

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ALAN HANSEN and  
LINNÉ HANSEN,

Petitioners,

v.

WISCONSIN DEPARTMENT OF  
REVENUE, WISCONSIN DEPARTMENT  
OF FINANCIAL INSTITUTIONS, NCO  
FINANCIAL SYSTEMS, INC. and  
DIVERSIFIED COLLECTION SERVICES, INC.,

Respondents.  
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ORDER

06-C-290-C

In this proposed civil action for monetary and injunctive relief, petitioners Alan Hansen and Linné Hansen contend that respondents Wisconsin Department of Revenue, Wisconsin Department of Financial Institutions, NCO Financial Systems, Inc. and Diversified Collection Services, Inc. violated their constitutional rights under the First Amendment in myriad ways, including the use of computer encryption systems that offend plaintiffs' religious beliefs and the filing of allegedly illegal tax warrants and liens against them. Jurisdiction is present under 18 U.S.C. § 1331.

Petitioners have requested leave to proceed in forma pauperis and have supported their requests with affidavits of indigency. From those affidavits, I conclude that petitioners qualify for indigent status. Nevertheless, before I may grant petitioners' request to proceed in forma pauperis, I must determine whether their action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks money damages against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). In making this determination, the court must read the allegations of the pro se litigants' complaint generously. Haines v. Kerner, 404 U.S. 519, 521 (1972).

In addition to their complaint, petitioners have filed a document entitled "Brief: The IBM Lucifer System," along with numerous supporting documents. These documents will be considered part of the complaint. Tierney v. Vahle, 304 F.3d 734, 738 (7th Cir. 2002). From the complaint and its attachments, I understand petitioners to allege the following facts.

## ALLEGATIONS OF FACT

### A. Parties

Petitioners Alan and Linné Hansen are brothers who live in Medford, Wisconsin. They are Christian "religious dissidents."

Respondent Wisconsin Department of Revenue is a Wisconsin state agency.

responsible for assessing taxes.

Respondent Wisconsin Department of Financial Institutions is a state agency. (According to its Web site, the “agency regulates and licenses financial service providers who do business in Wisconsin.” <http://www.wdfi.org> (last visited June 2, 2006)).

Respondents NCO Financials Services, Inc. and Diversified Collection Services, Inc. are private collection agencies authorized by the state of Wisconsin to collect delinquent taxes on the state’s behalf.

#### B. The “Lucifer System”

One day in November 1973, petitioner Alan Hansen went to a local office of the Agricultural Stabilization Conservation Service (ASCS) to purchase tree seedlings. (The Agricultural Stabilization and Conservation Service was a predecessor agency to the federal Farm Service Agency. The ASCS granted loans and shared the cost of resource conservation and environmental protection measures with farmers and ranchers in local communities, Wikipedia, [http://en.wikipedia.org/wiki/Agricultural\\_Stabilization\\_and\\_Conservation\\_Service](http://en.wikipedia.org/wiki/Agricultural_Stabilization_and_Conservation_Service) (last visited June 2, 2006)). While petitioner was in the ASCS office, one of the service’s employees removed an index card from her files and asked petitioner Alan Hansen to verify that the number written on the card was his social security number. The card was stamped in red ink with the word “Confidential” and listed petitioner Linné Hansen’s social

security number, preceded by the numbers 6-6-6.

Petitioner Alan Hansen told the employee that the social security number was his brother's. Because he thought the prefix odd, he asked her what it meant. In response, she snatched the card and put it away, telling petitioner that she "wasn't supposed to let [him] see that." Petitioner Alan Hansen returned home without purchasing seedlings, greatly troubled by the incident. He reported it to his brother, petitioner Linné Hansen, who was also disturbed by what had happened.

Petitioners began researching the government's alleged use of the "666 prefix" in connection "with a citizen's social security number." Through correspondence with the National Security Administration, petitioners discovered that the government had some record of a "computer secrecy module known as the IBM Lucifer System." Although the National Security Administration alleged in a letter to petitioners that "Lucifer was never adopted by NSA, nor [did the agency] have any knowledge of the numbers '666' in any context [related to] the Agency," petitioners concluded that the federal government had adopted a "demonic" system of tracking its citizens. Petitioners believe this system bears a connection to Biblical prophecies contained in the Book of Revelation.

After learning about the Lucifer system, petitioners "drop[ped] out of the [tax?] system" and adopted a lifestyle they call "debt cancellation and the non-work ethic," under which they "do[] not earn enough income to be required to file [] income tax return[s]" at

either the state or federal level.

### C. Tax Liens

Despite the fact that petitioners are not obligated to file tax returns, the Internal Revenue Service and respondent Wisconsin Department of Revenue filed “bogus tax liens” against them, alleging that they owe delinquent taxes in excess of \$137,000 (including accrued interest to date). Petitioners “disputed” these liens, but were unable to prove that they had not earned the income they were alleged to have earned because their home was destroyed in a fire that occurred when an electrical transformer was “sabotaged.” Eventually, the liens against petitioner Alan Hansen were released, as were the liens placed against petitioners’ family trust. However, numerous tax warrants remain outstanding.

The Wisconsin Department of Revenue provided petitioners’ social security numbers to respondents NCO Financial Services, Inc. and Diversified Collection Services, Inc., who proceeded to terrorize petitioners in an attempt to collect the allegedly unpaid balance on petitioners’ income taxes.

On April 30, 2006, two agents from the Federal Bureau of Investigation interviewed petitioner Alan Hansen. They reported that their investigation of his finances had led them to conclude “that he is poor.” Petitioners believe that respondent Wisconsin Department of Revenue “prowled the Village of Rib Lake and the City of Medford” looking for proof to

use against petitioners, but ultimately arrived at the same conclusion: that petitioners have limited income. Petitioners *are* poor and therefore believe the tax warrants against them are fraudulent and malicious.

Petitioners have complained to the Taylor County Sheriff, Taylor County District Attorney, Wisconsin Attorney General and Federal Trade Commission, all to no avail.

## OPINION

### A. Challenges to Wisconsin Taxes

Insofar as petitioners wish to challenge the tax warrants and liens assessed against them by respondent Wisconsin Department of Revenue, this court is without authority to decide their case. Federal courts are courts of limited jurisdiction and may hear only those cases Congress empowers them to hear. The Tax Injunction Act, 28 U.S.C. § 1341, prohibits federal district courts, such as this one, from “enjoin[ing], suspend[ing] or restrain[ing] the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.” Wisconsin provides aggrieved tax payers with the right to challenge the state’s income tax assessment by filing an administrative appeal to the Wisconsin Department of Revenue and then, if the first appeal is unsatisfactory, an appeal to the Wisconsin Tax Appeals Commission. Wis. Stat. § 71.88. Because Wisconsin provides an adequate state law remedy for petitioners’

grievances regarding the calculation, assessment and collection of their state taxes, petitioners may not bring suit regarding these matters in federal court.

B. Claim Under 42 U.S.C. § 1983

Although it is far from clear from the complaint, it appears that petitioners believe the federal government has adopted the use of a computer encryption program, called the “Lucifer system,” and that the use of this program amounts to government-sponsorship of “pagan demonism” in violation of their rights under the First Amendment’s establishment clause. Petitioners’ complaint suffers from two deficiencies; one is procedural, the other substantive.

1. Proper respondents under § 1983

To state a claim under 42 U.S.C. § 1983, petitioners must allege facts from which it may be inferred that one or more persons acting under color of state law have deprived them of a right secured by the Constitution or federal law. Jones v. Wilhelm, 425 F.3d 455, 465 (7th Cir. 2005). None of the respondents named by petitioners are suable “persons” under § 1983. Respondents NCO Financial Systems, Inc. and Diversified Collection Services, Inc. are private collection agencies, and therefore do not qualify as state actors. Respondents Wisconsin Department of Revenue and Wisconsin Department of Financial

Institutions (whose connection to this lawsuit is unclear) are state agencies, not individuals.

Moreover, the Eleventh Amendment of the United States Constitution bars federal lawsuits brought against states for money damages, Wynn v. Southward, 251 F.3d 588, 592 (7th Cir. 2001), and for the purpose of preserving state sovereign immunity, suits against state agencies are considered to be suits against states themselves. Kroll v. Board of Trustees of Univ. of Illinois, 934 F.2d 904 (7th Cir. 1991) (“[A] state agency is the state for purposes of the eleventh amendment.”); see also Pennhurst State School & Hospital, 465 U.S. at 100 (“It is clear, of course, that in the absence of consent a suit in which the State or one of its agencies or departments is named as the defendant is proscribed by the Eleventh Amendment.”). Because the Wisconsin Department of Revenue and the Wisconsin Department of Financial Institutions are state agencies, sovereign immunity shields them from liability under § 1983.

Petitioners seek money damages in connection with their establishment clause claim. Because they have not named any respondents from whom such damages could be recovered, their request for leave to proceed in forma pauperis must be denied.

## 2. The “Lucifer system”

Although petitioners’ claim will be dismissed for failure to name appropriate respondents, a word on the merits of the claim may be in order. It is clear that petitioners



are genuinely distressed by what they perceive as government sponsorship of an allegedly demonic “tracking system.” Their belief is long-standing and deeply held; therefore, it is unlikely that anything this court can say will quell their concerns or correct their misperceptions. Nevertheless, two points bear mentioning.

First, it appears that petitioner misunderstands what the “Lucifer system” is and how it functions. In the early 1970s, when computer scientists began developing the first systems for electronic data encryption, Horst Feistel, an employee of IBM, developed one of the earliest “block cipher” encryption systems, which he named “Lucifer.” Wikipedia, [http://en.wikipedia.org/wiki/Lucifer\\_\(cipher\)](http://en.wikipedia.org/wiki/Lucifer_(cipher)) (last visited June 2, 2006). The origin of the name is uncertain, but some speculate that it was a play on the name of another system Heist developed, named “Demonstration” but abbreviated as “Demon.” Id.

In 1972, when the National Bureau of Standards decided to create a new encryption standard for protecting unclassified government information, IBM proposed adoption of its Lucifer algorithm. David Banisar, “Stopping Science: The Case of Cryptography,” 9 Health Matrix 253, 267-68 (1999). After the National Security Administration convinced IBM to modify the algorithm in several ways, the National Bureau of Standards adopted a modified version of the algorithm, which was dubbed the Data Encryption Standard (DES). Id. The new DES system was used to encrypt all of government transmissions and store unclassified data. Mark Pasco, “Re-defining National Security in the Technology Age: The Encryption

Export Debate,” 26 J. Legis. 337, 338 (2000). Neither the Lucifer nor the DES algorithm utilizes the number “666” in any way.

The question presented here is whether the federal government’s use of the DES algorithm is in any way connected to petitioners’ allegation that Wisconsin state agencies have violated petitioners’ right to be free of state-established religious endorsement. It cannot be. The evils against which the establishment clause protects have been described in many ways. Eg., County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter, 492 U.S. 573, 627 (1989) (O’Connor, J., concurring) ([T]he essential command of the establishment clause [is] that government must not make a person’s religious beliefs relevant to his or her standing in the political community by conveying a message that religion or a particular religious belief is favored or preferred.”); Committee For Public Ed. and Religious Liberty v. Nyquist, 413 U.S. 756, 772 (1973) (“Primary among those evils [against which the Establishment Clause protects] have been sponsorship, financial support, and active involvement of the sovereign in religious activity.”); Kaufman v. McCaughtry, 419 F.3d 678, 683 (7th Cir. 2005) (“The Establishment Clause [] prohibits the government from favoring one religion over another without a legitimate secular reason.”).

Regardless how the protection afforded by the establishment clause is framed, at its core the First Amendment guarantees citizens the right to be free from any purposeful form

of government favoritism, sponsorship or promotion of one belief system over another. In this case, petitioner's allegations do not permit an inference to be drawn that the Wisconsin Department of Revenue or the Wisconsin Department of Financial Institutions have endorsed paganism or any type of demonic belief system. Petitioners appear to allege that respondents have violated the establishment clause because the *federal government* encrypts its computerized documents using the DES encryption system, a variation of the Lucifer algorithm. Because Lucifer<sup>1</sup> is one of the names Christians have assigned traditionally to the devil, petitioners find the name religiously offensive. Moreover, because petitioners believe literally the biblical prophesy that the devil will "mark" people with the number "666" before the end of the world, Rev. 13:16-18, they may fear any coding system that might connect their personal information with the word "Lucifer" or the number "666."

When determining whether governmental action amounts to an endorsement of one belief system over another, a court must assume the viewpoint of a reasonable observer. Capitol Square Review and Advisory Bd. v. Pinette, 515 U.S. 753, 773 (1995) (O'Connor, J., concurring). The reason for this is simple:

Given the dizzying religious heterogeneity of our Nation, adopting a subjective

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<sup>1</sup> The name Lucifer is an abbreviation of the Latin phrase lucem ferre, which means "bearer of light." In classical antiquity, Romans used the word Lucifer to refer to the planet Venus, the morning star. See, e.g., Oxford English Dictionary (2d ed. 1989). In Christian traditions, the word refers to a fallen angel, often regarded as the devil. Id.

approach would reduce the test to an absurdity. Nearly any government action could be overturned as a violation of the Establishment Clause if a “heckler's veto” sufficed to show that its message was one of endorsement. See Pinette, 515 U.S. at 780 (“There is always someone who, with a particular quantum of knowledge, reasonably might perceive a particular action as an endorsement of religion”) . . . [B]ecause the “reasonable observer” must embody a community ideal of social judgment, as well as rational judgment, the [endorsement] test does not evaluate a practice in isolation from its origins and context. Instead, the reasonable observer must be deemed aware of the history of the conduct in question, and must understand its place in our Nation's cultural landscape.

Elk Grove Unified School Dist. v. Newdow, 542 U.S. 1, 34-35 (2004) (O’Connor, J., concurring). Although petitioners’ concerns have deep roots, they are grounded in fear, not fact. No reasonable observer could infer from the facts alleged by petitioners that any government, state or federal, has violated the establishment clause by adopting and using the DES encryption system. Consequently, petitioners will be denied leave to proceed in forma pauperis and this lawsuit will be dismissed.

#### ORDER

IT IS ORDERED that petitioners Alan Hansen and Linné Hansen are DENIED leave to proceed in forma pauperis and their claim is DISMISSED with prejudice for failure to

state a claim. The clerk of court is directed to close the file.

Entered this 5th day of June, 2006.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge