**JURISDICTION:** **OKLAHOMA TAX COMMISSION - DECISION**
**CITE:** **2003-04-03-03 / NOT PRECEDENTIAL**
**ID:** **JM030002**
**DATE:** **04-03-03**
**DISPOSITION:** **DISBARMENT OF LEON QUALLS, JR.**
**TAX TYPE:** **PRACTICE AND PROCEDURE**
**APPEAL:** **NO APPEAL TAKEN**

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now on this 5th day of March, 2003, the above styled and numbered cause comes on for decision pursuant to the parties *Stipulation of Facts*. Respondent is represented by AN Attorney at Law. The Tax Commission is represented by AN Assistant General Counsel from the Office of the General Counsel of the Tax Commission.

Upon review of the file and records, including the *Petition for Disbarment* filed in the Office of the Administrative Law Judges on January 3, 2003 and the *Stipulation of Facts*, the undersigned finds:

A. The parties stipulate to the following:

1. On August 1, 2002, former Deputy Director of the Motor Vehicle Division, obtained a faxed motor fuel report from a trucking company [sic] out of California. The fax had been sent to the attention of RESPONDENT, field auditor for the Motor Vehicle Division, at one of the OTC's fax machines. THE DEPUTY DIRECTOR contacted the section supervisor to determine whether this particular company was the subject of an audit. The company was not being audited.

2. As a result of this information, THE former Director of the Motor Vehicle Division, met with RESPONDENT and asked him why the fax had been sent to him. RESPONDENT stated that he had been doing fuel reports for some companies. THE DIRECTOR advised RESONDENT that this appeared to be a conflict of interest.

3. On August 14, 2002, RESONDENT received a Notice of a Pre-Termination Hearing. A Pre-Termination Hearing was held on August 23, 2002. During the hearing, RESPONDENT admitted he had been preparing fuel reports for at least five (5) companies while employed by the OTC and that he received payment from the companies for preparing the reports. Despite being advised by THE DIRECTOR in August, 2002, that his preparation of fuel reports was improper, RESPONDENT continued to act as a service agent. RESPONDENT'S employment was terminated on August 27, 2002, for misconduct, conduct unbecoming a public employee and other just cause. RESPONDENT'S discharge was changed, pursuant to a settlement agreement, to suspension without pay and subsequent retirement.

4. By acting as a service agent while employed in the Motor Vehicle Division for the OTC, RESPONDENT has been shown to be disreputable. It is imperative that OTC's employees be prohibited from using state time to build up a private business representing taxpayers. RESPONDENT'S actions undermined the public's confidence in Government decision making. As stated in OTC's policy, OTC must eliminate any real or perceived conflict of interest and prohibit its employees from using their position with OTC in order to generate or enhance an outside business interest.

## CONCLUSIONS OF LAW

WHEREFORE, the parties agree RESPONDENT should be disbarred from further practice before the Oklahoma Tax Commission, and prohibited from the preparation or filing on behalf of or as an agent for any other person any tax return, report or application required or provided for under the tax laws or motor vehicle registration laws of the State.

## DISPOSITION

THEREFORE, based on the parties' stipulations, and 68 O.S. 2001, ϟ 236 and *OAC*, Rule 710:1-5-200, it is the DETERMINATION of the undersigned that Respondent, Leon Qualls, Jr., 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.

**OKLAHOMA TAX COMMISSION**

**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.