

**REDACTED DECISION -- 08-019 F -- BY GEORGE W. PIPER, ALJ --
SUBMITTED for DECISION on MARCH 12, 2008 -- ISSUED on MARCH 14, 2008**

SYNOPSIS

**BUSINESS REGISTRATION TAX -- CERTIFICATE REVOKED
(CANCELLED)** -- The repeated willful refusal or neglect to file state tax returns or to remit state taxes when due authorizes revocation (cancellation) of a registrant's business registration certificate, pursuant to the provisions of W.Va. Code § 11-12-5(b), as last amended. *See also* W. Va. Code § 11-10A-8(3) or (5), as last amended.

FINAL DECISION

IN SHOW CAUSE PROCEEDING

On February 14, 2008, the Director of the Compliance "Division" of the West Virginia State Tax Commissioner's Office ("the Commissioner"), by his agent, personally served upon the Registrant's agent, a "Notice of Intent to Revoke Business Registration Certificate," wherein the Commissioner gave notice that he intended to revoke (cancel) the Registrant's West Virginia business registration certificate, effective February 14, 2008, because of the Registrant's repeated failures to file monthly consumers' sales and service tax returns and to remit all of the reported consumers' sales and service tax collected from customers for almost seven years, unless all delinquent state tax returns were filed and all taxes due the Commissioner were paid prior to March 12, 2008. That same Notice also informed the Registrant that a "show cause" hearing was scheduled before this tribunal for Wednesday, March 12, 2008 at 1:00 p.m., E.D.T., at which hearing the Registrant would have the opportunity to show cause why his business

registration certificate should not be revoked (cancelled) as proposed by the Commissioner.

At the scheduled show cause hearing the Commissioner showed that the Registrant owed at least \$_____ of delinquent consumer's sales and service tax, interest, and additions to tax, based upon returns filed by the Registrant. The Commissioner further showed that the Registrant had failed to file sixteen (16) months of consumers' sales and service tax returns, and that other statutorily authorized collection measures such as installment payment plans had been defaulted upon by the Registrant, although the Registrant had requested such plans.

In response the Registrant testified that he had decided in the past to pay his utility bills and other personal expenses with the collected consumers' sales tax instead of remitting same to the Tax Commissioner and that he was hopeful in the future to pay some of what was owed if the business was allowed to stay open and sales improved.

Because the evidence shows that the Registrant did repeatedly and willfully fail to file consumers' sales and service tax returns for a period of sixteen (16) months between March 1, 2001 and December 30, 2007 and did repeatedly and willfully convert for his own personal use consumers' sales and service tax that he collected on behalf of the State of West Virginia, this tribunal does hereby **APPROVE** the Commissioner's **REVOCATION (CANCELLATION)** of the **REGISTRANT'S BUSINESS REGISTRATION CERTIFICATE, EFFECTIVE MARCH 14, 2008**. See W. Va. Code § 11-12-5(b)(1)(D), as last amended; W. Va. Code § 11-10A-8(3) or (5), as last amended.