JURISDICTION: OKLAHOMA TAX COMMISSION
CITE: 2004-08-31-05
ID: JM-04-002-K
DATE: AUGUST 31, 2004
DISPOSITION: DISBARRED
TAX TYPE: DISBARMENT
APPEAL: NONE TAKEN

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A *Petition for Disbarment* was filed by the Commission in the Office of the Administrative Law Judges on May 13, 2004, alleging that Respondent violated the provisions of Section 236 of the Uniform Tax Procedure Code[1] and that such violations warranted the disqualification of Respondent from practice before the Commission.

On May 13, 2004, the case was assigned to the undersigned Administrative Law Judge and a *Notice of Prehearing Conference* was forwarded to Respondent in accordance with *OAC*, 710:1-5-200(d), scheduling the conference for May 27, 2004. Respondent appeared at the Pre-hearing Conference and upon the request of the parties a *Prehearing Conference Order and Notice of Hearing* was issued to the parties in accordance with *OAC*, 710:1-5-200(c) setting forth dates for the parties to exchange witness lists and any documents or writings which may be introduced at the hearing, discovery requests and final witness lists and a statement designating those documents or writings which would be offered at the hearing. The Order also set forth dates for the parties to complete discovery, file or announce any stipulations and file pre-trial briefs. The hearing was scheduled by the Order for September 2, 2004.

On June 15, 2004, the parties filed a *Stipulation of Facts and Law* with the ALJ's Office duly executed by Respondent and the representative of the Commission. Respondent by jointly agreeing to and submitting the *Stipulation of Facts and Law* waived her opportunity for hearing. By letter dated June 17, 2004, the parties were notified that they were excused from further compliance with the procedural dates set forth in the *Prehearing Conference Order and Notice of Hearing*, that the hearing scheduled for September 2, 2004, was stricken and that the matter was submitted for decision.

FINDINGS OF FACT

Upon review of the file and records, including the *Petition for Disbarment* and the *Stipulation of Facts and Law*, the undersigned finds:

1. The parties stipulate to the following:

> 1. Chelsie Straka worked for SERVICE AGENT, a service agent doing business as REGISTRATION COMPANY, after February 10, 2004, the date SERVICE AGENT was disqualified from practicing before the Oklahoma Tax Commission. Chelsie Straka continued to work for SERVICE AGENT after the Oklahoma Tax Commission, through its Motor Vehicle Division's Deputy Director, informed her she could not file applications with the Oklahoma Tax Commission on behalf of SERVICE AGENT.

2. By the filing of the Petition for Disqualification, the Office of the General Counsel for the Oklahoma Tax Commission seeks to disqualify Chelsie Straka from further representation of taxpayers before the Oklahoma Tax Commission in the State of Oklahoma.

3. While representing taxpayers before the Oklahoma Tax Commission, Respondent Chelsie Straka committed acts which constitute a violation of the prohibitions of 68 O.S. § 236 for which Respondent may be disbarred or disqualified from further practice before the Commission, and agrees to such disqualification.

Based on such Stipulations, the parties recommend:

That Chelsie Straka be disqualified from practicing before the Oklahoma Tax Commission and prohibited from the preparation or filing, as 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 of Oklahoma.

2. The *Stipulation of Facts and Law* was duly executed by Respondent and the representative of the Commission.

3. Respondent jointly agreed to and submitted the *Stipulation of Facts and Law*.

4. Respondent by jointly agreeing to and submitting the *Stipulation of Facts and Law* waived her opportunity for hearing.

5. Nothing in the record indicates that the *Stipulation of Facts and Law* were not: a) freely and voluntarily agreed to and submitted by Respondent; b) Respondent was subject to coercion or duress; or c) Respondent was not fully aware of the consequences of submitting the *Stipulation of Facts and Law*.

6. Nothing in the record indicates the *Stipulation of Facts and Law* are not accurate.

CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that:

1. The Commission is vested with jurisdiction over the parties and subject matter of this proceeding. 68 O.S. 2001, § 236 and *OAC*, 710:1-5-200.

2. The Commission sustained its burden of establishing, by a preponderance of evidence, that Respondent violated the provisions of Section 236 and that such violations warrant the disqualification of Respondent from practice before the Commission.

3. Respondent's agreement to disqualification from practice before the Commission, freely and voluntarily submitted, should be approved and accepted.

DISPOSITION

THEREFORE, based the above and foregoing findings of fact and conclusions of law, it is ORDERED that Respondent, Chelsie Straka, 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 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.

[1] 68 O.S. 2001, § 201 et seq.