

REDACTED DECISION – DOCKET # 09-333 F – BY GEORGE V. PIPER, ALJ – SUBMITTED FOR DECISION on OCTOBER 22, 2009 – ISSUED on NOVEMBER 3, 2009.

SYNOPSIS

BUSINESS REGISTRATION TAX -- CERTIFICATE REVOKED -- The repeated willful refusal or neglect to file state tax returns or to remit state taxes when due authorizes revocation 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 September 29, 2009 the Assistant Director of the Compliance Division of the West Virginia State Tax Commissioner's Office (the Commissioner), by his agent, personally served upon the Manager of Registrant, a "Notice of Intent to Revoke Business Registration Certificate," wherein the Commissioner gave notice that he intended to revoke the West Virginia business registration certificate of Registrant, effective November 4, 2009. The revocation notice was based on: Registrant's repeated failure to file all combined sales and use tax returns and to remit all combined sales and use tax collected from customers from July 2008 through September 2009; Registrant's repeated failure to file all withholding tax returns and to remit all withholding taxes due from May 2005 through September 2009 and Registrant's repeated failure to file all corporate license returns and to pay all corporate license fees. The notice indicated revocation would not occur if all delinquent tax returns were filed and all taxes due the Commissioner were paid prior to October 22, 2009. That same Notice also informed the Registrant that a "show cause" hearing was scheduled before this tribunal for Thursday, October 22, 2009, at 10:30 a.m., E.D.T., at which hearing the Registrant would have the opportunity to show cause why its business registration certificate should not be revoked as proposed by the Commissioner. The Registrant failed to appear at the scheduled

hearing. The Commissioner showed that registrant was properly served with the Notice of Intent to Revoke Business Registration Certificate.

At the scheduled show cause hearing the Commissioner showed that the Registrant owed at least \$____ of delinquent combined sales and use tax, interest, and additions to tax; at least \$____ of delinquent withholding tax, interest and additions to tax and \$____ of delinquent corporate license fees. The Commissioner further showed that the Registrant had three unreleased tax liens, totaling \$____, filed against it for unpaid withholding taxes, which liens were on record in the County Clerk's Office of County in West Virginia. The Commissioner further showed that Registrant had written seven bad checks to the Tax Commissioner to cover delinquent withholding taxes owed during the past twelve months.

The revenue agent for the Respondent testified that she made five visits to Registrant's two business locations as well as numerous telephone calls seeking to get Registrant into tax compliance but was unsuccessful on each and every occasion.

Because the evidence shows that the Registrant did repeatedly and willfully convert for its own personal use combined sales and use tax as well as withholding taxes collected on behalf of the State of West Virginia, this tribunal does hereby APPROVE the Commissioner's REVOCATION of the Registrant's business registration certificate, effective November 4, 2009. 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.