

63,521^a

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,
Petitioner,

vs.

Case No.

CALLAHAN, HART, DANFORTH,
AND CUMMINGS,
an unincorporated association,
and ROBERT HORNSTEIN
A/K/A T. J. SCOTT, an individual,
Respondents.

FILED

APR 13 1983

SID J. WHITE
CLERK SUPREME COURT

By _____
Chief Deputy Clerk

PETITION AGAINST THE UNAUTHORIZED PRACTICE OF LAW

The Florida Bar, Petitioner, charges Callahan, Hart, Danforth and Cummings and Robert Hornstein a/k/a T. J. Scott with engaging in the unauthorized practice of law in the State of Florida, and in support thereof, alleges:

I.

This petition is filed pursuant to Article XVI of the Integration Rule of The Florida Bar.

II.

This Court has original and exclusive jurisdiction to prohibit the unauthorized practice of law pursuant to Article V, Section 15, of the Florida Constitution.

III.

Petitioner is charged with the duty and responsibility of initiating and prosecuting, in this Court, proceedings against the unauthorized practice of law.

IV.

Article II, Section 2, of the Integration Rule of The Florida Bar provides in part that "No person shall engage in any way in the practice of law in this state unless such person is an active member of The Florida Bar in good standing . . ."

V.

The Board of Governors of The Florida Bar has authorized the institution of this proceeding against the Respondents.

VI.

Respondents, at all times material herein, were not and are not members of The Florida Bar, and were not therefore licensed to engage in the practice of law in the State of Florida.

VII.

Respondents have engaged in the unauthorized practice of law in Broward County, Florida by one or more of the following acts:

1. On or about April 11, 1980, Respondent Hornstein executed a Cease and Desist Affidavit in which he indicated that he used the name T. J. Scott in his business activities, that he was not a member of The Florida Bar, that he understood that it constitutes the unauthorized practice of law for an individual to claim to be an attorney in attempting to collect a debt, and that he would refrain from such activities unless and until he was admitted to The Florida Bar.

2. On or about April 5, 1982, Respondent Hornstein, employed by Callahan, Hart, Danforth and Cummings, addressed a letter to the law firm of Bahrman and Ballou of Corbin, Kentucky, authorizing said law firm to initiate a lawsuit on behalf of a client of Respondent Callahan, Hart, Danforth and Cummings. The letter was on stationery the letterhead of which identified Respondent Callahan, Hart, Danforth and Cummings as "Attorneys in Fact."

3. On or about April 22, 1981, Respondent Hornstein spoke with one Stephen L. Ahl, Esquire of Lincoln, Nebraska about a creditor's claim against a business entity represented by Mr. Ahl. Respondent identified himself as T. J. Scott, stated that he was an attorney, and identified Respondent Callahan, Hart, Danforth and Cummings as a firm engaged in the practice of law.

On or about May 8, 1981, Mr. Ahl attempted to contact Respondent Hornstein a/k/a T. J. Scott and spoke with one Ken G. Fitzgerald, an employee of Respondent Callahan, Hart, Danforth and Cummings, who stated that his employer was a prominent Florida law firm and that T. J. Scott was an attorney.

4. On or about September 28, 1982 Respondent Hornstein spoke with one Kerwin B. Stephens, Esquire of Lubbock, Texas regarding a debt owed by a business represented by Mr. Stephens. Respondent identified himself as T. J. Scott and stated that he was an attorney.

5. Respondent Callahan, Hart, Danforth and Cummings sent out the following letters, on stationery the letter of which identified Respondent as "Attorneys in Fact," containing a notice to the creditor that the account had been referred to a law firm for prosecution, and signed by Respondent Hornstein as T. J. Scott:

- 1) On or about September 20, 1982 to Engineered Disposal Systems Corporation of Hallandale, Florida;
- 2) On or about September 28, 1982 to Mueller Power Tong of Stamford, Texas;

- 3) On or about September 30, 1982 to Gold Coast Coin & Stamp of Fort Lauderdale, Florida.

6. Respondent Callahan, Hart, Danforth and Cummings used stationery, the letterhead of which identified Respondent as "Attorneys in Fact," in the mailing of letters soliciting business from the following parties:

- 1) On or about July 26, 1982 to A-F Trucking Co. of Brush Prairie, Washington;
- 2) On or about August 16, 1982 to Capitol Business Forms, Inc. of New Cumberland, Pennsylvania;
- 3) On or about October 5, 1982 to Sunco, Inc. of Hollywood, Florida.

VIII

The aforesaid activities of Respondent Hornstein violate the terms of the Cease and Desist affidavit signed on April 11, 1980, and the aforesaid activities of the Respondents violate the letter and spirit of this Court's decisions in The Florida Bar v. Walzak, 380 So.2d 428 (Fla. 1980) and The Florida Bar v. Moran, 273 So.2d 390 (Fla. 1973).

WHEREFORE, Petitioner prays as follows:

1. That this Court issue a temporary injunction against Respondents to remain in effect during the pendency of this proceeding.

2. That this Court issue its order to Respondents, commanding them to show cause, if any there be, why they should not be found in indirect criminal contempt of this Court and also permanently enjoined from any and all representations that they are attorneys in the State of Florida.

3. That Respondents be found in indirect criminal contempt of this Court.

4. That this Court issue a permanent injunction preventing and restraining Respondents from engaging in the acts complained of and from otherwise engaging in the practice of law in the State of Florida, unless and until such time as Respondents are duly authorized to practice law in this state.

5. That the costs of this proceeding be taxed against the Respondents.

6. That this Court grant such other and further relief as it may deem proper.

Respectfully submitted,

THE FLORIDA BAR

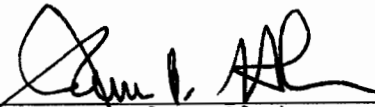
James C. Rinaman, Jr., President
Post Office But 447
Jacksonville, Florida 32201
(904) 355-6681

William O. E. Henry
President-elect
Post Office Drawer BW
Lakeland, Florida 33802
(813) 682-1161

John F. Harkness, Jr.
Executive Director
The Florida Bar
Tallahassee, Florida 32301
(904) 222-5286

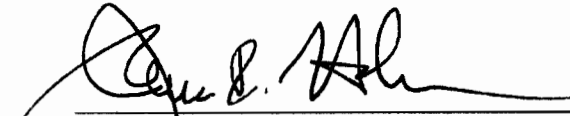
James P. Hahn, Chairman
Standing Committee on Unauthorized
Practice of Law
Post Office Box 38
Lakeland, Florida 33802
(813) 688-7747

Catherine L. Dickson
UPL Counsel
The Florida Bar
Tallahassee, Florida 32301
(904) 222-5286

By: 
James P. Hahn, Chairman
Standing Committee on the
Unauthorized Practice of Law

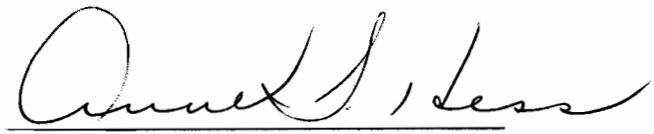
STATE OF FLORIDA)
COUNTY OF POLK)

BEFORE ME, the undersigned authority, duly authorized to administer oaths, personally appeared James P. Hahn, who, after first being duly sworn, upon oath, says that the allegations of the foregoing Petition Against Unauthorized Practice of Law are true to the best of his information and belief.



James P. Hahn

SWORN TO AND SUBSCRIBED before me this 7th day of April, 1983.



Notary Public

My Commission Expires:

Notary Public, State of Florida at Large
My Commission Expires Nov. 9, 1983