

practices, invasion of privacy, breach of fiduciary duty, intentional infliction of emotional distress, violations of Fair Labor Standards Act and violations of the Racketeer Influenced Corrupt Organizations Act (for extortion and mail fraud). The plaintiff suffered severe emotional distress. The court has not acted on the defendants' motion to dismiss.

(xxv) Jose Baptista v. Church of Scientology Mission
In Cambridge
Civil Action No.
Middlesex Superior Court

The plaintiff sued for fraud, intentional infliction of emotional distress, unlicensed practice of medicine, invasion of privacy and other actionable wrongs. The court allowed the defendants' motion to dismiss five of the six counts but failed to write an opinion supporting its decision, which conflicts with written opinions of four Massachusetts Superior Court judges in eight other cases. The decision will be appealed.

3. Litigation between the Scientologists and Government agencies.

(a) Tax Litigation History of Scientology

The Church of Scientology is no stranger to state and federal taxing authorities. In fact, the Church of Scientology's tax status has been challenged in more courts than any other cult of similar vintage. Scientology has lost every challenge.

In 1969, the Church of Scientology of California became the "mother church" of Scientology and has continued to hold said position. Prior to the California corporation's ascendancy, the Founding Church of Washington, D.C. held the titular position. In 1961, the Founding Church filed suit

in the United States Court of Claims, seeking a refund. The primary issue raised was the tax exempt status under section 501(c)(3) of the Internal Revenue Code for the years 1956, 1958 and 1959. On July 16, 1969 the Court of Claims rendered an opinion finding that the Scientology Church did not qualify for the exempt status for the three years in question because, "nothing we have found in the record dispels the substantial doubts the Court entertains concerning the receipt (inurement) of benefit by the (L.Ron) Hubbards from plaintiff's (the Founding Church's) net earnings." Founding Church of Scientology v. United States, 412 F.2d 1197, 1202, Cert. denied, 397 U.S. 1009 (1969).

During July of 1967, while the Founding Church case was being litigated, the I.R.S. notified the Church of Scientology of California that it was no longer recognized as an exempt religious organization. The California Scientology corporation failed to heed the I.R.S. notice, and did not file corporate income tax returns. The I.R.S. attempted to audit the California Church for tax liability for 1968 and 1969 but the Church resisted claiming bad faith and harassment. The Scientologists filed motions for production of I.R.S files pertaining to the Church and attempted to notice depositions. The I.R.S. moved to quash discovery and the Court of Appeals ordered "a limited evidentiary hearing to inquire into the Service's purpose (i.e. harassment, Vel. none). United States and Cuberton v. Church of Scientology of California, 520 F.2d 818, 825 (9th Cir. 1975).

The parties conferred in Washington and the I.R.S conducted a tax examination of the California Church for the years 1971 through 1974. The Service prepared a 131 page report and eight volumes of exhibits. The contested issues are briefly summarized below:

- a) The accumulation of progressively increasing and substantial amounts of income (\$3,367,873.91, by December 31, 1974), not expended for religious or other tax exempt purposes.
- b) Inurement to a privately owned Panamanian corporation, OTC, via currency exchange gains amounting to \$879,615.63 for the years 1971-1974. This appeared to represent income to the California Church but was not accounted for in the Church's income tax forms.
- c) Approximately \$470,000 paid by the United Kingdom and Danish Scientology Churches directly to OTC during the years 1971-1974. This appeared to represent income to the California Church but was not accounted for in the Church's income tax forms.
- d) The California Church's failure to treat as income the advanced payments of the following amounts:

1971	\$ 788,704.96
1972	1,198,763.86
1973	1,635,786.00
1974	2,194,588.00
- e) Inurement to L. Ron Hubbard and family, royalties, and salaries, in violation of regulations of I.R.S.
- f) The California Church engaged in substantial commercial activity within the meaning of Better Business

Bureau v. United States, 326 U.S. 279 (1945) and
Scriptures Press Foundation v. United States, 285
F.2d 800 (Ct. Cl. 1961).

- g) The California Church deducted payments to the Central Defense and Dissemination Fund (U.S. Church of Scientology Trust).

The Internal Revenue's Audit raised additional questions pertaining to the following areas:

- a) The use by the United States Churches of Scientology Trust of Swiss and Luxembourg bank accounts as the depositories for millions of dollars of trust funds;
- b) The application and control of the Trust's funds;
- c) The maintenance of large amounts of currency belonging to Scientology aboard the ship Apollo for an extended period of time;
- d) The degree of control still effectively exercised by L. Ron Hubbard over the California Church's affairs and policies.

The National Office of the Internal Revenue prepared a Technical Advice Memorandum that concluded the California Church had failed to establish either

- "a) The non-existence of a substantial commercial purpose; or
- b) The non-existence of inurement to private persons or organizations".

On February 14, 1977 statutory notice of deficiency for the years 1970-1974, inclusive, were prepared. The deficiency notice was issued on December 28, 1977. Recently, the I.R.S completed approximately three months of testimony which overwhelmingly demonstrated the following:

- (1) The California Church operates for a substantial non-exempt purpose; i.e. the commercial profit-making activities.
- (2) The California Church operates for a second, substantial, non-exempt purpose; i.e., the commission of acts and attempts to commit acts which are violative of public policy.
- (3) The California Church committed acts so repugnant to public policy that any tax exempt status would be vitiated.
- (4) The California Church allowed its net earnings to inure to the benefit of a private corporation, OTC.

The California Church is scheduled to present a rebuttal during the Fall of 1981 in Washington, D.C.

Meanwhile, in Missouri, a similar scenario developed. The Mission Church of Scientology resisted a ruling of the state tax commission which denied the "Church" tax exemption. In Missouri Church of Scientology v. State Tax Commission, et al, 560 S.W. 2d837 (1978) the Church sought judicial review of the tax commission determination:

"The personal property of the appellant (Church) has not, therefore been shown to be used exclusively for religious or charitable purposes and therefore cannot be exempted from ad Valorem taxation."

Upon review, the Supreme Court of Missouri affirmed the Lower Court's decision, that Scientology did not qualify as a religion for purposes of tax exemption. The Court subscribed to a strict definition of religion, belief in a Supreme Being. The

Court adopted the Commission's finding:

"We find the testimony of the Reverend M. Rock (Scientology witness) generally not to be credible and worthy of belief in particular in respect to his description and categorization of the activities of the Organization, its alleged religious services, its financial structure and the nature of the so-called donations which are made to the organization." 560 SW2d at 843.

The Commission further ruled:

"...appellant (Scientology Church) has some of the trappings and accoutrements of an organized religion, it appears to be more an applied philosophy which has certain religious connotation, but which falls short of being devoted to the worship of a Supreme Being. 560 S.W. 2d at 843."

The Missouri Supreme Court found that Scientology failed to qualify for exemption as its property was not used exclusively for religious worship.

Likewise, the Florida Courts denied the Church of Scientology of California tax exempt status for the year 1976. In Church of Scientology of California v. Schultz Fla. App., 371 So.2d502 (1979), the Pinellas County Property Appraiser's determination that the Scientology organization failed to qualify for tax exempt status was upheld by the District Court of Appeal of Florida for the Second District.

In R. v. Registrar General (Lord Denning MR) 3 All ER 886 (1970), the Registrar General determined that the Chapel at Scientology's English location, Saint Hill Manor, in East Grinstead, Sussex, England failed to qualify as "a place of meeting for religious worship". Consequently, the Scientologists were denied certain privileges and were subjected to

the levying of rates (Taxes). On appeal, Lord Denning of the Court of Appeal studied the creed of the Church of Scientology and opined:

"I must say that it seems to me to be more a philosophy of the existence of man or of life rather than a religion."

Lord Denning relied upon Scientology doctrine which stated:

"In a Scientology Church Service we do not use prayers, attitudes of piety, or threats of damnation. We use the facts, the truths, the understandings that have been discovered in the science of Scientology."

The Scientologists' appeal was dismissed and leave to appeal to the House of Lords was refused.

The Scientology organization's criminal, tortious and commercial activities will precipitate further governmental scrutiny which will result in additional challenges to claims of religious exemption.

(b) Enforcement of Criminal and Regulatory Laws

Scientology has been involved in many criminal cases and quasi-criminal cases both in the U.S. and in foreign countries involving violations of criminal law and other regulatory laws. Some of the case areas are as follows:

(i) United States v. Mary Sue Hubbard
U.S. District Court for the District of Columbia, Cr. No. 78-401.

The defendant, Mary Sue Hubbard (Ron Hubbard's wife) and 10 defendants, all of whom were top officials of the Church of Scientology, were indicted for conspiracy and criminal acts. All the defendants were convicted and sentenced to jail terms. The indictments were based on a massive campaign of criminal activity to infiltrate and burglarize government agencies and obstruct criminal investigations.

(ii) French convictions.

Hubbard was convicted in absentia and sentenced to a jail term in France for criminal activities by his employees there.

(iii) United States v. Article or Device, 333 F. Supp. 357 (1971)

Action was filed by the government seeking condemnation of the E-meter and writings for misbranding in violation of the Federal Food, Drug and Cosmetic Act. The Court held that the literature of the church contained false, unqualified scientific claims without any religious content. The E-meter was misbranded as a result of the misrepresentation, in failing to label with adequate directions for use.

The Court ordered that the E-meter could be used only in a religious setting and only if explicit warning disclaimers were affixed thereto. Scientology has never complied with this order.

In the opinion, Judge Gesell made the following pertinent findings:

"All of this was false - in short, a fraud. Contrary to representations made, there is absolutely no scientific or medical basis in fact for the claimed cures attributed to E-meter auditing."

"The bulk of the material is replete with false medical and scientific claims devoid of any religious overlay or reference."

"Viewed as a whole the threat of the writings is secular, not religious."

(iv) Church of Scientology of California v. Elliot Richardson, 437 F.2d 214 (1971)

Scientologists filed suit alleging deprivation of constitutional rights. The government had seized various E-meters and sought to return them to the United Kingdom. The government alleged that the E-meters were misbranded as they failed to display adequate instructions concerning their use. The Scientologists argued that the government's action constituted an infringement of the Church's First Amendment rights. The court held that the government's seizure was proper and reasoned the right to religious freedom did not include the right to violate the Federal Food, Drug and Cosmetic Act.

- (v) Church of Scientology of Minnesota v. Department of Health, Education and Welfare,
341 F. Supp. 563

Scientologists' motion to dismiss a case brought by the government was properly denied. The government alleged that the Scientologists misbranded E-meters by failing to supply adequate instructions concerning their use.

- (vi) In Re Possible Violation of 18 USC 371, 641, 1503 Appeal of Arthur Maren
184 U.S. App. D.C. 82 (1977)

A Scientologist minister, Arthur Maren, asserted a First Amendment privilege and refused to answer questions before the grand jury. Maren was found to be in contempt and sentenced. Maren appealed and the Court of Appeals affirmed the lower court's ruling which formed no valid privilege.