JURISDICTION: **OKLAHOMA TAX COMMISSION - DECISION**
CITE: **2004-02-10-03 / NOT PRECEDENTIAL**
ID: **JM030010**
DATE: **02-10-04**
DISPOSITION: **DISBARMENT OF THERESA MOYERS**
TAX TYPE: **PRACTICE AND PROCEDURE**
APPEAL: **NO APPEAL TAKEN**

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Now on this 15th day of January, 2004, 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 December 17, 2003. Respondent, Theresa Moyers, is represented by AN Attorney at Law. 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 June 11, 2003. 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. Respondent appeared at the hearing on December 17, 2003, by and through her attorney.

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 was employed by XYZ REGISTRATION as a registration agent.

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

3. That Respondent's name appeared on Limited Powers of Attorney executed by trucking companies, as grantors to XYZ REGISTRATION, as the grantee of the power, as early as January, 2000.

4. That Respondent started submitting IRP applications on behalf of IRP registrants shortly before November, 2000.

5. 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.

6. That Respondent has submitted thousands of these applications.

7. That in September 2000, Respondent submitted a 2001 IRP Renewal Application and supporting documentation on behalf of ANONYMOUS REGISTRANT AAA for the 2001 registration year, as service agent of AAA.

8. That on Schedule B to the application, Respondent utilized XYZ' standardized first year registration estimate of mileage template for reporting the mileage of ANONYMOUS REGISTRANT AAA.

9. That the total mileage reported on Schedule B for the 2001 registration year was 335,918.

10. That ANONYMOUS REGISTRANT AAA was previously registered in the State of Oklahoma.

11. That ANONYMOUS REGISTRANT AAA's 2000 IRP renewal application was submitted by XYZ REGISTRATION on behalf of ANONYMOUS REGISTRANT AAA and reported on Schedule B a combination of estimated and actual mileage in the total amount of 63,832.

12. That in November 2000, Respondent submitted an IRP Renewal Application and supporting documentation on behalf of ANONYMOUS REGISTRANT BBB for the 2001 registration year, as service agent of BBB.

13. That on Schedule B to the application, Respondent utilized XYZ's standardized first year registration estimate of mileage template for reporting the mileage of ANONYMOUS REGISTRANT BBB.

14. That the total mileage reported on Schedule B for the 2001 registration year was 335,918.

15. That ANONYMOUS REGISTRANT BBB was previously registered in the State of Oklahoma.

16. That BBB's 2000 IRP renewal application was submitted by XYZ REGISTRATION on behalf of BBB and reported on Schedule B a combination of estimated and actual mileage in the total amount of 50,511.

17. That all IRP renewal applications are computer-generated by the Tax Commission and sent to a registrant or its service agent, including the 2001 renewal applications for ANONYMOUS REGISTRANTS AAA and BBB.

18. That in rebuttal to the proposition that of the thousands of applications submitted by Respondent, only two applications were found to be erroneous, not fraudulent, and that these were submitted in 2000, early in Respondent's employment with XYZ REGISTRATION, the Commission presented evidence of an altered document which was submitted as part of a supplemental IRP application by Respondent on behalf of ANONYMOUS REGISTRANT CCC in June, 2003.

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, 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, 170:1-5-200(g); that the grounds for suspension or disbarment include incompetence or disreputableness, or preparation of a false or fraudulent report or return in any particular whatsoever, 68 O.S. 2001, § 236; and that here the evidence proves that Respondent has violated the provisions of Section 236, in particular, the facts show that Respondent is either indolent, at the least, for failing to review her clients' records, or incompetent, for failing to obtain the records, neither of which is a reputable trait of an agent or representative of taxpayers.

DISPOSITION

THEREFORE, it is DETERMINED that Respondent, Theresa Moyers, 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.