

REDACTED DECISION – DOCKET # 09-373 F – BY GEORGE V. PIPER, ALJ – SUBMITTED FOR DECISION on DECEMBER 1, 2009 – ISSUED on DECEMBER 4, 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 November 5, 2009 the Assistant Director of the Compliance Division of the West Virginia State Tax Commissioner's Office (the Commissioner), by his agent, attempted to personally serve upon the President of a corporation, (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 the corporation, effective December 1, 2009. The revocation notice was based on: Registrant's repeated failure to remit all consumers sales and service tax collected from customers from December 2006 through June 2008; 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 January 2007 through December 2007 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 December 1, 2009. That same Notice also informed the Registrant that a "show cause" hearing was scheduled before this tribunal for Tuesday,

December 1, 2009, at 1:00 p.m., E.S.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 after Registrant refused personal service of the “Notice of Intent to Revoke Business Registration Certificate,” the Commissioner sent that notice again by certified mail (unclaimed) and by regular first class mail.

At the scheduled show cause hearing the Commissioner showed that the Registrant owed at least \$_____ of delinquent consumers sales and service tax, interest and additions to tax; 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 six unreleased tax liens, totaling \$_____, filed against it for unpaid consumers sales and service taxes and combined sales and use taxes, which liens were on record in the County Clerk’s Office of a county in West Virginia.

The revenue agent testified that during the past several years she made numerous visits to Registrant but Registrant repeatedly refused to pay the delinquent amounts.

Because the evidence shows that the Registrant did repeatedly and willfully convert for its own personal use consumers sales and service tax, 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 December 8, 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.