.  
(11) MR. PAUKERT: You know, Bruce, this is some of  
(12) the stuff that we subpoenaed. I can't believe it's  
(13) not here.  
(14) MR. BALTINS: Give him a chance. Let him go  
(15) back and - how long do you think it'll take you to dig  
(16) them out?  
(17) THE WITNESS: It goes back several years. Some  
(18) of it's in storage. Some of the information that was  
(19) requested in the Subpoena went back to 1988.  
(20) MR. SCHROEDER: We're not talking about that.  
(21) We're talking about the loans after September of 1996.  
(22) THE WITNESS: He just mentioned the things that  
(23) were not - that were on the Subpoena that aren't here.  
(24) MR. BALTINS: Mr. Chapin, could you just go back  
(25) and try to find them?

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Page 17

- (1) estate money other than the people you've listed for  
 (2) me?  
 (3) A. I don't think so. There may be one  
 (4) more, but I'd have to go back and look at the file.  
 (5) Q. Well, if that's the case, then, Mr.  
 (6) Chapin, what happened to the money?  
 (7) A. Pardon?  
 (8) Q. What happened to the money?  
 (9) A. Well, the notes that we used, there was  
 (10) some of it that was invested, there was some that we  
 (11) used.  
 (12) Q. When you say "we," who are you talking  
 (13) about?  
 (14) A. Well, myself. I borrowed for different  
 (15) reasons.  
 (16) Q. Well, how much money did you borrow?  
 (17) A. I don't know the exact amount without  
 (18) going back to the files.  
 (19) Q. Well, what file would you have to look  
 (20) at?  
 (21) A. There's - every year you have every  
 (22) entry that goes through the computer on the different  
 (23) accounts that we have.  
 (24) Q. Well, what account is this in?  
 (25) A. It should all be mostly in Financial

Page 18

Page 19

- (25) Q. Let's take Exhibit 2. Tell me how one

Page 20

- (1) would read this document.  
 (2) A. May I clarify something first? You had  
 (3) asked previously, unrelated to this, about the deposit,  
 (4) whether it went into Financial Management Services.  
 (5) And this reflects that yes, it did go into Financial  
 (6) Management Services, and yes, it did come out and go  
 (7) to  
 (8) New York Life from Financial Management Services. I  
 (9) can identify it when we come to it if you want. I  
 (10) wanted to clarify that.  
 (11) Q. Thank you.  
 (12) A. Basically, at the top, they tell what  
 (13) they are. The funds - the first one, which I have as  
 (14) No. 2, is the deposits that were made to the Financial  
 (15) Management Services Maxim account.  
 (16) Q. What does that mean, Maxim account?  
 (17) A. Well, the Maxim account, if it maintains  
 (18) a certain balance, the bank would pay interest. And  
 (19) so we had two accounts. We had a Maxim account  
 (20) where  
 (21) large funds, much like you're seeing on this report,  
 (22) went in there. The regular - what I call the regular  
 (23) account that didn't pay interest was where we paid the  
 (24) operational-type bills.  
 (25) Q. So looking at Exhibit 2, under the column  
 "amount," that column represents money coming into  
 Financial Management Services?

Page 21

- (1) A. Yes.
- (2) Q. And then what column shows the money
- (3) going out?
- (4) A. It's on the - it would be on No. 3.
- (5) Q. Exhibit 3. Okay.
- (6) A. Uh-huh.
- (7) Q. So if you're looking at 2 and 3, No. 2 is
- (8) the moneys coming in and No. 3 is the moneys going out.
- (9) And would that be the same - what about Exhibit 4?
- (10) A. Well, I'm not sure that they're in order,
- (11) but let me - if I can put them in order the way -
- (12) okay. It should be 2, 3, and then 7. I'm missing
- (13) one here. I can't find it. Just a minute. Let me
- (14) get it in a different order here. I don't seem to have
- (15) a copy of one of these.
- (16) MR. BALTINS: You have 11 altogether?
- (17) MR. SCHROEDER: 2 through 11.
- (18) THE WITNESS: Some are multiple. Well, let's
- (19) put them in this order. 2, 3, 7, 5, 6 - oh, there it
- (20) is. I'm sorry. It should be 7 and then 6, and then
- (21) 5 and then 4, 8, 9, 10, and 11.
- (22) BY MR. SCHROEDER:
- (23) Q. So you said Exhibit 2 shows the money
- (24) coming in?
- (25) A. Yes. Moneys that was deposited to the

Page 22

- (1) Financial Management Maxim account for the year 1995.
- (2) Q. And then No. 3, Exhibit No. 3, shows the
- (3) money going out of Financial Management?
- (4) A. Of that account, yes.
- (5) Q. No. 7?
- (6) A. Is the money that came into the Maxim
- (7) account for 1996.
- (8) Q. And Exhibit 6?
- (9) A. Is the moneys that went out of that
- (10) account for 1996.
- (11) Q. Exhibit 5?
- (12) A. Is the moneys that came in to the
- (13) regular - what I call the operating account for
- (14) Financial Management for 1996.
- (15) Q. Exhibit 4?
- (16) A. It would be the moneys that went out of
- (17) the regular account for 1996.
- (18) Q. Exhibit 8?
- (19) A. That's the moneys that came into the
- (20) Maxim account for 1997.
- (21) Q. Exhibit 9?
- (22) A. Is the moneys that went out of the Maxim
- (23) account.
- (24) Q. And Exhibit 10?
- (25) A. Is the moneys that came in to the regular

Page 23

- (1) operating account for 1997.
- (2) Q. Exhibit 11?
- (3) A. Is the moneys that came in to the Maxim
- (4) account for 1998.
- (5) Q. Okay. Mr. Chapin, I'm going to hand you
- (6) the original of Exhibits 2 through 11, and what I would
- (7) like you to do for me is take your pen and circle those
- (8) transactions that relate to the Christina Leaf Estate
- (9) money.
- (10) A. Okay. Any Christina Leaf Estate money?
- (11) Q. Yes.
- (12) A. Okay. Circle them?
- (13) Q. Yes. Mr. Chapin, it's my understanding
- (14) that you've taken Exhibits 2 through 11 and you circled
- (15) all those entries that relate in some way to Christina
- (16) Leaf's estate's money; is that correct?
- (17) A. I circled all Leaf, Christina or Wilbur.
- (18) Q. Combination?
- (19) A. Yes.
- (20) Q. I notice that it looks like the last
- (21) records we have are 1998. What about the records
- (22) after 1998?
- (23) A. Those that were there were the ones that
- (24) my wife was able to pull out of that file that we had
- (25) done for the IRS. The others are either in storage or

Page 24

- (1) still in the office in any number of files. And when
- (2) I say "any number of files," we have income tax files,
- (3) we have what I call monthly accounts that we service,
- (4) we have the financial management or estate files. So
- (5) you could have two or three files on the same client.
- (6) Q. Well, this Financial Management Services
- (7) Maxim account, is there more than one file on that?
- (8) A. I'm sorry?
- (9) Q. Is there more than one file -
- (10) A. Well, no. The Financial Management Maxim
- (11) account was the checking account that we had at
- (12) Panhandle State. They offered interest if you
- (13) maintained a certain balance, and so we used that for
- (14) moneys that were going to sit there for a period of
- (15) time and not just go in and out.
- (16) Q. I understand. My question is: What
- (17) about those records for the Maxim account after 1998?
- (18) A. Well, that account was closed, and when
- (19) it was moved to Horizon, then of course they didn't
- (20) offer that. So we only had the one account at
- (21) Horizon.
- (22) Q. Okay. So sometime in 1998, the
- (23) Panhandle State Bank account was closed and you
- (24) transferred to Horizon Credit Union?
- (25) A. Yes. If I may, in the index on the disk

Page 37

Page 39

- (1) shows that same amount of money going out of the  
(2) account?  
(3) A. Yes.  
(4) Q. Exhibits 8, 9, 10 and 11 doesn't reflect  
(5) any money coming in or going out pertaining to that New  
(6) York Life annuity; correct?  
(7) A. 8 does.  
(8) Q. Okay. What does 8 show?  
(9) A. Well, it shows that there was a deposit  
(10) of \$170,000 from New York Life on October 19, 1997.  
(11) Q. Okay. You don't have that circled.  
(12) A. No.  
(13) Q. Should that be circled?  
(14) A. Probably.  
(15) Q. So you're saying that this is \$170,000  
(16) from New York Life and this represents money from  
(17) Christina Leaf's estate?  
(18) A. I would think so, yes.  
(19) Q. So should that be circled?  
(20) A. Yes.  
(21) Q. Then on Exhibit 11, it shows the \$170,000  
(22) going back out?  
(23) A. No, this is a deposit.  
(24) Q. No. 11 is a deposit?  
(25) A. Yes, it's a deposit.

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Page 40

- (1) Q. So 11; Exhibit 11, represents another  
(2) \$170,000 from New York Life?  
(3) A. Correct.  
(4) Q. Where is that money?  
(5) A. I don't know without going and doing a  
(6) flow through on it.

Page 41

- (1) A. I understand where you're getting your  
 (2) number.  
 (3) Q. Well, where would you get your number?  
 (4) A. Well, there's more - moneys was used for  
 (5) more than just what I may have taken out or what I may  
 (6) have loaned. There was still expenses that were going  
 (7) on with the estates that we had to take care of.  
 (8) Q. And you've shown those expenses on  
 (9) accountings that you filed with the court, haven't you?  
 (10) A. I believe so.  
 (11) Q. You've shown all the expenses?  
 (12) A. Pardon?  
 (13) Q. You've shown all the expenses?  
 (14) A. As far as I know.  
 (15) Q. Okay. Well, did you keep records of all  
 (16) the money that you were taking?  
 (17) A. There's a record of everything, yes.  
 (18) Q. Where?  
 (19) A. It's either going to be in the records of  
 (20) the Leaf estate or Financial Management.  
 (21) Q. Well, where in Financial Management would  
 (22) this record be showing all the money that you took?  
 (23) A. It's going to be there.  
 (24) Q. What file? "Money I took"?  
 (25) A. Mr. Baltins asked earlier - sorry.

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- (1) MR. ANDERSON: Go ahead.  
 (2) THE WITNESS: Mr. Baltins asked earlier if the  
 (3) reconciliations of these accounts wouldn't identify  
 (4) that, and it would, on all of these.  
 (5) BY MR. SCHROEDER:  
 (6) Q. So it would show money that was  
 (7) transferred to you?  
 (8) A. It would show the time frame of money  
 (9) coming in and who it was disbursed to, that's correct.  
 (10) Q. Did you sign any promissory notes?  
 (11) A. Other than those three, no.  
 (12) Q. Well, the three that you're talking about  
 (13) are promissory notes signed by Financial Management  
 (14) Services?  
 (15) A. Correct.  
 (16) Q. Did Financial Management Services take  
 (17) the money or did you take the money?  
 (18) A. All the moneys went through Financial  
 (19) Management Services initially. That was the intent as  
 (20) the - that Financial Management Services would be the  
 (21) controlling entity of these moneys coming in and out of  
 (22) the estates.  
 (23) Q. And so when Financial Management loaned  
 (24) money out, they received a promissory note?  
 (25) A. Yes, in some cases.

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- (1) Q. And when Financial Management gave you  
 (2) the money, then you would have signed a promissory note  
 (3) to Financial Management?  
 (4) A. In some cases, yes, not all of them.  
 (5) Q. Why not all of them?  
 (6) A. Because there was a lot of small amounts  
 (7) that we were going to do an annual note to do it once a  
 (8) year.  
 (9) Q. So just during the -  
 (10) A. To tie it in - I'm sorry.  
 (11) Q. So during the course of the year, if you  
 (12) needed some money, you'd just take some money from the  
 (13) Leaf estate?  
 (14) A. Well, we took it from Financial  
 (15) Management Services. It could be a number of sources.  
 (16) We had our own income. We had -  
 (17) Q. Well, sir, there's over a half million  
 (18) dollars missing. Tell me what you used that money  
 (19) for.  
 (20) A. I can't - I don't know all the different  
 (21) things that it would have been used for.  
 (22) Q. Well, tell me some of the things that you  
 (23) can remember.  
 (24) A. It's like we went over on this here.  
 (25) I'm not sure whether the down payment on the Glabb

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- (1) ranch was that. I'm assuming that because of the  
 (2) close proximity of when the money came in and then  
 (3) turned around and went out, that it could very well  
 (4) have been that. That has to be the flow through.  
 (5) Q. Okay. So that's 69,000. There's still  
 (6) \$440,000 remaining. What did you use that money for?  
 (7) A. Mr. Schroeder, I can't answer it without  
 (8) going through and actually making a detail of all of  
 (9) that.  
 (10) Q. Why haven't you done that?  
 (11) A. I've been trying to.  
 (12) Q. Since when?  
 (13) A. I've been working on it all along. I've  
 (14) got a couple of different cash flow things going here.  
 (15) Q. Sir, back in February - I think it was  
 (16) February 19 - you represented to the court that you  
 (17) were going to have that complete accounting done by  
 (18) that next Friday. It was a Tuesday, and you promised  
 (19) the court that you'd have it by Friday. You didn't do  
 (20) that, did you?  
 (21) A. No, I didn't have it done by that date.  
 (22) Q. Have you worked on it since that date?  
 (23) A. Yes, I have.  
 (24) Q. How much have you gotten done?  
 (25) A. I had been asked to do a flow through,

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- (1) Q. When you say "hard copy," you mean hard  
 (2) disk. Do you have CYMA on hard disk?  
 (3) A. Well, it's on the hard drive as we're  
 (4) doing it. What happens at the end of the year -  
 (5) Q. We need a copy of the CYMA hard drive.  
 (6) A. Well, then we're going to have a problem.  
 (7) Q. Why?  
 (8) A. Because we're right back to the  
 (9) confidentiality thing. The thing that we do through  
 (10) the course of the year is it goes on hard drive.  
 (11) Q. Okay.  
 (12) A. At the end of the year, when we update,  
 (13) when we do the adjusting entries at the end of the  
 (14) year, print the necessary reports, financial  
 (15) statements, whatever, and then that is backed up on a  
 (16) disk. Okay?  
 (17) Q. Okay.  
 (18) A. Then it's not deleted, but it's updated,  
 (19) so it purges all that information into balance forward.  
 (20) Then you start the next year.  
 (21) Q. Okay. You and your - ourselves and  
 (22) your counsel will enter into a confidentiality  
 (23) agreement, and we're going to make it satisfactory.  
 (24) We need those source documents, because we need to get  
 (25) in and find out all the information that you have here.

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- (1) A. I understand. And all I'm saying is  
 (2) that the problem that I'd had with Schroeder is that he  
 (3) would not accept the fact that I'm not going to  
 (4) disclose information about clients as you see on those  
 (5) deals. I circled what? Maybe one or two percent  
 (6) that had to do with Leaf? And multiply that times  
 (7) several hundred pages.  
 (8) Q. I understand, but these accounts -  
 (9) here's our difficulty. We need to know, Mr. Chapin,  
 (10) where the money went.  
 (11) A. I understand that.  
 (12) Q. And I think you can identify where the  
 (13) money went.  
 (14) A. Yes, I can.  
 (15) Q. But it's going to take some work to do  
 (16) it, isn't it?  
 (17) A. My intent with these here was then to  
 (18) take - because this basically comes up to the point  
 (19) where everybody gets on me about disclosing where the  
 (20) moneys went, from here, which is September 3rd, and  
 (21) that's when I was appointed as co-personal  
 (22) representative with Dr. Leaf, is that this was when the  
 (23) moneys were taken. That was what Mr. Schroeder  
 (24) started with this morning, the 700 and some thousand  
 (25) taken out of Christina's annuity, put into the pool

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- (1) annuity, and then from there the money started coming  
 (2) out and being utilized for whatever reasons.  
 (3) Q. And so just so I understand, it goes into  
 (4) the pool annuity, and then as you needed money for your  
 (5) businesses -  
 (6) A. Or -  
 (7) MR. ANDERSON: Objection. That assumes facts  
 (8) not in evidence.  
 (9) MR. BALTIMS: Let me state my question first and  
 (10) finish it.  
 (11) Q. But as you needed money, you would take  
 (12) from the pooled annuity when you needed it; isn't that  
 (13) right?  
 (14) A. We would make partial withdrawals for  
 (15) whatever was going on at that time. That's correct.  
 (16) Q. And from what you've prepared here,  
 (17) Exhibit 25 and 26, we know that as far as the Leaf  
 (18) money is concerned, there wasn't anything in the pooled  
 (19) annuity until what date?  
 (20) A. June of '94.  
 (21) Q. Okay.  
 (22) A. When that first 300,000 -  
 (23) Q. And that's the date - basically your  
 (24) testimony - and I want to isolate the date, because  
 (25) I'm not interested in your records prior to that, but I

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- (1) am interested in your records after the date that the  
 (2) money - the Leaf money went into the pooled annuity,  
 (3) and then, like you've testified, you took - on  
 (4) occasion you would take money out of the pooled annuity  
 (5) to be used for your other purposes, and so that was  
 (6) Leaf money that may have been being used; right?  
 (7) A. Yes, that's correct.  
 (8) Q. So I'm interested in all the withdrawals  
 (9) that took place after that date. And that date,  
 (10) again, is what? June -  
 (11) A. I'm sorry?  
 (12) Q. What date was that?  
 (13) A. June 28 of '94, but let me clarify  
 (14) something else.  
 (15) Q. Please do.  
 (16) A. One of the things that I feel, at least,  
 (17) has been a confusion here is that the moneys that were  
 (18) put in for Wilbur Leaf stayed there until we took the  
 (19) 900 and some thousand dollars out in March of '97 to  
 (20) distribute to his heirs. So there's not going to be  
 (21) any accounting to do with those, because it stayed  
 (22) there.  
 (23) Q. Well, some of it stayed there, but  
 (24) some -  
 (25) A. No, listen to me. Wilbur Leaf stayed

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- (1) to make sure what we've been given and what we haven't.  
 (2) BY MR. BALTINS:  
 (3) Q. What do you have there? What's the  
 (4) losses?  
 (5) A. This one here, about \$4400, and this is  
 (6) for 2000.  
 (7) Q. All right. And that's for the year  
 (8) 2000; right?  
 (9) A. Uh-huh.  
 (10) Q. And I'll let you do the same thing for  
 (11) 2001. I already opened up the K-1 for you.  
 (12) A. Okay. It would be roughly 18,000  
 (13) losses.  
 (14) Q. And total capital contributions during  
 (15) the year?  
 (16) A. Let's see. This one looks like 28,000.  
 (17) Q. Okay. All right. Now, those are -  
 (18) let's put those aside for a second. And now you  
 (19) have - I didn't do Memento.  
 (20) A. Moments.  
 (21) Q. Only one; right?  
 (22) A. There's no activity. My wife formed  
 (23) that in the summer of last year, and there's been no  
 (24) activity. There's no checking account established.  
 (25) There's been nothing other than the formation.

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- (1) Q. Okay. I would like a copy. Hand me  
 (2) those back, please. Going back to the S and F, what  
 (3) was the purpose of S and F?  
 (4) A. The Financial Management got too  
 (5) cumbersome; because originally when we purchased  
 (6) properties for our own use, if you will, it became  
 (7) really cumbersome to keep the accounting separate  
 (8) from  
 (9) the client transactions. So we created the LLC and  
 (10) transferred all the properties, all the real estate and  
 (11) equipment, over to the LLC.  
 (12) Q. What's the - I don't see a balance sheet  
 (13) here on this 1065. Do you have financial statements  
 (14) for S and F, LLC?  
 (15) A. Yes.  
 (16) Q. Where are they located?  
 (17) A. They're on the computer. It's the same  
 (18) as we were talking about Financial -  
 (19) Q. They are also on the - what did we call  
 (20) that system you have?  
 (21) A. CYMA.  
 (22) Q. Is it on the same?  
 (23) A. Yes.  
 (24) Q. Can I have those, too, the financial  
 (25) statements for S and F?  
 (26) MR. ANDERSON: Did you get a copy of this

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- (1) document attached to the bankruptcy filing?  
 (2) MR. BALTINS: I did, and we talked about that.  
 (3) MR. ANDERSON: Is that essentially a financial  
 (4) statement?  
 (5) MR. BALTINS: No. He already said no; right?  
 (6) You said it was not a financial statement?  
 (7) THE WITNESS: It's not a financial statement.  
 (8) MR. BALTINS: He has financial statements, and  
 (9) I'm going to ask you as a follow-up, just here - I do  
 (10) want the complete financial statements if I can get  
 (11) them.  
 (12) MR. ANDERSON: Which year?  
 (13) MR. BALTINS: All years of existence. That  
 (14) would be '98 - there was no activity in '97. '98 -  
 (15) THE WITNESS: Who are you talking about?  
 (16) MR. BALTINS: S and F.  
 (17) THE WITNESS: It wasn't formed until November of  
 (18) '98. No activity in '98.  
 (19) MR. BALTINS: So it would be '99, 2000, 2001.  
 (20) THE WITNESS: Correct.  
 (21) MR. BALTINS: Financial statements and tax  
 (22) returns. Yeah. Financial statements. I know for  
 (23) 2001 that the gross rents of all the properties for  
 (24) S and F are approximately \$150,000.  
 (25) Q. Is that right?

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- (1) A. If it says what it says.  
 (2) Q. What is the - I don't have the financial  
 (3) statement, but what's the total cost of those  
 (4) properties? Can you tell by looking at the bankruptcy  
 (5) schedules what the total cost of those properties -  
 (6) A. What do you mean cost?  
 (7) Q. Well, what did you pay for them, cost?  
 (8) This might help you. I think your counsel might have  
 (9) something.  
 (10) A. Well, these are the mortgages.  
 (11) Q. I'm looking for the costs.  
 (12) A. This is the county's assessment. This  
 (13) isn't cost. I think that was asked down in Coeur  
 (14) d'Alene. I don't know if that's part of this - you  
 (15) were going through them.  
 (16) MR. PAUKERT: Yeah, we were, and then we got  
 (17) interrupted and said we'd have to do it all over again.  
 (18) THE WITNESS: I can remember most of it.  
 (19) There's five real estate parcels. The Jaketta. I  
 (20) refer to them by name. Jaketta.  
 (21) BY MR. BALTINS:  
 (22) Q. You gave us that information; right?  
 (23) A. Yes.  
 (24) MR. BALTINS: Do we have a record of that?  
 (25) MR. PAUKERT: That's the problem. We all agreed

# **EXHIBIT A-4**

1 TAMARA W. MUROCK  
2 BRIAN T. McGINN  
3 WINSTON & CASHATT  
4 250 Northwest Boulevard, Suite 107A  
5 Coeur d'Alene, Idaho 83814  
6 Telephone: (208) 667-2103

7 Attorneys for Plaintiff

8  
9  
10 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
11 OF IDAHO, IN AND FOR THE COUNTY OF BONNER

12 FREDRICK A. LEAF, )

13 Plaintiff, )

) Case No. CV-02-01655

14 vs. )

) AFFIDAVIT OF PAUL M. FRUCI

15 FINANCIAL MANAGAMENT SERVICES, )  
16 INC., an Idaho corporation; S and F, LLC, an )  
17 Idaho limited liability company; FRANK L. )  
18 CHAPIN, P.A., an Idaho professional )  
19 association; and HOODOO MOUNTAIN )  
20 RANCHETTE TRUST, an Idaho irrevocable )  
21 trust, )

22 Defendants. )

23 STATE OF WASHINGTON )

: ss

24 County of Spokane )

25 PAUL M. FRUCI, being first duly sworn on oath, deposes and says that:

26 AFFIDAVIT OF PAUL M. FRUCI  
PAGE 1

LAW OFFICES OF

*Winston & Cashatt*  
250 NORTHWEST BLVD., SUITE 107A  
COEUR D'ALENE, IDAHO 83814  
(208) 667-2103  
FAX (208) 765-2121

received  
8/15/03 AOB

1           1.     I am a Certified Public Accountant, licensed to practice in the State of Washington. I  
2 make this Affidavit upon personal knowledge and am competent to testify thereto.

3           2.     Since October of 2002, I have been employed by Frederick A. Leaf, M.D. to provide  
4 accounting analysis with respect to the financial interrelationships between the above-named defendants,  
5 to-wit, Financial Management Services, Inc. (hereinafter, "FMS, Inc."), S and F, LLC, Frank L. Chapin,  
6 P.A., and HoodDoo Mountain Ranchette Trust.  
7

8           3.     As part of my analysis, I reviewed the following documents:

- 9           a.     The General Ledger for FMS, Inc. for years 1994 through 2001;  
10           b.     Deposits and Check, Funds Flow;  
11           c.     Inventory of Estate of Christina Leaf 1993;  
12           d.     Recap of GL Funds payable to Leaf Account;  
13           e.     Hoodoo Mountain Ranchette Trust Returns;  
14           f.     S and F, LLC Returns;  
15           g.     1997-2001 print outs of account 4480 "Control Frank L. Chapin PA";  
16           h.     S and F, LLC Balance Sheets for years 1999 through 2001;  
17           i.     Monthly Statement for Estate of Christina Leaf account held at Panhandle State  
18 Bank for September and October, 1996; and  
19           j.     March 1997 Monthly Statement for Financial Management Services, Inc. account  
20 at Panhandle State Bank.  
21  
22

23           4.     In the General Ledgers of FMS, Inc., I found that the funds in the amount of \$748,809.14  
24 were received from the liquidation of Christina Leaf's New York Life Insurance Company (hereinafter  
25  
26

1 "New York Life") annuity and initially deposited into the Estate of Christina Leaf account at Panhandle  
2 State Bank on September 30, 1996.

3 5. On October 4, 1996, funds in the amount of \$748,809.14 were withdrawn from the Estate  
4 of Christina Leaf account and deposited into an account held by FMS, Inc. at Panhandle State Bank.

5 6. The funds were immediately withdrawn from the FMS, Inc. account and deposited into  
6 another New York Life annuity.

7 7. Proceeds generated from this New York Life annuity were paid to FMS, Inc.

8 8. In my opinion, the monies belonging to the Estate of Christina Leaf which were  
9 deposited into the FMS, Inc. accounts were used to fund operations of S and F, LLC an entity created to  
10 hold certain properties acquired by FMS, Inc. Examples of such direct payments from FMS, Inc. to S  
11 and F, LLC can be identified in the General Ledgers of FMS, Inc. One example includes a check  
12 written October 15, 1998 from FMS, Inc. to S and F, LLC in the amount of \$107,011.14. Another  
13 example is a check written November 3, 1999 from FMS, Inc. to S and F, LLC in the amount of  
14 \$4,300.00.  
15

16 9. In my opinion, the monies belonging to the Estate of Christina Leaf which were  
17 deposited into the FMS, Inc. accounts, were directly used to fund the acquisition of certain properties by  
18 FMS, Inc. and support the conduct of the operations of such properties. These properties, which were  
19 later transferred to and are presently owned by defendant S and F, LLC, include those parcels of real  
20 property commonly known as: (1) Linden Property; (2) Dunromin Property; (3) Glabb Ranch Property;  
21 (4) Home Placc; and (5) Jachetta Property.  
22

23 10. Based upon the FMS, Inc. General Ledgers, the following types of transactions are  
24 illustrative of the financial relationship between FMS, Inc. and the properties held by S and F, LLC:  
25  
26

1 a. Linden Property. From 1996 through 2001, FMS, Inc. made direct payments for  
2 the Linden Property expenses, including mortgage, repairs and maintenance, real estate taxes  
3 legal fees, accounts receivable and utilities.

4 b. Dunromin Property. In 2000, FMS, Inc. made direct payments for repairs and  
5 maintenance on the Dunromin Property.

6 c. Glabb Ranch Property. From 1996 through 2001, the FMS, Inc. made direct  
7 payments for the Glabb Ranch Property expenses, including mortgage, advertising, outside  
8 services, repairs and maintenance, real estate taxes, legal fees and utilities.

9 d. Home Place Properties. From 1996 through 2001, FMS, Inc. made direct  
10 payments for the Home Place Property expenses, including insurance, outside services, repairs  
11 and maintenance, real estate taxes, snowplow and utilities.

12 e. Jachetta Property. From 1996 through 2000, FMS, Inc. made direct payments for  
13 the Jachetta Property expenses, including mortgage, professional fees, repairs and maintenance,  
14 real estate taxes, legal fees and utilities.

15  
16  
17 11. In my opinion, the monies belonging to the Estate of Christina Leaf which were  
18 deposited in the FMS, Inc. account were also used to conduct and support the operations involving  
19 property located at 319 Church Street, Sandpoint, ID 83864, owned by defendant Hoodoo Mountain  
20 Ranchette Trust.

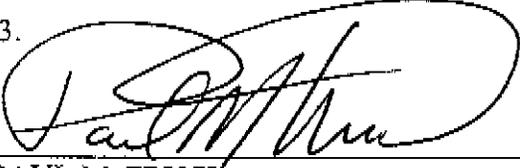
21  
22 12. Based upon the FMS, Inc. General Ledgers, from 1997 through 1999, FMS, Inc. used  
23 monies belonging to the Estate of Christina Leaf to pay the rent expenses associated with the property  
24 held by Hoodoo Mountain Ranchette Trust.

1 13. Attached hereto as Exhibit "A" is a true and correct copy of such illustrative direct  
2 payments from FMS, Inc. for the benefit of the properties held by S and F, LLC and Hoodoo Mountain  
3 Ranchette Trust.

4 14. In addition, On August 4, 2003, I was provided with a copy of the Order Granting Partial  
5 Summary Judgment Against Frederick A. Leaf, M.D., filed April 22, 2003 in the case of *American*  
6 *Lutheran Church, et al. v. Frank L. Chapin and Frederick A. Leaf*, No. 01-206413-9. A true and correct  
7 copy of the Order Granting Partial Summary Judgment Against Frederick A. Leaf, M.D. is attached  
8 hereto as Exhibit "B".

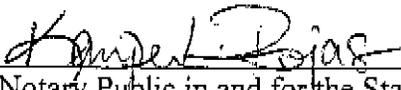
9 15. Given the judgment amount of \$915,689.07, the amount of post-judgment interest of  
10 12%, limited to the per diem rate of \$185.11 from March 22, 2002 to August 7, 2003 is \$92,740.11. The  
11 total due on the Court's Order Granting Partial Summary Judgment Against Frederick A. Leaf, M.D., is  
12 therefore \$1,008,429.18 as of August 7, 2003.

13 DATED this 13 day of August, 2003.

14  
15   
16  
17 PAUL M. FRUCI

18 SUBSCRIBED and SWORN TO before me this 13<sup>th</sup> day of August, 2003.



  
Notary Public in and for the State of Washington,  
residing at Spokane  
My appointment expires: 6/28/07

**Leaf Case**  
**All Transactions for properties listed (1996-2001)**

		DR	CR	
<b>Linden</b>	1996	Mortg Payable	8029.80	
		Repairs and Maintenance	267.22	
		Taxes on RE	699.06	
			<u>8996.08</u>	0.00
	1997	Funds Payable	7360.65	
		Mortgage Payable	669.15	
		Rents Received		735.00
		Taxes on RE	363.15	
			<u>8392.95</u>	735.00
	1998	Funds Payable	7360.65	
		Rents Received		125.00
		Taxes on RE	224.06	
		Utilities Expense	115.41	
			<u>7700.12</u>	125.00
	1999	Funds Payable	2007.45	
		Mortgage Payable	8614.95	2007.45
			<u>10622.40</u>	2007.45
	2000	Accounts Payable	3345.75	669.15
		Mortgage Payable	3345.75	
		Legal Fees	325.37	
			<u>7016.87</u>	669.15
2001	Funds Payable	769.15		
	Escrow Fees	24.00		
		<u>793.15</u>	0.00	
<b>Total</b>		<b>43521.57</b>	<b>3536.60</b>	

<b>Jachetta</b>	1996	Mtg Payable (escrow)	**	120.28	
		Rents Rcvd			420.00
		Insurance-Home place		274.00	
		Interest Expense		162.02	
		Professional Fees		20.00	
				<u>576.30</u>	420.00
	1997	Mortgage Payable	**	282.30	
		Utilities Expense		37.94	
				<u>320.24</u>	0.00
	1998	Account Payable			4063.40
		Mortgage Payable	**	282.30	
		Rents Received			150.00
		Utilities		64.66	
				<u>346.96</u>	4213.40
	1999	Accounts Payable		5000.00	
		Mortgage Payable	**	282.30	
		Rents received			720.00
		Utilities Expense		20.30	
				<u>5302.60</u>	720.00
	2000	Legal Fees		463.00	
		Repairs and Maint		251.95	
	Utilities		447.31		
			<u>1162.26</u>	0.00	
<b>Total</b>			<b>7708.36</b>	<b>5353.40</b>	

\*\* Only one payment to this mortgage account was labeled Jachetta, but probably all payments on mortgage are Jachetta.

Totals w/ all payments:  
 1996 \$2,389.65      1998 \$2867.92  
 1997 \$2793.00      1999 \$1978.10



**Glabb**

1996	Mortg Payable	36000.00	
	Rents Received		3977.00
	Advertising	16.00	
	Repairs and Maintenance	140.08	
	Repairs and Maintenance	11332.97	
	Taxes on RE	1222.55	
	Utilities Expense	1346.30	
		<u>50057.90</u>	<u>3977.00</u>
1997	Funds Payable- Glabb Ranch		2000.00
	Mortgage Payable	33000.00	
	Rents Received		3503.77
	Outside Services	380.00	
	Repairs and Maintenance	2602.00	
	Taxes on RE	1404.02	
	Utilities Expense	2158.93	
		<u>39544.95</u>	<u>5503.77</u>
1998	Prepaid Rent		400.00
	Funds Payable	3000.00	
	Mortgage Payable	45000.00	
	Rents Received		1430.87
	Advertising	29.00	
	Repairs and maintenance	496.70	
	Utilities	1057.37	
		<u>49583.07</u>	<u>1830.87</u>
1999	Funds Payable	9000.00	
	Mortgage Payable	27000.00	
	Rents Received		260.00
	Repairs and Maintenance	2646.98	
	Utilities	1401.08	
		<u>40048.08</u>	<u>260.00</u>
2000	Mortgage Payable	6000.00	
	Rents Received		550.00
	Legal Fees	503.74	
	Repairs and maintenance	133.50	
	Snowplow Expense	80.00	
	Utilities	1858.07	87.70
		<u>8575.31</u>	<u>87.70</u>
2001	Funds Payable	39000.00	
		<u>39000.00</u>	<u>0.00</u>
<b>Total</b>		<b>226809.29</b>	<b>11659.34</b>

**Home Place**

1996	Repairs and Maintenance	16.79	
	Taxes on RE	593.16	
	Utilities Expense	640.05	
1997	Insurance	277.00	
	Outside Services	50.00	
	Taxes on RE	308.21	
	Utilities Expense	290.05	
		<u>2175.26</u>	<u>0.00</u>
1998	Utilities	168.15	
		<u>168.15</u>	<u>0.00</u>
1999	Utilities	273.44	
		<u>273.44</u>	<u>0.00</u>
2000	Snowplow expense	50.00	
	Utilities	189.17	
		<u>239.17</u>	<u>0.00</u>
<b>Total</b>		<b>2856.02</b>	<b>0.00</b>

**Hoodoo Mtn Ranch**

1997	Control	850.34	
	Rent Expense	4400.00	
		<u>5250.34</u>	0.00
1998	Fee Income-Monthly		360.00
	Rent Expense	4800.00	
		<u>4800.00</u>	<u>360.00</u>
1999	Control	1000.00	
	Accounting Fees	400.00	
	Rent Expense	4885.50	1200.00
		<u>6285.50</u>	<u>1200.00</u>
Total		16335.84	1560.00

Dunromin	2000	Repairs and Maint	70.00	
			<u>70.00</u>	0.00
Total			70.00	0.00

~~ There are several entries for S & F LLC. Two examples are 10-15-98, check #1216 for \$107,011.14; and 11-3-99 check #806 for \$4,300.00.

FILED

APR 23 2002

THOMAS R. FALLOQUIST  
SPOKANE COUNTY CLERK

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

AMERICAN LUTHERAN CHURCH, JERILYN  
A. KLUNGTVEDT, JOHN C. WAGNER,  
DANIEL C. WAGNER, LYNETTE J. BREKKE,  
KAREN SAXOWSKY, DONALD WAGNER,  
LINDA WAGNER, and JERILYN BIEREMA,  
AND PLAINTIFF INTERVENOR, THE  
FOUNDATION FOR DEACONESS AND  
VALLEY HEALTHCARE,

Plaintiffs,

vs.

FRANK L. CHAPIN, Individually and as Co-  
Personal Representative of the Estate of Christina  
Leaf, and FREDERICK A. LEAF, Individually,  
and as Co-Personal Representative of the Estate  
of Christina Leaf,

Defendants.

FREDERICK A. LEAF,

Third Party Plaintiff,

vs.

JOHN MURRAY AND HIS MARITAL  
COMMUNITY; and ROBERT E.  
KOVACEVICH AND HIS MARITAL  
COMMUNITY,

Third Party Defendants.

No. 01 2 06413-9

ORDER GRANTING PARTIAL  
SUMMARY JUDGMENT  
AGAINST FREDERICK A.  
LEAF, M.D.

NO SUMMARY  
NO JUDGMENT  
RCW 4.64.030

ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D.- 1

PAINE, HAMBLEN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

EXHIBIT  
"B"

105

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2 Summary Judgment against Frederick A. Leaf, M.D. The Court heard oral argument of William J.  
3 Schroeder for the Plaintiffs, and Maris Baltins for the Defendant. The Court considered the  
4 pleadings on file herein and:

- 5 • Plaintiffs' Motion for Partial Summary Judgment re Defendants Chapin  
6 and Leaf;
- 7 • Plaintiffs' Memorandum in Support of Motion for Partial Summary  
8 Judgment re Defendants Chapin and Leaf;
- 9 • Declaration of Laura D. McAloon in support of Plaintiffs' Motion for  
10 Partial Summary Judgment re Defendants Chapin and Leaf and all  
11 attachments thereto;
- 12 • Plaintiff The Foundation for Deaconess and Valley Healthcare's Notice  
13 of Joinder in Plaintiffs' Motion for Partial Summary Judgment re  
14 Defendants Chapin and Leaf;
- 15 • Plaintiffs' Supplemental Declaration of Laura D. McAloon in Support of  
16 Plaintiffs' Motions for Partial Summary Judgment re Defendants Chapin  
17 and Leaf and Re Third-Party Defendant Kovacevich and all attachments  
18 thereto;
- 19 • Defendant Frederick A. Leaf's Response to Plaintiffs' Motion for Partial  
20 Summary Judgment re Defendants Chapin and Leaf;
- 21 • Affidavit of Frederick A. Leaf, M.D. in Support of Response to Plaintiffs;  
22 Motion for Partial Summary Judgment re Defendants Chapin and Leaf and  
23 all attachments thereto;
- 24 • Affidavit of Maris Baltins in Support of Response to Plaintiffs' Motion for  
25 Partial Summary Judgment re Defendants Chapin and Leaf and all  
26 attachments thereto;
- 27 • Plaintiffs' Reply to Frederick A. Leaf's Response to Plaintiffs' Motion for Partial  
28 Summary Judgment;
- Second Supplemental Declaration of Laura D. McAloon in support of  
Plaintiffs' Motion for Partial Summary Judgment re Defendants Chapin  
and Leaf and all attachments thereto;

1 Defendant Frederick A. Leaf's Supplemental Response to Plaintiffs' Motion for Partial Summary Judgment re Defendants Chapin and Leaf;

2  
3 Affidavit of Maris Baltins in Support of Supplemental Response to Plaintiffs' Motion for Partial Summary Judgment and all attachments thereto; and

4  
5 The pleadings filed in Spokane County Superior Court Probate Cause No. 96-4-00617-5.

7 THE COURT FINDS:

8 Partial summary judgment should be granted in favor of Plaintiffs in the principal amount  
9 of \$563,054.52, plus pre-judgment interest through March 22, 2002 of \$352,634.55, for a total  
10 partial summary judgment amount of \$915,689.07. Post-judgment interest at the per diem rate  
11 of \$185.11 should continue to accrue from March 22, 2002, until payment of the partial summary  
12 judgment amount has been made in full, therefore,

14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

15  
16 1. That partial summary judgment in the amount of \$915,689.07 is hereby entered  
17 against Defendant, Frederick A. Leaf; and

18 2. That post-judgment interest of 12% in the per diem rate of \$185.11 shall accrue  
19 from March 22, 2002, until payment of the judgment is made in full.

20 DATED this 22<sup>nd</sup> day of April, 2002.

21  
22   
23 JUDGE NEAL Q. RIELLY

24  
25  
26  
27  
28 ORDER GRANTING PARTIAL SUMMARY JUDGMENT AGAINST FREDERICK A. LEAF, M.D.- 3

PAINE, HAMBLIN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

1 Presented by:

2 PAINE, HAMBLEN, COFFIN,  
3 BROOKE & MILLER LLP

4  
5 By: William J. Schroeder  
6 William J. Schroeder, WSBA 7942  
7 Attorneys for Plaintiffs American Lutheran  
8 Church, Jerilyn A. Klungvedt, John C. Wagner,  
9 Daniel C. Wagner, Lynette J. Brekke, Karen Saxowsky,  
Donald Wagner, Linda Wagner and  
Jeryln Bierema

10 APPROVED AS TO FORM AND NOTICE  
11 OF PRESENTMENT WAIVED:

12 WINSTON & CASHATT  
13  
14 By: Manis Baltins  
15 Manis Baltins, WSBA #9107  
16 Attorney for Defendant Frederick A. Leaf, M.D.  
00029796.WPD:jah:kc

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ORDER GRANTING PARTIAL SUMMARY  
JUDGMENT AGAINST FREDERICK A.  
LEAF, M.D.- 4

PAINE, HAMBLEN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

I hereby certify that on this \_\_\_\_\_ day of April, 2002, I caused to be served a true and correct copy of the foregoing ORDER GRANTING PARTIAL SUMMARY JUDGMENT AGAINST FREDERICK A. LEAF, M.D., by the method indicated below and addressed as follows:

Joseph P. Delay  
Delay, Curran, Thompson, Pontarolo & Walker, P.S.  
601 West Main, Suite 1212  
Spokane, Washington 99202-0684  
\_\_\_\_\_  
U.S. MAIL  
\_\_\_\_\_  
DELIVERED  
\_\_\_\_\_  
OVERNIGHT MAIL  
\_\_\_\_\_  
TELECOPY (FACSIMILE)

D. Michael Reilly  
Timothy J. Graham  
Lane Powell Spears Lubersky LLP  
1420 Fifth Avenue, Suite 4100  
Seattle, Washington 98101-2338  
\_\_\_\_\_  
U.S. MAIL  
\_\_\_\_\_  
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\_\_\_\_\_  
OVERNIGHT MAIL  
\_\_\_\_\_  
TELECOPY (FACSIMILE)

Lewis M. Wilson  
1519 West Broadway  
Spokane, Washington 99201  
\_\_\_\_\_  
U.S. MAIL  
\_\_\_\_\_  
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\_\_\_\_\_  
OVERNIGHT MAIL  
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John P. Murray  
3405 South Altamont Street  
Spokane, Washington 99223-4637  
\_\_\_\_\_  
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James V. O'Conner  
O'Conner Law Corporation P.S.  
2349 Yale Avenue East, Suite 1  
Seattle, Washington 98102-3336  
\_\_\_\_\_  
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Michael H. Church  
Stamper, Rubens, Stocker & Smith, P.S.  
720 West Boone, Suite 200  
Spokane, Washington 99201-2560  
\_\_\_\_\_  
U.S. MAIL  
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Maris Baltins  
Tamara W. Murock  
Winston & Cashatt  
601 West Riverside Avenue, Suite 1900  
Spokane, Washington 99201  
\_\_\_\_\_  
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Marsha A. Ungricht

(C:\Spokane\2291\00001\file\200229796.WPD

ORDER GRANTING PARTIAL SUMMARY JUDGMENT AGAINST FREDERICK A. LEAF, M.D.- 5

PAINE, HAMBLIN, COFFIN, BROOKE & MILLER LLP  
717 WEST SPRAGUE AVENUE, SUITE 1200  
SPOKANE, WASHINGTON 99201-3505 PHONE (509) 455-6000

# **EXHIBIT B**



1 of Default was based upon the ground that defendants had not appeared, answered or otherwise  
2 defended the action.

3 The Court, having considered the pleadings filed in this action, the Affidavit of Tamara W.  
4 Murock, Affidavit of Maris Baltins and Affidavit of Paul M. Fruci.

5 Based on the records and files of the instant case, the Court finds:

6  
7 1. Defendants Financial Management Services, Inc., S and F, LLC, Frank L. Chapin, P.A.,  
8 and Hoodoo Mountain Ranchette Trust were properly served with plaintiffs' Summons and Complaint  
9 in this action.

10 2. Defendants Financial Management Services, Inc., S and F, LLC, Frank L. Chapin, P.A.,  
11 and Hoodoo Mountain Ranchette Trust have failed to appear, answer, or otherwise defend in this action.

12 3. No notice of appearance has been served on plaintiffs or plaintiff's attorney by  
13 defendants Financial Management Services, Inc., S and F, LLC, Frank L. Chapin, P.A., or Hoodoo  
14 Mountain Ranchette Trust.

15 4. The time for appearing and answering the plaintiff's Complaint is twenty (20) days and  
16 more than twenty (20) days have passed since service of the Summons and Complaint on defendants  
17 Financial Management Services, Inc., S and F, LLC, Frank L. Chapin, P.A., and Hoodoo Mountain  
18 Ranchette Trust.

19 5. Venue in this action is proper.

20 Based on the foregoing findings, it is hereby

21  
22 ORDERED, ADJUDGED AND DECREED that the defendants, Financial Management  
23 Services, Inc., S and F, LLC, Frank L. Chapin, P.A., and Hoodoo Mountain Ranchette Trust, are hereby  
24 declared to be in default for failing to file an Answer to said Complaint pursuant to Rule 12(a) of the  
25

26 ORDER FOR ENTRY OF DEFAULT  
PAGE 2

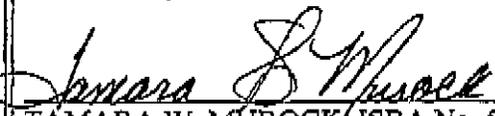
1 Idaho Rules of Civil Procedure (I.R.C.P.), appear or otherwise defend this matter as provided by the  
2 Idaho Rules of Civil Procedure; and

3 FURTHER ORDERED ADJUDGED AND DECREED that, pursuant to I.R.C.P 55(a)(1), the  
4 Clerk of the Court is directed to forthwith prepare and file a Clerk's Entry of Default against defendants  
5 Financial Management Services, Inc., S and F, LLC, Frank L. Chapin, P.A., and Hoodoo Mountain  
6 Ranchette Trust.  
7

8 DONE IN OPEN COURT this 4 day of <sup>September</sup> August, 2003.

9  
10 1/51 JUDGE VERBY  
11 THE HONORABLE STEVE VERBY  
12 JUDGE OF THE ABOVE-ENTITLED COURT

13 Presented by:

14   
15 TAMARA W. MUROCK, ISBA No. 5886  
16 WINSTON & CASHATT  
17 Attorneys for Plaintiff

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing was mailed postage prepaid or by interoffice mail to the following on the 4<sup>th</sup> day of September, 2003:

Tamara W Murock  
Winston & Cashatt  
601 West Riverside, Suite 1900  
Spokane WA 99201

  
DEPUTY CLERK

# **EXHIBIT C**

1 TAMARA W. MUROCK  
 2 BRIAN T. McGINN  
 3 WINSTON & CASHATT  
 4 250 Northwest Boulevard, Suite 107A  
 5 Coeur d'Alene, Idaho 83814  
 6 Telephone: (208) 667-2103

STATE OF IDAHO  
 COUNTY OF BONNER  
 FIRST JUDICIAL DISTRICT  
 2003 SEP -4 P 4:21  
 CLERK'S ENTRY OF DEFAULT  
 Jm

5 Attorneys for Plaintiff

6  
7  
8  
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10 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE  
 11 OF IDAHO, IN AND FOR THE COUNTY OF BONNER

12 FREDRICK A. LEAF, )  
 13 )  
 14 Plaintiff, ) Case No. CV-02-01655  
 15 vs. ) CLERK'S ENTRY OF DEFAULT  
 16 )  
 17 FINANCIAL MANAGAMENT SERVICES, )  
 18 INC., an Idaho corporation; S and F, LLC, an )  
 19 Idaho limited liability company; FRANK L. )  
 20 CHAPIN, P.A., an Idaho professional )  
 21 association; and HOODOO MOUNTAIN )  
 22 RANCHETTE TRUST, an Idaho irrevocable )  
 23 trust, )  
 24 )  
 25 Defendants. )

26 Pursuant to Rule 55(a)(1) of the Idaho Rules of Civil Procedure and the Order for Entry of Default filed herein, default is hereby entered against each of the following defendants for failure to file an Answer to said Complaint pursuant to Rule 12(a) of the Idaho Rules of Civil Procedure (I.R.C.P.), appear or otherwise defend this matter as provided by the Idaho Rules of Civil Procedure:

CLERK'S ENTRY OF DEFAULT  
 PAGE 1

COPY

LAW OFFICES OF  
 Winston & Cashatt  
 250 NORTHWEST BLVD., SUITE 107A  
 COEUR D'ALENE, IDAHO 83814  
 (208) 667-2103  
 FAX (208) 766-2141

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- 1. FINANCIAL MANAGAMENT SERVICES, INC., an Idaho corporation;
- 2. S and F, LLC, an Idaho limited liability company;
- 3. FRANK L. CHAPIN, P.A., an Idaho professional association; and
- 4. HOODOO MOUNTAIN RANCHETTE TRUST, an Idaho irrevocable trust.

DATED this 4 day of Sept., 2003.

MARIE SCOTT

CLERK OF THE COURT

Presented by:



TAMARA W. MUROCK, ISBA No. 5886  
WINSTON & CASHATT  
Attorneys for Plaintiff

CLERK'S ENTRY OF DEFAULT  
PAGE 2

LAW OFFICES OF  
*Winston & Cashatt*  
250 NORTHWEST BLVD., SUITE 107A  
COEUR D'ALENE, IDAHO 83014  
(208) 587-2103  
FAX (208) 766-2121

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing was mailed postage prepaid or by interoffice mail to the following on the 4<sup>th</sup> day of September, 2003:

Tamara W Murock  
Winston & Cashatt  
601 West Riverside, Suite 1900  
Spokane WA 99201

  
DEPUTY CLERK

# **EXHIBIT D**

**H. JAMES MAGNUSON**  
 ATTORNEY AT LAW  
 1250 NORTHWOOD CENTER COURT  
 POST OFFICE BOX 2288  
 COEUR D'ALENE, IDAHO 83816-2288  
 (208) 866-1526

Post-It® Fax Note	7671	Date	9-9	# of pages
To	TAMARA MURPHY			
Co./Dept.		From	H. James Magnuson	
Phone #		Co.		
Fax #		Phone #		
		Fax #		

September 9, 2

VIA FAX (208) 263-0896

Honorable Stephen Verby  
 Bonner County Courthouse  
 215 S. First Avenue  
 Sandpoint, ID 83864

Re: Frederick A. Leaf v. Financial Management Services, Inc., et al.  
 Bonner County Case No. CV02-01655

Dear Judge Verby:

We represent C. Barry Zimmerman, Trustee, in Bankruptcy Case No. 02-20218, Debtors, Frank L. Chapin and Sydney L. Gutierrez-Chapin. Enclosed please find a copy of the Case Information sheet from the United States Bankruptcy Court's Internet file. The Court's Case Information indicates Frank L. Chapin, PA is a Debtor.

The bankruptcy proceeding was originally filed as a Chapter 11 Reorganization on February 22, 2002. On August 8, 2003, an Order was entered by the United States Bankruptcy Judge Terry Myers, converting the case from Chapter 11 to Chapter 7. C. Barry Zimmerman was appointed Trustee. An 11 U.S.C. §341 First Meeting of Creditors is scheduled for September 18, 2003.

The Bankruptcy Trustee appears to own under 11 U.S.C. §541, all of the interest in defendants, Financial Management Services, Inc., S and F, LLC, Frank L. Chapin, PA and possibly Hoodoo Mountain Ranchette Trust. Until the Bankruptcy Trustee has an opportunity to review documents and files and to examine the Debtors at the September 18, 2003, meeting, it is difficult to ascertain exactly what ownership interest the estate has. Similarly, it is difficult to determine whether the defendant entities are true entities or whether they are alter egos of the Debtors.

Honorable Stephen Verby

Page 2

September 9, 2003

There is the possibility that the plaintiff proceeding in Bonner County Case No. CV-02-01655 may be a violation of the bankruptcy stay under 11 U.S.C. §362 unless relief is obtained against the Chapter 7 Trustee through the Bankruptcy Court.

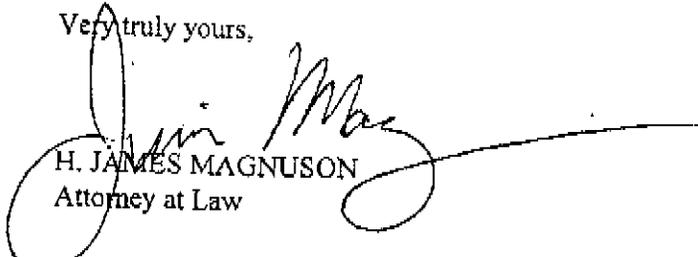
There are three pending adversary proceedings in the United States Bankruptcy Court relating to issues in CV-02-01655. These are Case Nos. 02-6135 and 02-6136 and 02-6137. In Adversary No. 02-6137, Frederick A. Leaf, Plaintiff, the same Plaintiff in Case No. CV02-61655, seeks an Order Regarding Dischargeability of Debts and Imposition of Resulting or Constructive Trust regarding property claimed to be held by the defendants in Bonner County Case No. CV02-01655, who are also defendants in the bankruptcy adversary proceeding. It appears that the subject matter of Bonner County Case No. CV02-01655 is the same as in United States Bankruptcy Adversary Case No. 02-6137.

The purpose of this letter is to inform the Court of the situation. The Trustee needs additional time to investigate facts to determine claims regarding the issues raised herein and ongoing in Bankruptcy Adversary Case No. 02-6137. It would appear that these matters may all be within the exclusive jurisdiction of the United States Bankruptcy Court.

It is our understanding that there is a status conference set for Bonner County Case No. CV02-01655 for September 10, 2003, at 9:40 a.m. We believe that this proceeding should be stayed pending resolution of the claims in the Bankruptcy Court.

Thank you for your attention to this.

Very truly yours,

  
H. JAMES MAGNUSON  
Attorney at Law

HJM:nb

CC: C. Barry Zimmerman, Trustee  
Tamara W. Murock - FAX 208-765-2121  
Brian T. McGinn - FAX 208-765-2121

SEARCH | SUGGESTIONS | USER PREFS | COURTWATCH | HELP

HOME →

RACER Bankruptcy Case Search - Click here for [Caption Page](#)

## USBC Idaho Case Information for 02-20218

Adversary Cases

View Docket

START AT Entry #

Sort By   Reverse Order

Claims Register

Enter Claim Number or Creditor Name

Reverse ORDER  
 Alpha Ordered

Creditor Listing

List  Raw Data  
 1 Col  2 Cols  3 Cols

Others (Aka/Dbas)

Print Coversheet

U.S. Bankruptcy Court  
District of Idaho (Coeur d'Alen)

Bankruptcy Petition #: 02-20218

Date filed: 2/22/02  
Assigned to: Terry L Myers  
Chapter 7 voluntary individual asset joint

===== \* Attorneys \*

FRANK L CHAPIN, EA  
POB 781  
Sandpoint, ID 83864  
\* Debtor \*

Lewis M Wilson  
1519 W Broadway  
Spokane, WA 99201  
Bruce A Anderson  
1400 Northwood Ctr Ct #C  
Coeur d'Alene, ID 83814  
208-667-2900

SYDNEY L GUTIERREZ-CHAPIN  
aka  
Sydney L Gutierrez  
POB 2028  
Sandpoint, ID 83864  
\* Debtor \*

Lewis M Wilson  
(See above)  
Bruce A Anderson  
(See above)

C BARRY ZIMMERMAN, Trustee  
POB 1240  
Coeur d'Alene, ID 83816-1240  
\* Trustee \*

===== \* Attorneys \*

UNITED STATES TRUSTEE  
304 N 8th St Rm 347  
Boise, ID 83702

USBC Idaho

Electronic Case Manager™ - the Premier Electronic Case File Manager!

# **EXHIBIT E**

September 10, 2003

**FACSIMILE TRANSMITTAL/U.S. MAIL**

H. James Magnuson  
1250 Northwood Center Court  
P.O. Box 2288  
Coeur d'Alene, ID 83816-2288

**Re: Frederick A. Leaf v. Financial Management Services, Inc., et al.  
Bonner County Case No. CV02-01655**

Dear Mr. Magnuson:

It has come to my attention that you submitted a letter on behalf of your client, C. Barry Zimmerman, the Trustee in Bankruptcy Case No. 02-20218, notifying the Honorable Stephen Verby, that the corporation, Frank L. Chapin, P.A., is a debtor in the bankruptcy case. As a result of this erroneous identification of the debtor, the Idaho District Court matter was stayed.

It is my understanding that you have had several discussions with Dr. Leaf's bankruptcy counsel, John Rizzardi, and have been provided sufficient proof that the bankruptcy matter is personal to Mr. and Mrs. Chapin, that Frank L. Chapin, P.A. is not a party to the bankruptcy, and that any indication that the corporation is a debtor on the Bankruptcy Court's Case Information sheet is a clerical error. Additionally, enclosed is a revised Case Information Sheet correctly indicating the debtors in the bankruptcy matter as Frank L. Chapin and Sydney L. Gutierrez-Chapin, personally. This Information Sheet was obtained by accessing the Bankruptcy Court's website at [www.id.us.court.gov](http://www.id.us.court.gov) at 9:58 a.m. of today.

Accordingly, I request you notify the Idaho District Court of this error and resolve this misunderstanding so that the District Court matter can resume.

Your immediate attention to this matter is greatly appreciated.

Very truly yours,

TAMARA W. MUROCK  
cc: Honorable Stephen Verby

# **EXHIBIT F**

September 10, 2003

**FACSIMILE TRANSMITTAL/U.S. MAIL**

Honorable Stephen Verby  
Bonner County District Court  
215 South First Avenue  
Bonner County Courthouse  
Sandpoint, ID 83864

**Re: Frederick A. Leaf v. Financial Management Services, Inc., et al.  
Bonner County Case No. CV02-01655**

Dear Judge Verby:

It is our understanding that this matter was stayed after the Court's receipt of a letter from H. James Magnuson, attorney for the Trustee in Bankruptcy Case No. 02-20218.

Mr. Magnuson's letter indicates that the defendant corporation, Frank L. Chapin, P.A., is a debtor in the bankruptcy matter. Any indication that the corporation is a debtor in the bankruptcy, however, is in error, and Mr. Magnuson has been informed that the Case Information Sheet he provided to this Court is incorrect. A courtesy copy of my letter to Mr. Magnuson is enclosed.

Also enclosed is a revised Case Information Sheet correctly indicating the debtors in the bankruptcy matter as Frank L. Chapin and Sydney L. Gutierrez-Chapin, personally. This Information Sheet was obtained by accessing the Bankruptcy Court's website at [www.id.us.court.gov](http://www.id.us.court.gov) at 9:58 a.m. of today.

Additionally, as clearly set forth in the Voluntary Petition and Statement of Financial Affairs filed in the bankruptcy matter (see Exhibit "B" to the Affidavit of Tamara W. Murock dated August 12, 2003), the defendant corporation, Frank L. Chapin, P.A., is not a party to the bankruptcy matter.

Honorable Stephen Verby  
Bonner County District Court  
September 10, 2003  
Page 2

Moreover, conversion of the bankruptcy from a Chapter 11 to a Chapter 7 did not cause the corporation to become a debtor. Enclosed is a true and correct copy of the Order Converting Case to Chapter 7. The Order references the debtors as Frank and Sydney Chapin, personally. There is no mention of the corporation, Frank L. Chapin, P.A.

Accordingly, we respectfully request that the matter before this Court proceed.

Very truly yours,

TAMARA W. MUROCK

Enclosures

cc: H. James Magnuson  
Financial Management Services, Inc.  
Frank L. Chapin, PA  
S and F LLC  
Hoodoo Mountain Ranchette Trust

# **EXHIBIT G**





# **EXHIBIT H**

2003 JUN 19 PM 1 02

*J*

Bruce A. Anderson  
ELSAESSER JARZABEK ANDERSON  
MARKS ELLIOTT & MCHUGH, CHTD.  
Attorneys at Law  
1400 Northwood Center Court, Suite C  
Coeur d'Alene, Idaho 83861  
Tel: (208) 667-2900  
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Attorneys for Debtors-in-Possession

U.S. BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO

In Re:	)	
	)	Case No. 02-20218
	)	
FRANK L. CHAPIN and	)	FOURTH AMENDED SCHEDULE B -
SYDNEY L. GUTIERREZ-CHAPIN	)	PERSONAL PROPERTY
	)	
Debtors.	)	
<hr/>		

COMES NOW the above named Debtors, Frank L. Chapin and Sydney Gutierrez-Chapin, through undersigned counsel, Bruce A. Anderson of Elsaesser Jarzabek Anderson Marks Elliott & McHugh, Chtd., and hereby amends Schedule B to reflect the Debtors' current interest in S and F, LLC, an Amended Schedule B is attached.

DATED this 19<sup>th</sup> day of June, 2003.

ELSAESSER JARZABEK ANDERSON  
MARKS ELLIOTT & MCHUGH, CHTD.

*Bruce Anderson*  
\_\_\_\_\_  
BRUCE A. ANDERSON  
Attorneys for Debtors

In re **Frank L. Chapin**

**Sydney L. Gutierrez-Chapin**

Case No. **02-20218**

Debtor

(If known)

## AMENDED - SCHEDULE B - PERSONAL PROPERTY

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITH- OUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
1. Cash on hand		Cash	J	47.00
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Checking Account Bank of America Opened 4/29/02	J	171.63
		Checking Account Horizon Credit Union 520 N. 5th Ave. Sandpoint, ID 83864	W	97.89
		Checking Account Idaho Independent Bank Closed 7/19/02	H	258.24
		Checking Account Pend Oreille Bank Closed 6/12/02	W	722.05
		Medical Savings Account Pend Oreille Bank 476655 Hwy 95 N. Sandpoint, ID 83864	W	106.76
		Savings Account Horizon Credit Union 520 N. 5th Ave. Sandpoint, ID 83864	W	50.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		China Cabinet (2) \$150, Refrigerator \$50, Dishes & Glassware \$100, Pots & Pans \$250, Bench \$20, Sewing Machine \$35, High Chair \$20	J	625.00
		Misc. Garden Tools \$30, Lawnmower \$50, Gas BBQ \$40, Outside Lawn Furniture \$50, Bedroom sets (2) \$1100, Living Room set \$750, TV \$50, Stereo \$50, VCR \$50, Tables (4) \$100, Washer/Dryer \$200, Desks (2) \$110, File Cabinets (3) \$60, Dinette \$140, Bookcase \$50	J	2,830.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		Art prints (4) \$415, Misc. collectables \$175	J	590.00

In re **Frank L. Chapin**

**Sydney L. Gutierrez-Chapin**

Case No.

**02-20218**

Debtor

(if known)

## AMENDED - SCHEDULE B - PERSONAL PROPERTY

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITH- OUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
1. Cash on hand		Cash	J	47.00
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Checking Account Bank of America Opened 4/29/02	J	171.63
		Checking Account Horizon Credit Union 520 N. 5th Ave. Sandpoint, ID 83864	W	97.89
		Checking Account Idaho Independent Bank Closed 7/19/02	H	258.24
		Checking Account Pend Oreille Bank Closed 6/12/02	W	722.05
		Medical Savings Account Pend Oreille Bank 476655 Hwy 95 N. Sandpoint, ID 83864	W	106.76
		Savings Account Horizon Credit Union 520 N. 5th Ave. Sandpoint, ID 83864	W	50.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		China Cabinet (2) \$150, Refrigerator \$50, Dishes & Glassware \$100, Pots & Pans \$250, Bench \$20, Sewing Machine \$35, High Chair \$20	J	625.00
		Misc. Garden Tools \$30, Lawnmower \$50, Gas BBQ \$40, Outside Lawn Furniture \$50, Bedroom sets (2) \$1100, Living Room set \$750, TV \$50, Stereo \$50, VCR \$50, Tables (4) \$100, Washer/Dryer \$200, Desks (2) \$110, File Cabinets (3) \$60, Dinette \$140, Bookcase \$50	J	2,830.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		Art prints (4) \$415, Misc. collectables \$175	J	590.00

In re **Frank L. Chapin**

**Sydney L. Gutierrez-Chapin**

Case No.

**02-20218**

Debtor

(if known)

**AMENDED - SCHEDULE B - PERSONAL PROPERTY**  
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
6. Wearing apparel.		Frank \$200, Sydney \$320	J	520.00
7. Furs and jewelry.		Wedding rings (2)	J	1,200.00
8. Firearms and sports, photographic, and other hobby equipment.		2 Revolvers	J	300.00
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	X			
10. Annuities. Itemize and name each issuer.	X			
11. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Itemize.		IRA-Annuity	W	15,000.00
		New York Life- High Yield Bond	W	8,000.00
		New York Life-IRA	H	2,000.00
12. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
13. Interests in partnerships or joint ventures. Itemize.		Financial Management Services, Inc.- Corporate Stock	J	412,533.80
		Frank Chapin, P.A. - Corporate Stock	J	37,672.65
		Moments, LLC-Interest in LLC	J	-0-
		S and F, LLC-Interest in LLC Decreased value for Glabb Ranch and Linden property foreclosures	J	Unknown
14. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
15. Accounts receivable.	X			
16. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
17. Other liquidated debts owing debtor including tax refunds. Give particulars.	X			

In re **Frank L. Chaplin**

**Sydney L. Gutierrez-Chaplin**

Case No. **02-20218**

Debtor

(If known)

**AMENDED - SCHEDULE B - PERSONAL PROPERTY**  
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
18. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule of Real Property.	X			
19. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.		<b>Life Interest Hoodoo Mountain Ranchette Trust-Beneficiaries (Estimated)</b>	H	<b>20,000.00</b>
20. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
21. Patents, copyrights, and other intellectual property. Give particulars.	X			
22. Licenses, franchises, and other general intangibles. Give particulars.	X			
23. Automobiles, trucks, trailers, and other vehicles and accessories.		<b>2000 Ford F250</b>	J	<b>15,000.00</b>
24. Boats, motors, and accessories.	X			
25. Aircraft and accessories.	X			
26. Office equipment, furnishings, and supplies.	X			
27. Machinery, fixtures, equipment and supplies used in business.	X			
28. Inventory.	X			
29. Animals.	X			
30. Crops - growing or harvested. Give particulars.	X			
31. Farming equipment and implements.	X			
32. Farm supplies, chemicals, and feed.	X			
33. Other personal property of any kind not already listed. Itemize.		<b>Right of setoff/indemnification from Robert Kovacevich, Frederick A. Leaf and Estate of Wilbur Leaf</b>	H	<b>Unknown</b>

In re Frank L. Chapin

Debtor

Sydney L. Gutierrez-Chapin

Case No.

02-20218

(If known)

**AMENDED - SCHEDULE B - PERSONAL PROPERTY**  
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT MARKET VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
<u>3</u> continuation sheets attached			Total	<b>\$ 517,725.02</b>

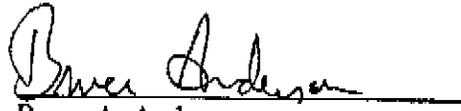
(Include amounts from any continuation sheets attached. Report total also on Summary of Schedules.)

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8<sup>th</sup> day of June, 2003, I caused to be served a true and correct copy of the foregoing FOURTH AMENDED SCHEDULE B, with attachments, by the method indicated below, and addressed to the following:

U.S. Trustee  
304 N. 8th Street, RM 347  
Boise, Idaho 83702

U.S. MAIL  
 HAND DELIVERED  
 OVERNIGHT MAIL  
 FACSIMILE

  
Bruce A. Anderson