

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES L. EDWARDS, JR.,
Appellant,
vs.
DONALD L. HOTCHKISS, JR.,
Respondent.

No. 55268

FILED

NOV 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court judgment in an action alleging fraud and statutory violations. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

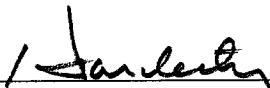
In June 2007, appellant, respondent, and another individual formed a non-profit corporation, with appellant serving as resident agent and treasurer, and respondent as president. In June 2008, respondent filed with the Secretary of State's office an annual list of officers and directors, which did not include appellant. Appellant then expressed to the board that he wanted to be removed as a director and resign as resident agent. The board did not vote to remove appellant as a director, but it accepted his resignation as resident agent. On July 25, 2008, respondent asked appellant to resign as a member of the corporation, stating that, per appellant's request, appellant no longer was on the corporate charter or part of the board. That same day, appellant requested to inspect the corporate records pursuant to NRS 82.186. Respondent did not comply with the request, and although respondent acknowledged that appellant remained a member of the corporation, appellant was thereafter excluded from the corporate business.

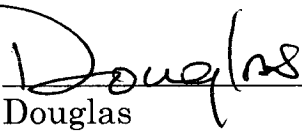
Appellant filed a district court action, alleging that respondent violated (1) NRS 82.186 by refusing to permit appellant to examine corporate records; (2) NRS 225.084 by filing an annual list of officers that excluded appellant's name, thus justifying monetary damages; and (3) NRS 82.201 and 82.251 by wrongfully expelling appellant from membership in the corporation. After a bench trial, the district court entered a judgment in favor of appellant on his claims that respondent violated NRS 82.186 (records inspection) and NRS 82.251 (expulsion procedures). The judgment ordered respondent to allow appellant to review the records and found that the attempt to expel appellant was ineffective. The court concluded that the original board of directors remained in place. Because the court found that respondent did not willfully file a false list of officers, it denied appellant's request for monetary damages under NRS 225.084. The court found that the corporation and its members had no agreement under which the corporation was required to reimburse members for personal property use, so it denied appellant's request, raised during the trial, to be reimbursed for use of his civil war muskets. This appeal followed.

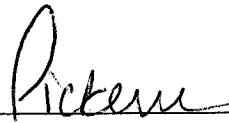
On appeal, appellant challenges the district court's finding regarding his wrongful removal from the corporation, asserting that the court should have found that respondent acted fraudulently in removing appellant. He also assigns error to the court's finding that no agreement existed entitling appellant to reimbursement for wear and tear on his muskets. Appellant argues that his case was prejudiced because defense counsel represented both the corporation and respondent, and the district court failed to address the conflict. Finally, he asserts that as a proper person appellant, he has had difficulty "untangling this matter" and

“determining what orders need to be filed and by whom to make sense of the court’s determinations,” and he maintains that the court favored respondent, who was represented by counsel below. We give deference to the district court’s factual findings so long as they are not clearly erroneous and are supported by substantial evidence. See Goodrich & Pennington v. J.R. Woolard, 120 Nev. 777, 782, 101 P.3d 792, 795 (2004). Having reviewed the record, including the trial transcripts, we conclude that the district court’s findings are supported by substantial evidence and are not clearly erroneous. Further, nothing in the record supports appellant’s claims regarding prejudice¹ and bias. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Elizabeth Goff Gonzalez, District Judge
James L. Edwards, Jr.
Donald L. Hotchkiss, Jr.
Eighth District Court Clerk

¹Although in his May 12, 2009, opposition to respondent’s summary judgment motion, appellant stated that it was not in justice’s best interest for respondent’s attorney to represent the corporation and respondent, he did not file a motion to disqualify that attorney. Nevertheless, respondent substituted attorneys on June 1, 2009, more than six months before trial, and neither the record nor appellant’s appeal statement indicates that appellant raised any challenges to the new attorney.