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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDGAR HANSON,)
)
)
Plaintiff)
pro se,)
)
v.)
)
ALEXIS HERMAN,)
U.S. SECRETARY OF LABOR,)
)
Defendant.)

NO. **CO1-0071** ~~2~~

**COMPLAINT FOR JUDICIAL
REVIEW OF SECRETARY'S
DECISION; COSTS AND
DAMAGES**

I. PARTIES

1. The plaintiff, Edgar Hanson, is a 34-year member in good standing and a 1999 candidate for the office of business manager of Local 302, International Union of Operating Engineers. Hanson currently resides in Washington state.

2. The United States Department of Labor is an administrative agency of the federal government headquartered in Washington DC. The Department regulates the activities of labor organizations which are involved in interstate commerce and in industries in which labor disputes would hinder or obstruct commerce. The Department, through one of its several agency divisions, also investigates internal union elections when timely complaints are properly filed. The Secretary of Labor is the chief administrator of the U.S. Department of Labor. The Department's district office is located at 1111 Third Avenue,

1 Seattle, WA 98101.

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3 II. JURISDICTION

4 3. This action involves a controversy arising
5 under 29 U.S.C. § 481, which governs election procedures for
6 local labor organizations. Local 302 of the International Union
7 of Operating Engineers (IUOE) is a "labor organization" within
8 the meaning of 29 U.S.C. Sec. 402(i). The plaintiff seeks
9 judicial review, and the U.S. District Court has jurisdiction
10 to consider this case, under 28 U.S.C. § 1337 as a case arising
11 under an Act of Congress regulating commerce. The Secretary's
12 decision not to sue Local 302 of IUOE is reviewable by the U.S.
13 District Court under the Administrative Procedure Act, 5 U.S.C.
14 §§ 702, 704 and under the reviewing standard specified in §
15 706 (2)(A). The Secretary's decision not to sue is not excepted
16 from judicial review by 5 U.S.C. § 701(a).

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18 III. GENERAL ALLEGATIONS

19 4. Plaintiff Edgar Hanson alleges that his rights
20 were infringed with resulting harm caused by intentional acts
21 of election fraud by the incumbent officers of Local 302 IUOE
22 during the 1999 general election of officers. Additionally,
23 the incumbent officers of the union intentionally violated
24 portions of Title IV of the Labor Management Reporting and
25 Disclosure Act (LMRDA), as well as the union constitution and
26 bylaws during the same election period. The incumbents committed
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1 their unlawful conduct in order to affect the outcome of the
2 election in their favor and to cause an intentional loss for
3 Edgar Hanson.

4 5. Hanson further alleges that his rights were
5 violated which resulted in harm when U.S. Secretary Herman failed
6 to bring suit against Local 302 in federal court to invalidate
7 and void the 1999 election and force a rerun.

8 6. Hanson possesses evidence which demonstrates
9 fraud and election violations committed by the incumbent officers
10 in the 1999 election. Hanson's evidence also demonstrates a
11 clear pattern of unlawful conduct, including perjury and fraud,
12 committed by incumbent officers during the 1996 election, in
13 which Hanson was also a candidate.

14 7. Hanson alleges and has evidence to prove that
15 the incumbent officers, and particularly Hanson's direct
16 opponent Clyde Wilson, hired Dave Clements of the accounting
17 firm Lockitch, Clements and Rice (LCR) to commit election fraud
18 in favor of the incumbents. Clements was not the low bidder
19 to serve as Election Supervisor. Wilson chose Clements to serve
20 anyway, even though some members from the rank-and-file proposed
21 that someone other than LCR supervise the election. Dave
22 Clements had a severe conflict of interest as LCR concurrently
23 served as the union's accountant and internal auditor. LCR
24 held that position previously for 30-years.

25 8. Hanson emphatically objected to the employment
26 of Dave Clements of LCR as the Election Supervisor, as Clements
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1 is a personal friend of the union attorney, Russell J. Reid.
2 Both Reid and Clements have been employed by Local 302 for at
3 least 30-years and are friends of the incumbents.
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5 9. Hanson alleges and has evidence to prove that
6 the incumbents hired Chris Gianelli of Service Printing to render
7 assistance in committing election fraud in favor of the
8 incumbents. Dave Clements recommended the hiring of Gianelli,
9 who also had a conflict of interest. Gianelli served as the
10 printer for the official union newspaper during the 10-year
11 period of the incumbent's administrations. Gianelli was also
12 hired to print the incumbent's campaign literature during the
13 same 10-year period.

14 10. Hanson submitted a timely complaint to the Office
15 of Labor-Management Standards (OLMS) of the U.S. Department
16 of Labor in Seattle, Washington. Hanson also submitted his
17 documented evidence to OLMS. Chief investigator and OLMS
18 Director John Heaney met privately with Hanson and examined
19 the "smoking gun" evidence. Heaney encouraged Hanson by stating
20 to him that an addendum to the initial report would be forwarded
21 to Washington, DC. Heaney also met with and interviewed other
22 witnesses, including Hanson's attorney, Hanson's election
23 observers and the King County Election Division (KCED)
24 superintendent, who was responsible for renting out the
25 electronic vote counting machines for the Local 302 election.

26 11. The manufacturer of the electronic vote counting
27 machine, Accu-Vote, stated that the manner in which Dave Clements
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1 operated the machine when using tampered ballots was inconsistent
2 with the design parameters required for obtaining accurate vote
3 counts. An Accu-Vote engineer from Texas stated that such use
4 employed by Clements was highly suspect and should have caused
5 the election to be invalidated.

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7 12. Documents provided by the U.S. Department of
8 Labor under the Freedom of Information Act (FOIA) undisputedly
9 show contradictory statements given by Chris Gianelli and the
10 KCED superintendent as to the preparation of ballots to be used
11 in the 1999 union election. Chris Gianelli was in a direct
12 conflict of interest with the union and had a reason to submit
13 false testimony to federal investigators. The KCED
14 superintendent had no known conflict of interest and therefore
15 no reason to provide false testimony. When the contradictory
16 statements were shown to federal investigators at the U.S.
17 Department of Labor, the OLMS Director recommended that plaintiff
18 Hanson sue the Secretary.

19 13. OLMS federal investigator Donald Logsdon
20 examined Hanson's evidence and stated in his own words, "that's
21 a damn good bit of investigation you guys conducted."

22 14. Plaintiff Edgar Hanson alleges and has evidence
23 to prove that the Secretary's decision to not sue Local 302
24 to void the 1999 election was made arbitrarily and capriciously.
25 The election results showed that only 168 votes separated
26 incumbent Wilson from challenger Hanson, the closest election
27 margin in the union's history. The ballot tampering and election
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