

: Exhibit 4

U.S. OFFICE OF SPECIAL COUNSEL
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Washington, D.C. 20036-4808

**U.S. Office of Special Counsel Announces Favorable Settlement
of Vietnam Veteran's Complaint**

FOR IMMEDIATE RELEASE
8/13/98

CONTACT: JANE MCFARLAND
(202) 653-7984

The U.S. Office of Special Counsel (OSC) today announced the favorable settlement of a complaint filed with it by Charles W. Heckman, Ph.D., a Vietnam Veteran, against the U.S. Forest Service, his employer.

Dr. Heckman applied for a position as an ecologist/botanist, GS 13/14, with the Institute of Northern Forestry Cooperative Research at the University of Alaska. As a Vietnam Veteran, under Veterans Preference rules, Heckman was placed ahead of nonveteran candidates for the position. Subsequently, Forest Service officials informed Heckman that his candidacy was preventing the Forest Service from selecting one of several nonveteran candidates that it preferred. Officials from the Forest Service and the University of Alaska offered Heckman a temporary position if he would withdraw from the competition. They also informed him that if he did not accept their offer, they would cancel the vacancy announcement and start a new recruitment process.

Section 2302 (b) (5) of title 5, United States Code, makes it a prohibited personnel practice to influence a candidate to withdraw from competition. Civil Service rule 4.3 contains a similar provision.

Soon after OSC accepted the complaint, the Office of Personnel Management (OPM) contacted OSC about the Heckman matter. The agencies began a joint investigation that called for OSC to focus on the prohibited personnel practice and OPM to focus on whether systemic hiring problems existed. Early into the investigation, the Forest Service extended its cooperation and indicated that it wanted to resolve the matter as quickly as possible.

Ultimately, the Forest Service offered Heckman a choice in positions, the job in Fairbanks or a new position in Olympia, Washington. Heckman chose the position in Olympia where he now works as a GS-14 scientist. The Forest Service disciplined the two individuals who attempted to influence Heckman's withdrawal from competition.

The U.S. Office of Special Counsel provides an independent avenue to protect merit systems principles in federal employment. OSC receives, investigates, and prosecutes before the MSPB, charges concerning the commission of prohibited personnel practices, with priority given to protecting whistleblowers. In addition, the Office provides a secure channel for federal employees who possess information regarding legal violations, gross mismanagement, fraud, waste and abuse.

cc:Mail for: Hermann Gucinski

Subject: I'm worse than nervous

From: Tricia Wurtz <twurtz@her.uaf.edu> at Internet_Gateway 12/15/97 11:07 AM

cc: Hermann Gucinski at FSL

To: chapin@srvlinux.celo.cnrs-mop.fr at Internet_Gateway

To: Hermann Gucinski <gucinski@fsl.orst.edu> at Internet_Gateway

Hi Terry and Hermann,

I have been out of town for five days and I am really distressed the way things have developed.

Reading the messages from Heckman over the last few days, my blood ran cold. It seems quite obvious to me that he is lining things up to skewer us. I had entertained that possibility before (for example, he changed the way he addressed messages to me from "Dear Ms. Wurtz" to "Dear Tricia Wurtz") but his unwillingness to talk on the phone should be taken as proof positive that he is lining up a suit. Really, why would a person with honorable intentions refuse to speak to you on the phone? Normally, in any business deal, people talk and negotiate informally and after everyone has reached an understanding, it is put in writing. But to now refuse to talk on the phone means that he doesn't need any more information about what we were offering him. I think it means he is gathering evidence.

So, I don't think there is any point in sending the letter Terry has written. I don't believe any longer that Heckman is basically an honest person.

Let's agree not send him any written communications for a while. Any written communication has the potential to get us in deeper trouble.

My feeling right now is that we should concentrate on Heckman damage control, and pretty much give up filling this position. This is a hard choice to make since I am being inundated with messages from three hopeful, qualified candidates about how long their seminars should be, when they want to come to Fairbanks, can they give more than one seminar, etc. etc. How to control Heckman damage? Well, one way to give people the impression that you know you're doing something wrong is to try to hide it. Conversely, a way to impress people that your intentions are good is to keep (or bring) things out in the open. So I think Hermann and I should bring this whole mess to the attention of the FS Personnel Office. We could write a message (and keep a copy!) to Dorothy and Roy at Personnel saying, "Oh dear, apparently this arrangement we tried to make seems to have been misinterpreted. We sure want you (personnel!) to know about it." Hermann, I would be glad to write the message and possibly direct their primary ire at me. I don't expect that Personnel will be able to do anything to help the situation, at all, of course. And I suspect it will result in a rebuke from someone to me (and possibly to Hermann) but at this point a rebuke would be better than the lawsuit. And having been open with personnel about this situation will help our case immensely if the lawsuit still comes. Which, in the truly worst case scenario, it will.

I suspect personnel will remind us that if we don't want to hire Heckman, our ONLY alternative is to cancel the cert. Then, in the spirit of Heckman damage control, I think that is what we have to do. The question will still remain about what to do with him after the cert is cancelled. Right now, my inclination is to just stop communicating with the guy, cancel the cert and let him start wondering what's going on. In a month or two he'll get an official letter from Portland saying that the job was cancelled. There is a small chance that when he doesn't hear anything except that letter from Portland, both his plans to sue us and his plans to do the bug project in Alaska will fade away. In any case, I think it is time to leave him in the dark for awhile. —

Finally, Terry, here's a small point. One place where we are vulnerable is the idea that our budget will allow EITHER a new candidate

search OR the bug project. We are vulnerable because our budgets aren't that well documented: we haven't had a line in them all along labeled "2nd Candidate Search" that happened to have \$20K in it. In something you sent to me you suggested that that should be obvious: that if we spend money on the bug project we won't have money for other things, like the second search. But our budgets are so loose (for example, the big "equipment fund" this year) that we could easily do both or either if we really wanted to. Anyway, I just wanted to make that point.

Hermann, in the middle of writing this message I talked to Terry on the phone and he was agreeable to the idea of cancelling the cert. (But with great frustration and regret, like me.) Anyway, please let me know what you think.

Trish

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Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

January 13, 2003

Mr. Charles W. Heckman
315 - 93rd Avenue SW
Olympia, Washington 98512-9101

Re: Public Records Request dated November 4, 2002

Dear Mr. Heckman:

This letter is to provide you with the information you requested in your November 4, 2002 public records request. You were requesting five categories of records.

Your request was narrowed to the first four categories because the Office of the Attorney General only received statutory authority to prosecute employers for violations of the Veteran's Employment and Reemployment Act in 2001 and the AGO does not have any records responsive to your request on that issue.

Of the remaining four categories, the following is responsive to your request.

Category #1, the total expenditure by the State of Washington to defend the lawsuit of *Mitchell v. Board of Industrial Insurance Appeals*, No. 46991-6-I was \$29,567.97. The Office of the Attorney General is not able to identify if any federal funds were appropriated for the legal defense in this case due to the fact that all monies for legal services are paid into a revolving fund that does not indicate where those monies came from.

Category #2, the total expenditure by the State of Washington to defend the lawsuit of *Heckman v. State of Washington, Department of Ecology, Department of Fish and Wildlife*, No. 2865-4-II and Thurston County Superior Court Nos. 00-2-00587-1 and 00-2-02341-1 was/is \$38,700.29. The Office of the Attorney General is not able to identify if any federal funds were appropriated for the legal defense in this case due to the fact that all monies for legal services are paid into a revolving fund that does not indicate where those monies came from.

Category #3, the amounts expended on any other lawsuits involving veterans' preference in State employment during the past six years, as well as names and numbers of the individual cases are:



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Henry Gossage v. State of Washington, Thurston County Superior Court No. 98-2-00738-6; Court of Appeals No. 26796-9-II, expenditure of \$82,806.95; and

Kem Hunter v. University of Washington, King County Superior Court No. 98-2-18410-8 SEA; Court of Appeals No. 44593-6-I, expenditure of \$34,419.63

Category #4 refers to amount of grant money paid to any agency of the State of Washington for the years 1999, 2000, 2001, for the express purpose of giving special employment to veterans of the Vietnam Era, disabled veterans, and veterans in general. The Office of the Attorney General does not have any records responsive to this request.

Please contact me at Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100, if you have any questions. Thank you.

Very truly yours,



LA DONA R. JENSEN
Public Records Officer
(360) 586-2533

/lrj