

**REDACTED DECISION -- 08-195 F -- BY GEORGE V. PIPER, ALJ --
SUBMITTED for DECISION on OCTOBER 3, 2008 -- ISSUED on OCTOBER 21,
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 August 28, 2008, the Regional Supervisor 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 October 23, 2008, because of 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 eleven (11) years, and because of Registrant's repeated failures to file monthly withholding tax returns and remit all of the reported withholding taxes due for eleven (11) years, and because of Registrant's repeated failures to file monthly wine and liquor tax returns and remit wine and liquor taxes, unless all delinquent state tax returns were filed and all taxes due the Commissioner were paid prior to

October 3, 2008. That same Notice also informed the Registrant that a “show cause” hearing was scheduled before this tribunal for Friday, October 3, 2008, at which hearing the Registrant would have the opportunity to show cause why her 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, and at least \$_____, of delinquent withholding tax, interest and additions to tax, and had failed to file one-hundred and four (104) wine and liquor tax returns. The Commissioner further showed that the Registrant had twelve (12) tax liens filed against her business for unpaid consumers’ sales and service taxes and withholding taxes for the years 1997 through 2008.

The revenue agent for the Respondent testified that he met with the Registrant on August 30, 2006 about the need for her to file the delinquent state tax returns, and to remit state taxes due and owing to Respondent; however, Registrant refused to cooperate.

Because the evidence shows that the Registrant did repeatedly and willfully fail to file consumers’ sales and service tax, withholding tax, and wine and liquor tax returns over the course of eleven (11) years and did repeatedly willfully convert for her own personal use consumers’ sales and service tax and withholding tax that she 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 NOVEMBER 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.