

BEFORE THE BOARD OF CHIROPRACTIC EXAMINERS
OF THE STATE OF OREGON

In the Matter of:)
)
MARTIN JOHN COTE, D.C.) BOARD FINAL ORDER
(Licensee).)

This matter was considered by the Board based upon its Notice of Disciplinary Action; Licensee's Response to said Notice, attached Memorandum, Argument, Affidavit and supportive letters; and United States District Court for Oregon Transcript of Testimony and Briefs filed with the United States Court of Appeals for the Ninth Circuit (United States of America v. Martin John Cote, DC, No. 82-60018; CA No. 82-1764); after fully considering this record, the Board enters the following decision.

FINDINGS OF FACT

1. Martin John Cote, DC, "Licensee," is a chiropractic physician licensed to practice the profession of chiropractic in Oregon since January 30, 1974.
 2. On or about December 13, 1982, Licensee was convicted of the crimes of attempting to evade income tax due, in violation of 26 USC § 7201, and wilful failure to file income tax due, in violation of 26 USC § 7203, and sentenced to five (5) years imprisonment to be followed by five (5) years probation. [United States District Court for the District of Oregon, CR 82-60018]
 3. An applicant for a license to practice chiropractic in Oregon is required under ORS 684.040(2)(a) to furnish to the Board satisfactory evidence of good moral character. An applicant, once
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licensed, must continue to maintain good moral character in order to hold such license.

4. Good moral character is a specific professional standard under ORS 670.280 relating to the fitness of a chiropractic physician to hold a license in Oregon.

5. The crimes for which Licensee was convicted are not "per se" crimes involving moral turpitude. Fraud itself is not a necessary element of the crimes. However, the crimes may involve moral turpitude, depending on the circumstances.

6. A lack of good moral character and moral turpitude are not necessarily synonymous. When applied to the professions of medicine and law (and chiropractic), good moral character is broadly defined to include the elements of simple honesty, fairness, respect for the rights of others, and for the laws of state and nation. The term moral turpitude, however, is somewhat vague and difficult of clear definition. Generally it has been defined as that element in personal misconduct in the private and social duties which a man owes to his fellow man or to society in general which characterizes the act done as an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between man and man.

7. In order to find the crimes for which Licensee was convicted involve moral turpitude, it is necessary to determine whether Licensee's conduct contained elements of fraud or whether there were other aggravating circumstances present.

8. Licensee's basic contention in the court proceedings is

that personal income taxation is not in accordance with "supreme" United States law. Licensee further, when faced with judicial determinations contrary to his theories, falls back on a "higher law" - the Bible. Despite the fact this contention was rejected in the United States District Court and United States Court of Appeals, Licensee continues to advance this same argument to the Board. The Board chooses to debate neither the judiciary or the Bible.

9. The gross income of Licensee for the period of time involved in the criminal case is not insignificant. For 1977, gross income was \$31,000+ with no reported income; for 1978, \$41,000+ with no reported income; and for 1979, \$38,000+ with no reported income.

10. Licensee's conduct is not based solely upon his honest and sincere personal and political convictions that the income tax laws are wrong. His convictions went beyond a mere expression of opinion, but included intentional and affirmative direct conduct designed to circumvent and avoid any tax obligations to the Governments of the United States and the State of Oregon.

Specific Findings - Moral Turpitude

11. Licensee took the following affirmative actions to avoid paying income tax. These actions show an intention to mislead or conceal assets and income:

a. Dr. Cote either second endorsed patient checks to pay personal obligations, deposited patient checks into savings accounts, or directly paid business expenses (Tr 70, 77, 88-89,

251, 252).

b. Dr. Cote opened a NOW checking account in his wife's maiden name, with a power of attorney to himself, with Merchant Savings and Loan, Manchester, New Hampshire (Exh 16, Tr 74, 106-107; Exh 76, Tr 109-110, 136, 159, 243).

c. Dr. Cote opened a NOW checking account in his wife's maiden name, with power of attorney to himself, with Home Savings in Boston, Massachusetts (Exh 17, Tr 105-106; Exh 76, Tr 108, 109, 110, 136, 159, 243).

d. Dr. Cote instructed his office staff to use a light blue pencil to write his expense check so that those figures would not show up on bank microfilm (Tr 117, 118, 132, 250, 251).

e. Dr. Cote instructed his office staff to change his Social Security number when submitting documents with Social Security numbers to third parties (Exh 14, Tr 69, 71, 75; Exh 18, Tr 82, 83, 249, 250).

f. Dr. Cote, under oath, stated that he did not keep or maintain books or records of his financial affairs, including patient records. The reason given was that he did not feel obligated to do so, and he would not keep books "simply to please some Internal Revenue Service agent or some state auditor." Licensee did, in fact, keep such permanent patient records (Exh 12, p 22, Tr 118, 120-122, 131; Exh 18, pp 98, 100-103, Tr 247, 248; Exh 9-A, pp 119, 120).

12. This conduct demonstrates willfulness and a fraudulent design and scheme to avoid legal obligations to the Government

and, in the end, the citizens of this nation. It clearly shows Licensee's state of mind and that he was fully aware of his tax obligations, which were sought to be avoided by devious conduct.

13. This conduct clearly goes beyond a mere expression of personal and political beliefs, and demonstrates a wilful and fraudulent intention to conceal assets and income.

14. A wilful and fraudulent intention to conceal assets and income, in addition to demonstrating moral turpitude, clearly shows a complete lack of simple honesty, fairness, respect for the laws of this State and of the United States, and a failure of good moral character.

15. Conduct resulting in cheating the Government out of taxes casts considerable doubt upon the honesty of a chiropractor in dealing with patients, insurance companies and other governmental agencies.

ULTIMATE FINDING OF FACT

The circumstances surrounding Licensee's conviction and the evidence produced during the court proceeding demonstrate moral turpitude and a lack of good moral character.

CONCLUSIONS OF LAW

1. Licensee has failed to maintain good moral character under ORS 684.040(2)(a).
2. The circumstances surrounding Licensee's conviction and the evidence produced during the court proceeding show that the crimes in this specific case are ones involving moral turpitude under ORS 684.100(1)(a).

OPINION

The Board has before it a person licensed to practice chiropractic for approximately 10 years. The Licensee was a learned member of his profession and should be aware of his obligations to his fellow man, society as a whole and to the nation. In 1982 Licensee was convicted of the crimes of attempting to evade income tax due and wilful failure to file income tax due. Licensee was sentenced to imprisonment with probation. He is presently incarcerated in a United States penitentiary.

The Board in its Notice of Disciplinary Action initially found that the convictions demonstrated a lack of good moral character and also that the convictions demonstrated moral turpitude. Licensee did not challenge the convictions, but very strenuously argued that the convictions did not show a lack of good moral character or moral turpitude. If the only issue that was before the Board was whether the convictions demonstrate a lack of moral character, with the standard being simple honesty, fairness and respect for the law, the Board would have no hesitation in concluding the convictions did clearly show a lack of moral character. However, the Board is also faced with the burden of further concluding the convictions demonstrate moral turpitude. The Board, after reviewing the court transcripts and appellate briefs in this matter, disagree with the Licensee's contentions and find the convictions involve moral turpitude.

For want of a better characterization, Licensee can be

classified as a "tax revolter." His theory is that the tax laws of the United States are unconstitutional. When faced with judicial precedent to the contrary, Licensee then falls back on the theory of the higher law of the Bible prevailing. The Board desires to neither debate the courts or the Bible. If all that Licensee did was voice his honest and sincere political beliefs in this area, the Board would not be concerned with Licensee's opinions. However, Licensee followed up his beliefs and took affirmative action whereby he refused and failed to pay taxes due to the United States Government and to the State of Oregon. No person wishes to pay taxes. However, there are avenues available, other than setting up fraudulent schemes to avoid paying such taxes. These avenues include petitioning members of Congress representing Licensee to modify the tax code; forming citizen groups to urge legislation modifying the income tax laws; and voicing grievances to elected representatives. Licensee chose not to follow the democratic process, but rather instituted his own personal program to avoid paying taxes and now claims such conduct does not adversely reflect on his moral character or is moral turpitude. The Board finds it difficult to compartmentalize dishonesty in such a way that a person who is willing to cheat his Government out of substantial amounts of taxes may yet be considered honest in his dealings with his patients. Today's doctor deals financially with the Government, state and federal, in many ways that have nothing to do with personal tax obligations. For example, these dealings include testifying in

court and examination reports to Workers' Compensation boards. Aside from governmental contacts, the doctor deals with private insurance carriers which demands utmost honesty in reporting.

Licensee's convictions show complete dishonesty in dealings with the Government and cast considerable doubt upon his ability to deal fairly with patients and insurance carriers.

Licensee's personal program to avoid paying taxes, in the Board's judgment, demonstrated fraudulent conduct and an intention to conceal assets and other income. Licensee's affirmative actions took the form of endorsing patients' checks to pay his personal obligations, or directly paying such patients' checks into his own savings accounts or to pay business expenses. As a result, there would be no record of Licensee's checks being paid for necessary expenses. The Licensee further opened a NOW checking account in his wife's maiden name, with power of attorney to himself, with banks in the eastern United States. Since Licensee lives in Jackson County, Oregon, there can be little doubt that the reason the NOW accounts were opened in his wife's name in the eastern United States were to divert income into said accounts which might ordinarily be traceable to himself. Significantly, Dr. Cote also instructed his office staff to use a light blue pencil to write expense checks so those figures would not show up on bank microfilm. There can be no practical purpose served other than to hide the source of assets and income. Dr. Cote instructed his staff to change his Social Security number when submitting documents with Social Security numbers to

third parties. As a result, the Government or any other interested party would not be able to use the Social Security number as an identifying factor. Finally, Dr. Cote under oath stated that he did not keep or maintain books or records of his financial affairs, including patient records. However, Dr. Cote did in fact keep such permanent patient records, and the statement under oath was a falsehood. In the Board's opinion, this conduct demonstrates willfulness and fraudulent intention to avoid legal duties to the Government.

ORDER

The chiropractic license of Martin John Cote, DC, is hereby permanently revoked.

FOR THE BOARD OF
CHIROPRACTIC EXAMINERS

Original signature on file
at the OBCE office.
By _____
President (J J)
Date 12/16/83

NOTICE

To: Martin John Cote

You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this order. Judicial review is pursuant to the provisions of ORS 183.482

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