

THE NEXT CASE ON THE COURT
CALENDAR IS FLORIDA BAR V.BEHM.

[INAUDIBLE]

>> YOU MAY PROCEED.

>> GOOD MORNING.

FIRST, MAY I PLEASE THE COURT, I
WOULD LIKE TO THANK YOU FOR
AFFORDING ME THE PRIVILEGE OF
APPEARING BEFORE YOU ON BEHALF
OF OUR COLLEAGUE, CHARLES BEHM
AT THIS HEARING.

THESE MATTERS ARE NEVER LEFT THE
AND NEVER EASY AND THEY'RE NEVER
TOO LATE.

AS I UNDERSTAND THE ISSUE, AS
YOU'VE PRESENTED HERE IS THAT
THIS COURT HAS DIRECTED US
AUTHORITIES TO SHOW WHY IT
SHOULD NOT CONSIDER A
DISPOSITION MORE SEVERE THAN
RECOMMENDED BY THE REFEREE THE
MATTER ON MORE THAN ONE ACCOUNT.
TO INCLUDING THIS BAR THAT
COVERS A LOT OF GROUND.

I WILL DO MY BEST.

>> YOUR CLIENT HAS CONTINUED TO
ASSERT THAT HE COMMITTED NO
UNLAWFUL CRIME IN FAILING TO
FILE INCOME TAX RETURNS FOR A
NUMBER OF YEARS AND I'M ASSUMING
CONTINUED UP THROUGH THE
PRESENT.

THE REFEREE FOUND YOUR TAXABLE
INCOME, SUFFICIENT AND LEGALLY
OBLIGATED TO PAY TAXES.

I WANT YOU -- ALSO UNDER
CURRENTLY 91 DAY EXTENSION
FURTHER MISCONDUCT IN A PRIOR
PUBLIC REPRIMAND.

WHAT I WOULD WANT YOU TO ADDRESS
IS ASSUMING THE REFEREE'S
FINDINGS ARE CORRECT AND THAT HE

HAS HAD TAXABLE INCOME,
SUFFICIENT TO LEGALLY OBLIGATE
PAY TAXES AND THAT HE IS
CONTINUING IN THIS UNLAWFUL
CONDUCT.

HOW DO WE LET SOMEONE LIKE THIS
PRACTICE LAW?

>> ASSUMING THE REFEREE'S
FINDINGS ARE CORRECT, MR. BEHM
IS ALSO CORRECT IN ASSERTING HE
IS VIOLATING THE LAW BECAUSE HE
HAD NOT COMMITTED A CRIMINAL
ACT IN REFUSING TO FILE TAX
RETURNS.

>> I JUST WANT TO GET CLEAR
HERE.

THE RESPONDENT TOOK THE POSITION
THAT HE IS NOT SUBJECT TO THE
FEDERAL INCOME TAX LAW.

>> THE RESPONDENT IN THE GOOD
FAITH BELIEVER THAT THE INCOME
TAX PROGRAM, AS IT IS WRITTEN,
AND AS IS THE LAW, IS NOT NEAGATED
BY THE SUPREME COURT OF
THE UNITED STATES AND HAS NO
APPLICATION TO HIM.

HE HAS ENUNCIATED AT THE HEARING
AND ARTICULATED, AND I FELT VERY
THOROUGHLY, THE BASIS FOR THAT
BELIEF, THAT HE HAS FOUNDED A
LETTER OF THE LAW AND HAS FOUND
IN THE ENUNCIATION THAT THE
SUPREME COURT OF THE UNITED
STATES.

HE HAS RELIED UPON THOSE LETTERS
OF THE LAW AND THE SUPREME COURT
OF THE UNITED STATES.

>> THAT'S HIS UNDERSTANDING.

AND THAT HAS BEEN HIS
UNDERSTANDING.

THAT EXPLAINS WHY HE FAILED TO
COOPERATE.

AND IT IS HIS PRESENT INTENTION
TO NOT FILE INCOME TAX RETURNS.

>> THAT IS MY UNDERSTANDING,
YOUR HONOR.

>> JUST TO MAKE SURE, EVEN
THOUGH HE HAS TAXABLE INCOME?

>> MA'AM, I'M SORRY.

IT'S HIS BELIEF THAT IN EXCHANGE
FOR HIS LABOR, IS NOT ALL PROFIT
HERE IT IS BELIEVED AND OTHERS
WILL DISAGREE, ALTHOUGH I THINK
THE COURT WILL NOTE THE NUMBER
ONE THE REFEREE FOUND BOTH
GUILTY --

>> I INTERRUPTED JUSTICE
CANADY.

I JUST WANTED TO MAKE SURE THE
IDEA OF CONTINUING TO CONDUCT
INTO THE FUTURE AND YOU'RE
SAYING YES, HE WOULD.

JUSTICE CANADY HAD A REMARK IF
YOU WOULD RESPOND.

>> WHAT IS THE POINT YOU SHOULD
NOT PAY TAXES, THAT IT IS
ILLEGAL FOR THE UNITED STATES
GOVERNMENT TO COLLECT TAXES FROM
INDIVIDUALS OR THAT THE INCOME
HE HAS GAINED IS NOT SUBJECT TO
A TAX REVENUE CODE?

>> YOUR HONOR, THE QUESTION THAT
YOU HAVE WOULD REQUIRE NOT JUST
BOWERS TO RESPOND TO.

HE RESPONDED IN HIS TESTIMONY IN
DETAIL AS RELATIVE TO THE ONE
LETTER --

>> MR. CRYER, THIS IS GOING TO
TAKE HOURS FOR YOU TO SAY EITHER
THE INCOME IS THE TAXABLE BY
LAW.

YOU CAN'T BREAK THAT DOWN INTO
WHAT IT IS.

HE ACTUALLY SAID IT'S NOT

TAXABLE.

>> THE REASON I ASKED THE QUESTION IS THERE ARE SOME FOLKS IN THE UNITED STATES WHO HAVE A PHILOSOPHICAL BELIEF THAT TAXING THEIR INCOME IS NOT MORAL OR WHATEVER.

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IS THAT WHERE YOU'RE COMING FROM?

>> IT HAS NOTHING TO DO WITH WHAT THE LAW SHOULD BE. IT HAS NOTHING TO DO WITH WHETHER THE LAW IS CORRECT. HIS BELIEF HAS NOTHING TO DO WITH WHETHER THE LAW IS OR IS NOT CONSTITUTIONAL OR WHETHER IT HAS THE AUTHORITY OF CONGRESS. WHAT IS DIFFERENT IS OR HIS UNDERSTANDING OF THE LAW FOR BEARING HIS LEGAL DUTY UNDER THE LAW IS BASED UPON THE LETTER OF THE INTERNAL REVENUE CODE IN THE ENUNCIATION OF THE UNITED STATES.

>> YOU BETTER PUT THIS IN PLAIN ENGLISH BECAUSE YOU'RE HERE FOR YOUR CLIENT ON A VERY SERIOUS CHARGE.

I'M STILL NOT CLEAR ON THIS ISSUE.

THE REFEREE FOUND HE HAD NET INCOME FROM THE PRACTICE OF LAW. IN OTHER WORDS, HE MADE MONEY AS A LAWYER.

HE DIDN'T FILE INCOME TAX RETURNS, WHICH EVERY CITIZEN IF THEY HAVEN'T, IS REQUIRED TO DO.

WHAT IS IT THAT YOU'RE SAYING SOMEHOW THEY TEASED INTERPRETING WHAT PROVISION TO SAY THAT NO LAWYER HAS THE OBLIGATION TO

FILE INCOME TAX RETURNS?

THIS SHOULD BE AN EASY ANSWER.

>> THE ONLY WAY I CAN RESPOND TO THIS QUESTION IS TO HAVE AN OPPORTUNITY TO PUT BEFORE THE COURT ITS OWN POLICIES, IS TO REFER TO NOT ONLY MR. BEHM'S TESTIMONY DURING THE HEARING BUT THE BARS OWN EXPERT WHO WAS UNABLE TO --

>> I WANT TO ASK A QUESTION IF I COULD.

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I WANT TO FOCUS ON THE QUESTION, BECAUSE WHAT I'M HEARING IS THE SAME THING KIND OF OVER AND OVER AGAIN IN RESPONSE TO THE OTHER QUESTION.

LET ME ASK YOU THIS, YOU STARTED OFF BY SAYING THAT REALLY EVERY CASE IS DIFFERENT.

NOW I UNDERSTAND THAT WHEN WE LOOK AT THE CASES, THEIR FACTUAL CIRCUMSTANCES THAT VARY FROM CASE TO CASE.

IN ANY OF THE CASES THAT WE HAVE PREVIOUSLY DECIDED, INVOLVING THE FAILURE TO FILE INCOME TAXES OR INCOME TAX FRAUD OR OTHER VIOLATIONS OF THE INCOME TAX LAW, HOW WE DEALT WITH ANY CASE THAT HAS THE SAME FEATURE THAT IS PRESENT IN THIS CASE, THAT IS THAT THE RESPONDENT TOOK THE POSITION THAT HE WAS NOT SUBJECT TO THE REQUIREMENT TO PAY FEDERAL INCOME TAX?

>> I CANNOT SPEAK TO OTHER INSTANCES AS TO WHY THE RESPONDENT OR THE ATTORNEY --

>> WAIT, YOU'RE RELYING -- YOU WERE GOING TO RELY ON OUR CASE LAW HERE.

AND I'M ASKING YOU, I'M ASKING YOU ABOUT OUR CASE LAW IN ANY OF THE CASES ON WHAT YOU RELY FOR A SANCTION LESSON DISBARMENT OR WHATEVER SANCTION YOU THINK IS APPROPRIATE.

TOO MANY OF THOSE CASES INVOLVE A CLIENT WHO HAS TAKEN THE SAME POSITION YOUR CLIENTS HAS TAKEN, THAT IS THAT HE IS NOT RESPONSIBLE FOR PAYING INCOME TAX.

>> I DO NOT WANT TO ANSWER THAT QUESTION.

>> IT WOULD BE VERY HELPFUL. DON'T YOU THINK THAT WOULD BE A VERY RELEVANT CIRCUMSTANCE FOR US IN DETERMINING WHETHER THIS IS DISTINGUISHABLE FROM THE CASES ON WHICH YOU RELY?

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>> I UNDERSTAND YOU HAVE 23 OR 24 INSTANCES THAT THIS COURT HAS ADDRESSED THE ISSUE OF SOMEONE'S FAILURE TO FILE IN INCOME TAX RETURN FOR THE FEDERAL GOVERNMENT.

AND IN EVERY SINGLE ONE OF THOSE, THIS COURT HAS NOT TAKEN ACTION AGAINST ONE UNTIL HE WAS CONVICTED EITHER BY JURY OR HIS PEERS AFTER A TRIAL OR BY HIS OWN PLEA.

>> SO YOUR ARGUMENT REALLY IS THAT UNTIL THE IRS GETS A HOLD OF HIM AND HE HAS SOME KIND OF FEDERAL CONVICTION FOR TAX EVASION OR WHATEVER IT MAY BE, THAT THAT IS THE ONLY TIME THAT WE CAN DISCIPLINE A FLORIDA LAWYER WHO IS WILLFULLY REFUSING TO PAY INCOME TAX?

>> NO, MA'AM.

I UNDERSTAND YOU ARE THE ALPHA, YOU ARE THE OMEGA WHEN IT COMES TO ATTORNEY DISCIPLINE. IT STARTS HERE AND FINISHES HERE. YOU MAKE THE CALL.

YOU ARE YOUR AN INTELLIGENT FORCE.

YOU ARE YOUR OWN SUPERVISION. AND NO, MA'AM, I DON'T TAKE ANY POSITION THAT THERE'S ANYTHING THAT THAT YOU CANNOT DO.

BUT I DO KNOW THAT YOU HAVE A CRAFT THAT BRIGHT LINE TO PUNISH SOMEBODY WHO HAS NOT BEEN DETERMINED TO BE GUILTY BY A JURY OF HIS PEERS OR HIS OWN PLEA.

>> IS THERE A CASE WHERE THE REFEREE HAS FOUND THAT THERE WAS TAXABLE INCOME, THE LAWYER DID NOT PAY ANY TAXES IN AND WE SAID WELL, THAT'S OKAY BECAUSE IRS HASN'T SAID ANYTHING.

>> THESE CASES HAVE NEVER BEEN BROUGHT BEFORE YOU PRIOR TO A CONVICTION.

AND I THINK THAT'S A GOOD POLICY, YOUR HONOR.

BECAUSE EVEN LAWYERS ARE ENTITLED A PRESUMPTION OF INNOCENCE UNTIL ONE OF THOSE TWO THINGS HAPPENS.

EVEN LAWYERS ARE ENTITLED TO THAT.

I DON'T THINK IT'S WISE TO CROSS OVER THAT.

>> WELL, THE QUESTION HERE FOR YOU.

>> YES, SIR.

YES, YOUR HONOR.

>> TO THIS DAY, HAS HE FILED A TAX RETURN SINCE 1999?

>> NO SIR, HE HAS NOT.
>> HAS HE BEEN AUDITED?
HAS HE BEEN AUDITED?
>> NO, SIR.
NOT TO MY KNOWLEDGE.
>> IS HE UNDER INVESTIGATION BY
THE FEDERAL GOVERNMENT IN ANY
WAY?
IS HE UNDER INVESTIGATION BY THE
FEDERAL GOVERNMENT?
>> I AM UNDER THE IMPRESSION
THAT HE MAY BE.
I DON'T KNOW.
HE HAS NOT RECEIVED A TARGET
LETTER.
>> BUT YOU ARE REPRESENTED HERE
TODAY, AS YOUR CLIENT WILL
CONTINUE TO PERSIST IN
MISCONDUCT.
IS THAT TRUE?
>> IT IS MY UNDERSTANDING, YOUR
HONOR, THAT MY CLIENT CONTINUES
IN HIS GOOD FAITH BELIEF THAT
THERE IS NO LEGAL DUTY FOR HIM
TO DO THAT.
AND UNDER THE COMMENTS OF YOUR
RULES TO EXPLAIN THE RULE NUMBER
FOUR -- 8.4 RELATIVE TO -- I'M
SORRY.
>> BECAUSE I DON'T THINK YOU
ANSWERED JUSTICE CANADY'S OR
JUSTICE LABARGA'S QUESTIONS.
WHAT IS HIS LEGAL BASIS FOR
THINKING HE DOES NOT HAVE AN
OBLIGATION TO PAY?
CAN YOU GIVE IT TO ME IN ONE
SENTENCE?
WHAT IS THE LEGAL BASIS?
SAY, I DON'T HAVE TAPPED CIVIL
INCOME BECAUSE --
>> HE CAN FIND NO STATUTE THAT
IMPOSES LIABILITY FOR THE INCOME

TAX ON HIM UNDER TITLE A --
OF TITLE 26 OF THE UNITED STATES
CODE THAT UNDER THE ARTICULATION
OF THE CONSTITUTIONAL, NOT
LIGHT, NOT DEFINITION OF THE
WORD INCOME, HE HAS NONE.
AND EVEN IF THESE HAD HIS
BELIEFS THAT IT'S HIS GOD-GIVEN RIGHT
TO EARN A LIVING THROUGH HIS OWN
LABOR, WHICH IS PROTECTED BY THE
CONSTITUTION, IS PROTECTED EVEN
THE STATES BY THE COMMITMENT
THAT THAT RIGHT IS BEYOND THE
TAXING AUTHORITY OF THE FEDERAL
GOVERNMENT ACCORDING TO THE U.S.
SUPREME COURT IN NO LESS THAN 60
OCCASIONS.

>> YOU ARE SAYING HIS INCOME.
IN ESSENCE, YOU ARE SAYING HIS
INCOME FROM THE PRACTICE OF LAW
IS NOT TAXABLE AND IN ESSENCE
NONE OF US REALLY ARE SUBJECT TO
INCOME TAX BECAUSE THE MONEY WE
EARN IS FROM THE SWEAT OF OUR
BROW AND OUR OWN LABORS.
NONE OF US ARE SUBJECT TO INCOME
TAX.

THAT'S YOUR ARGUMENT TODAY.
ON HIS BEHALF.

>> IS THAT CORRECT THAT NONE OF
THE LAWYERS, 87,000 LAWYERS IN
THE STATE OF FLORIDA, NONE OF
THEM WHO EARN INCOME AND
PRACTICE LAW ARE SUBJECT TO
FILING INCOME TAX RETURN, IS
THAT CORRECT?

>> I DON'T EXPRESS AN OPINION ON
THAT.

>> UNDER FEDERAL LAW, ARE THERE
WAYS TO CHALLENGE THE
APPLICATION OF THE TAX ONTO
INDIVIDUALS?

>> UNDER FEDERAL LAW YOU HAVE 26 -- WHICH PROHIBITS ANYBODY FROM HAVING AN ACTION TO CHALLENGE THE TAX LAW OR DO CHALLENGES THE ELECTIONS OF TAX. AND SO, THE ONLY WAY TO CHALLENGE THIS IS TO DO WHAT YOU'RE DOING.

>> MR. CRYER, I WANT YOU TO KNOW THAT YOU ONLY HAVE ONE MINUTE LEFT IF YOU WANT TO MAKE TIME FOR REBUTTAL.

>> I'D LIKE TO SAVE SOME FOR REBUTTAL, BUT I HAVE 50 SECONDS. I APPRECIATE IT.

THANK YOU, YOUR HONOR.

>> MRS. BROWN-LEWIS.

>> MY NAME IS FRANCES BROWN-LEWIS, I REPRESENT THE FLORIDA BAR BEFORE THE COURT.

>> COULD WE JUST CLEAR UP ONE THING.

MR. CRYER SAID HE BELIEVES HIS CLIENT MAY BE UNDER SOME KIND OF A FEDERAL INVESTIGATION.

DO WE KNOW THAT OR IS THAT ANYWHERE IN OUR RECORD?

>> PURSUANT TO THE RECORD, MR. BEHM INDICATED AND NOTED THAT HE DID HAVE TAX DEFICIENCY. AS FAR AS I KNOW, THERE'S NO FEDERAL INDICTMENT OF A CRIMINAL NATURE AGAINST HIM.

>> WELL, MY CONCERN IN TERMS OF WHAT WE DO IS THAT WE'VE GOT A PERSON, A LAWYER WHOSE UNDER ALREADY A 91 DAY EXTENSION.

THE ISSUE HERE IS THAT THE REFEREE INITIALLY GAVE -- I MEAN, THIS CASE HAS BEEN ON FOR SEVERAL YEARS GIVING A 90 DAY SUSPENSION FOR THIS.

AND EVEN WHEN IT WENT BACK,
TALKED ABOUT GIVING 91 DAYS.
BUT HOW DOES THE FLORIDA BAR --
HOW CAN THIS COURT ALLOW
SOMEBODY TO PRACTICE LAW IN THE
STATE, THAT TAKES IT UPON
HIMSELF OR HERSELF TO SIMPLY
DISOBEY THE LAW OF THIS COUNTRY?
WHAT IS THE BAR'S VIEW ABOUT THIS?
I DON'T KNOW THAT WE'VE HAD THIS
SITUATION, AS SOMEBODY THAT WE
KNOW -- I MEAN, AND YOU SEE
THESE MEETINGS OF LAYPEOPLE THAT
THEY WERE BEYOND THE LAW.
DO WE HAVE ANY CASES LIKE THAT?
>> THIS IS A VERY UNIQUE CASE.
CASES THAT WE'VE HAD ARE WHERE
THE RESPONDENT HAS BEEN CRIMINALLY
CHARGED, EITHER WITH THE FELONY
OF MISDEMEANOR AND FELONY CASES
ALLOWED THEM TO HAVE RESULTED IN
DISBARMENT.
I JUST WANT TO CLARIFY FOR YOU,
THE REFEREE GAVE MR. BEHM,
UNDER COUNT ONE, 90 DAY
SUSPENSION.
ON COUNT TWO HE RECEIVED --
>> THE ORIGINAL THING IS THAT
THE BAR HAD ACTUALLY, AND THIS
IS MY CONCERN, KNOWING HE WASN'T
FILING INCOME TAX RETURN HAD
AGREED TO A 90 DAY SUSPENSION
FOR BOTH THE CONDUCT.
SO WHAT ARE WE MISSING?
BECAUSE THIS COURT SEES IT AS
BEING VERY SERIOUS WHEN YOU
DISOBEY THE LAW.
WHAT DOES THE BAR SAY ABOUT
THIS?
AND THE REFEREE THAT INITIALLY
GAVE A 90 DAY OR A 91 DAY?
>> IT WAS A MISDEMEANOR CASE

WHERE THE RESPONDENT RECEIVED THE SANCTION LESS THAN 90 DAYS.
>> AREN'T THOSE CASES WHERE THEY MAY BE AT KNOWLEDGE THAT THEY HADN'T PAID AND THEY KNEW -- WE KNEW THAT THERE WAS SOME GUARANTEE THEY WERE GOING TO OBEY THE LAW IN THE FUTURE?

>> YES, THEY WERE.

AND IT WAS ONLY DONE THREE MANNED THAT IT WAS CLEAR. ESPECIALLY HERE AT THE APPELLATE LEVEL THAT IS ABUNDANTLY CLEAR THAT MR. BEHM HAS NO INTENTION OF PAYING TAXES BECAUSE HE BELIEVES HE IS A GOOD FAITH BASIS.

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>> LET ME ASK A QUESTION I HAVE THE OPPOSING COUNSEL. HAVE WE EVER HAD A CASE LIKE THAT BEFORE?

>> NOT THAT I WAS ABLE TO FIND.

>> OKAY, SO NONE OF OUR REPORTED DECISIONS ADDRESS THE CIRCUMSTANCE THAT WE HAVE FOCUSED ON IN THE BEGINNING OF THIS ORAL ARGUMENT?

SO, WHEN YOU SAID THIS IS A WEAK CASE, I WAS A LITTLE PUZZLED.

DID YOU SAY THIS WAS A WEAK CASE?

>> NO, SIR.

>> I'M SORRY, I MISUNDERSTOOD YOU.

IT SEEMS TO ME THAT WE ARE REALLY DEALING WITH SOMETHING HERE IN TERMS OF THE APPROPRIATENESS OF THE SANCTION THAT IS THE QUESTION OF FIRST IMPRESSION.

>> YES, I BELIEVE I SAID A UNIQUE CASE.

>> OKAY.

I HEARD WEAK AND I APOLOGIZE.
SO, WHILE THE UNIQUE CASE, WHAT
YOU ACTUALLY SAID AND I
MISUNDERSTOOD IS EXACTLY THE
POINT I THINK WHICH IS MOST
PREVALENT HERE.

FOR LACK OF A BETTER TERM, WE
ARE DOING WHAT WHAT SOME PEOPLE
MIGHT CALL A TAX RESISTANCE.

AND I DON'T MEAN THAT IN THE
PEJORATIVE SENSE.

I'M JUST TRYING TO COME UP WITH
A SHORTHAND WAY OF DESCRIBING
THE CIRCUMSTANCE HERE.

IS THAT YOUR UNDERSTANDING?

>> YES, SIR.

MY UNDERSTANDING OF THIS
POSITION IS HE BELIEVES THAT
UNDER NO CIRCUMSTANCES SHOULD HE
EVER BE REQUIRED TO FILE TAX
RETURNS OR PAY TAXES.

>> NOW THIS GOES BACK TO 1999,
WHERE HE IS NOT PAYING TAXES.

WHAT DID HE DO BEFORE 1999?

DID HE PAY TAXES?

>> HE PAID TAXES HERE AND HE WAS
A PUBLIC DEFENDER SO IT WAS
PROBABLY --

>> WASN'T HE ONLY A LAWYER FOR A
YEAR?

>> HE'S BEEN A LAWYER SINCE
1999.

HE WAS PRACTICING LAW IN 1999.

>> BEFORE THAT HE WAS WITH THE
STATE ATTORNEY'S OFFICE.

>> PRIOR TO THAT WAS A NAVY
OFFICER AT THAT SCHOOL.

BASED UPON THE TESTIMONY BEFORE
THE REFEREE UP UNTIL THE TAX
YEAR FOR 1999.

>> YOU SAID HE WAS AN OFFICER IN

THE UNITED STATES NAVY.
DO WE KNOW IF HE PAY TAXES DURING
THAT PERIOD OF TIME?

>> FROM HIS OWN TESTIMONY, HE
INDICATED HE DID FILE RETURNS
AND PAY TAXES.

>> OF COURSE, HIS INCOME WAS
PAID DURING THAT PERIOD BY THE
TAXES PAID BY EVERYBODY ELSE,
RIGHT?

>> THAT'S THE WAY LOOK AT IT, THAT
WE HAVE ATTORNEYS IN THE STATE
OF FLORIDA -- WE HAVE PEOPLE IN
ORDER TO REPORT OUR GOVERNMENT,
YOU PAY TAXES.

THAT'S HOW THE GOVERNMENT IS
ABLE TO DO SOME THINGS WE ENJOY
IN THE UNITED STATES.

>> THIS CASE, THIS
CASE STARTED SEVERAL YEARS AGO
AND REALLY IN A WAY WE KNOW IT'S
ONGOING SINCE THERE ISN'T ANY
INCOME, SO MAYBE THERE'S NO
FEDERAL TAX LIABILITY THIS YEAR.
BUT, HOW DO WE LOOK AT THE FACT
THAT HE IS CURRENTLY UNDER A 91
DAY SUSPENSION FOR SOME PRETTY
EGREGIOUS OTHER BEHAVIOR?
CAN THIS COURT TAKE THAT OTHER
REHABILITATIVE SANCTION, WHICH
WAS AN APPEAL TO THIS COURT INTO
EFFECT IN SEEING THIS AS A CASE
OF CUMULATIVE MISCONDUCT?

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>> I BELIEVE SO.

IN FACT, HIS OWN MISCONDUCT IN
THE PARTICULAR CASE THAT WERE
HERE FOR CAN BE TREATED AS
CUMULATIVE BECAUSE WE HAVE A
NUMBER OF YEARS WHERE HE REFUSED
TO PAY INCOME TAXES AND FILE
RETURNS.

WHAT I BELIEVE IS REALLY

IMPORTANT, IS THAT WE HAVE AN ATTORNEY WHO REFUSES TO EXPAND ESTABLISHED LAW THAT WHEN YOU HAVE TAXABLE INCOME, YOU'RE OBLIGATED TO FILE RETURNS AND PAY TAXES.

THE BARS EXPERT, LOOKING AT THE EVIDENCE BEFORE THE REFEREE INDICATED UPON THAT MR. BEHM HAD TAXABLE INCOME THAT MET THE THRESHOLD STANDARD THAT HE WAS REQUIRED TO PAY NOT ONLY TO FILE A RETURN, BUT TO PAY TAXES.

IN FACT, THE ESSENCE BEFORE THE REFEREE AND A THREE-YEAR PERIOD, MR. BEHM HAD GROSS RECEIPT OF OVER \$400,000.

>> BUT I GUESS THE NET AMOUNT WAS NOT VERY SIGNIFICANT.

I'M NOT SUGGESTING THAT THAT SHOULD BE A LEVEL OF THE DECISION, BUT THE RECORDS SHOW THAT THE NET EARNINGS -- UNLESS YOU'RE DISPUTING THIS, AND I THOUGHT YOUR OWN ACCOUNTING TO COUNTENANCE HAD COME UP WITH \$22,000 NET INCOME IN 2000, \$37,000 IN 2001, AND \$9700 IN 2002.

>> YES, MA'AM.

>> IS THERE MORE?

>> THERE WAS MORE EVIDENCE PRESENTED DURING THE PROCEEDINGS THAT SHOW, THROUGH ITS OPERATING ACCOUNT RECORDS, THAT IN GROSS RECEIPTS HE RECEIVED IN A THREE-YEAR PERIOD, WHICH IS SOMETIME AFTER THAT.

THERE, THAT HE HAD OVER \$400,000 IN GROSS RECEIPTS.

>> IT WASN'T IN THE REFEREE'S FINDINGS?

>> NO, MA'AM.

IT WAS IN THE PROCEEDINGS THAT
CAME OUT.

AND THAT WOULD SHOW HOW OUR
EXPERTS BASED IS TO POSITION
APART.

>> WHAT DO YOU EXPERTS SAY IN TERMS
OF HIS TAXABLE INCOME, WHAT WITH
THE EVIDENCE ON THAT BECAUSE
IT'S NOT IN THE REFEREE'S
REPORT.

PART OF WHAT WAS BY THE
OPERATING ACCOUNT THAT MR. BEHM
PROVIDED TO THE BAR, ALSO BY THE
ADMISSIONS THAT MR. BEHM MADE --

>> WHAT ARE THE AMOUNTS?
AFTER 2002.

>> I DON'T KNOW THOSE RIGHT AT
THE TOP.

>> ARE THEY IN HUNDREDS OF
THOUSANDS ARE WE TALKING ABOUT
\$10,000 OR \$20,000?

>> WE COME TO THE THRESHOLD
AMOUNT IS \$400 PER YEAR.

>> I UNDERSTAND THAT.

WE'VE HAD CASES WHERE SOMEBODY
IN TERMS OF BEING A TAX
EVADER, TAX RESISTOR, AGAINST
THE LEVEL OF WHICH HE IS EARNING
MONEY FOR THE PRACTICE OF LAW.

>> WE HAVE GENERAL KNOWLEDGE,
PART OF WHICH MR. BEHM DIDN'T
WANT TO PROVIDE TOO MUCH
INFORMATION AND FEARED HE WOULD
BE CRIMINALLY PROSECUTED FOR
INCOME.

>> ON THAT SUBJECT, AS THE
FLORIDA BAR REPORTED IN THE
ABYSS TO THE FEDERAL
AUTHORITIES?

>> NO, WE DID NOT.

WE DID NOT WANT TO BE IN A

POSITION WHERE WE WOULD BE ACCUSED OF TRYING TO GAIN AN ADVANTAGE IN THE DISCIPLINARY PROCEEDING.

>> JUST AS A MATTER OF PRACTICE, DOES THE BAR EVER REFER MATTERS THAT THEY COME ACROSS THAT MIGHT BE UNLAWFUL TO ANY AUTHORITIES OR NO?

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>> WHEN WE SEE THAT, WE WILL CONTACT THE CRIMINAL AUTHORITIES.

ONE THING WE KNOW ABOUT IN THE INFORMATION FROM MR. BEHM, WE KNEW THERE WERE TAX DEFICIENCIES.

SO WE FIGURED THAT HE WOULD PROBABLY BE CIVILLY PURSUED BY THE IRS.

>> HOW DID THIS COME TO THE BAR'S ATTENTION?

>> THERE WAS A JUDGE IN NORTH CAROLINA THAT PRESENTED A COPY OF HIS ORDER TO THE BAR.

AND THIS JUDGE IN NORTH CAROLINA, MR. BEHM, APPEARED BEFORE HIM AND A PERSONAL INJURY CASE.

BASED UPON --

>> SO, HE HAD SUED FOR HIS OWN PERSONAL INJURIES AND MAYBE HE WAS CLAIMING, I'M ASSUMING, LOSS OF INCOME, AND THE JUDGE FOUND OUT THAT IN FACT HE WAS GAINFULLY EMPLOYED AND HE HAD NEVER FILED INCOME TAXES.

>> YES, MA'AM.

AND THAT ALL CAME OUT AS SOME DISCOVERY BECAUSE MR. BEHM HAD TO BE COMPELLED TO PROVIDE CERTAIN DOCUMENTATION TO SUPPORT THAT CLAIM.

AND MR. BEHM WAS VERY RELUCTANT TO PROVIDE THAT INFORMATION. AND SO, THERE WERE PROCEEDINGS TO COMPEL IT.

>> IT IS THE BAR'S POSITION THAT THIS IS A PRIME CASE WHERE WE HAVE AN ATTORNEY WHO REFUSES TO ABIDE BY THE LAW.

THIS IS A PRIME CASE WHERE THIS COURT MAY WANT TO SEND A MESSAGE TO OTHER ATTORNEYS THAT FEEL THEY SHOULD GET ON THE SAME BANDWAGON.

AND THE MESSAGE IS, IT IF YOU DO NOT ABIDE BY ESTABLISHED LAW, LAW THAT EVERY REASONABLE PERSON, ESPECIALLY PRUDENT ATTORNEYS IN THE STATE OF FLORIDA KNOWS, THAT HE SHOULD NOT HAVE THE PRIVILEGE OF PRACTICE OF LAW.

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>> THANK YOU VERY MUCH FOR YOUR ARGUMENT.

MR. BEHM, YOU ARE HERE TODAY. AND I WOULD LIKE YOU TO JUST STAND UP AND TELL THE COURT WHETHER OR NOT YOU INTEND TO -- WHAT ARE YOUR INTENTIONS CONCERNING FILING YOUR INCOME TAX RETURNS AND IF YOU ARE PLANNING TO PERSIST IN THIS KIND OF CONDUCT.

>> YOUR HONOR.

[INAUDIBLE]

[INAUDIBLE]

>> SO YOU ARE BASICALLY, SIR, ARE YOU REPRESENTING THEN TO THIS COURT THAT BASED ON YOUR INTERPRETATION OF THE INTERNAL REVENUE CODE, YOU WILL NOT BE PAYING INCOME TAXES?

[INAUDIBLE]

>> THAT YOU WILL NOT BE PAYING INCOME TAXES?

>> UNLESS THE LAW CHANGES.

[INAUDIBLE]

>> THANK YOU.

I APPRECIATE YOUR CANDOR TO THE COURT.

MR. CRYER, YOU HAVE 44 SECONDS LEFT IF YOU DO HAVE ANYTHING YOU WANT TO ADD TO THAT.

>> I WANT TO THANK YOU ALL FOR YOUR CONTENTION AND POINT OUT IN CLOSING THAT ALTHOUGH I HAVE NOT DONE A VERY GOOD JOB OF ENUNCIATING THE CASE LAW IN THE AVIATOR AND GUIDELINES AND SANCTIONS THAT WOULD IMPLICATE, I BELIEVE, I JUST HAVE TO REFER YOU TO THEM.

I INDICATE THAT DISBARMENT IS NOT AN APPROPRIATE SANCTION IN THIS INSTANCE BECAUSE IT FAILS TO MEET ANY OF THOSE STANDARDS. AND POINT OUT THAT WE DO NOT HAVE A SINGLE ACT OF DECEPTION, A SINGLE ACT OF DISHONESTY THAT OUR REFEREE WHO IS VERY DURABLE, VERY CAPABLE IN ALL APPEARANCES TO ME IN VERY JUDICIOUS AND HAS HELD THAT MR. BEHM IS AN HONEST MAN.

THAT HIS HONESTY AND INTEGRITY ARE NOT COMPROMISED.

THAT HE COMMITTED NO CRIMINAL ACT IN HIS REFUSAL, WHICH INDICATES THAT HE IS IN GOOD FAITH BELIEF, WHICH UNDER YOUR OWN RULES INDICATE THAT HE SHOULD NOT BE PUNISHED TO PERFORM A DUTY THAT HE IS IN GOOD FAITH BELIEF DOES NOT APPLY TO HIM.

>> AND MR. CRYER, WITH THAT YOUR ARGUMENT YOU HAVE USED UP ALL OF

YOUR TIME.

THANK YOU FOR YOUR ARGUMENT.

>> I APPRECIATE YOUR ATTENTION.

THANK YOU VERY MUCH, YOUR HONOR.

>> THE COURT WILL NOW BE IN
RECESS.

>> PLEASE RISE.

>> THE SUPREME COURT IS NOW
ADJOURNED.