JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2002-11-05-013 / NOT PRECEDENTIAL**
ID: **JM020002**
DATE: **11-05-02**
DISPOSITION: **DISBARMENT OF RONNIE E. CANTWELL**
TAX TYPE: **PRACTICE AND PROCEDURE**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now on this 3rd day of October, 2002, the above styled and numbered cause comes on for decision pursuant to a hearing held in accordance with 68 O.S. 2001, § 236 and *OAC*, Rule 710:1-5-200, on September 24, 2002. Respondent appears pro se. The Tax Commission is represented by the Office of the General Counsel of the Tax Commission.

A *Petition for Disbarment* of Respondent from further practice before the Tax Commission was filed by the Office of the General Counsel on August 20, 2002. The *Petition* duly set forth the particular allegations against Respondent and the requested relief should the burden of proof of the allegations be met.

Notice of the hearing on the *Petition* was served on Respondent in accordance with 68 O.S. 2001, §§ 236 and 208. The notice was returned "unclaimed". Respondent neither appeared at the hearing on September 24, 2002, nor responded to the notice.

At the hearing, the Office of the General Counsel made a brief opening statement which mirrored its Petition for Disbarment, including the particulars it intended to prove and its prayer of relief. One witness, THE ADMINISTRATOR of the IRP/IFTA Section of the Motor Vehicle Division of the Tax Commission was called. Exhibits were identified, offered and received into evidence. Upon conclusion of the hearing, the record was closed and the matter was submitted for decision.

Upon review of the file and records, including the record of the hearing and the exhibits received into evidence, the undersigned finds:

1. That Respondent worked for ANONYMOUS as a registration agent.

2. That ANONYMOUS was in the business of assisting trucking companies in obtaining their licenses and registrations for purposes of their interstate operations.

3. That as a registration agent of these trucking companies Respondent prepared and filed license and registration forms and returns with the Tax Commission and remitted the resulting registration fees.

4. That Respondent admitted during his testimony in the bond hearing of *State of Oklahoma v. Billy Bruce Baber*, Case No. CF-02-3168, In and For The District Court of Oklahoma County, State of Oklahoma, that he conspired to defraud his client, XYZ, of $100,000.00 and converted a portion of those funds for his own use.

5. That Respondent also admitted during his testimony that as a part of this conspiracy he either caused to be prepared, assisted in the preparation of, or had knowledge that a false report or return was filed on behalf of his client, XYZ, with the Oklahoma Tax Commission.

6. That the records of the Tax Commission show several of the other clients of ANONYMOUS were defrauded either directly by Respondent or with his assistance and knowledge.

7. That in each of these instances, an original IRP application with a mileage schedule would be filed with the Tax Commission, thus generating a billing. The billing would be presented to the client of ANONYMOUS for payment. Thereafter, a revised mileage schedule would be filed which because of the varying state registration rate, would be reworked to result in a lesser total registration fee than previously reported. The lesser fee would be remitted by ANONYMOUS and the difference would be pocketed by the conspiring parties.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that the Tax Commission is vested with jurisdiction over the parties and subject matter of this cause, 68 O.S. 2001, ∋ 236 and *OAC*, Rule 710:1-5-200; that an agent, accountant, attorney or other person representing taxpayers before the Tax Commission may be disqualified from practice before the Commission for a stated period of time, or indefinitely, *OAC*, Rule 170:1-5-200(g); that the grounds for suspension or disbarment include incompetence or disreputableness, 68 O.S. 2001, ∋ 236; that any such individual who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any taxpayer or prospective client by words, circular, letter, or by advertisement, or who shall prepare a false or fraudulent report or return in any particular whatsoever, may also be suspended and disbarred, *Id.*; and that here the Office of the General Counsel has shown by a preponderance of the evidence that Respondent has violated the provisions of Section 236, in particular, Respondent acted in a disreputable manner with regard to his clients and the State of Oklahoma and Respondent, with intent to defraud, willfully and knowingly deceived his clients and prepared or caused to be prepared false or fraudulent reports and returns.

DISPOSITION

THEREFORE, it is recommended that Respondent, Ronnie E. Cantwell, be indefinitely suspended and disbarred from further practice before the Tax Commission, and prohibited from the preparation or filing on behalf of or as an agent for any other person any report, return or application required or provided for under the provisions of the tax laws or motor vehicle registration laws of this state.

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CAVEAT: This decision was **NOT** deemed precedential by the Commission. This means that the legal conclusions are not generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.