

**REDACTED DECISION—10-149 F—BY GEORGE V. PIPER, ALJ—
SUBMITTED FOR DECISION on APRIL 28, 2010 —ISSUED on MAY 18, 2010.**

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 April 7, 2010 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 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 Registrant, effective May 18, 2010. The revocation notice was based on: Registrant's repeated failure to remit all reported consumers sales and service taxes collected from customers from April 2002 through June 2008; Registrant's repeated failure to file combined sales and use tax returns and to remit all combined sales and use taxes due from July 2008 through March 2010; Registrant's failure to file withholding tax returns and Registrant's repeated failure to pay withholding taxes due from December 2004 through December 2009; Registrant's failure to pay business registration tax penalty June 2009; Registrant's repeated failure to file corporate/franchise tax returns and to pay corporate/franchise taxes due from December 2002 through December 2009; and Registrant's failure to pay purchasers use taxes due for November 2005. The notice indicated revocation would not

occur if all delinquent state tax returns were filed and all taxes due the commissioner were paid prior to April 28, 2010. That same notice also informed Registrant that a “show cause” hearing was scheduled before this tribunal for Wednesday, April 28, 2010 at 1:00 p.m., E.D.T., at which hearing Registrant would have the opportunity to show cause why its business registration certificate should not be revoked as proposed by the commissioner.

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; at least \$_____ of delinquent business registration tax penalty; at least \$_____ of delinquent corporate/franchise tax, interest and additions to tax; and at least \$_____ of delinquent purchasers use tax, interest and additions to tax. The commissioner further showed that Registrant had fourteen unreleased tax liens, totaling \$_____, filed against its business for unpaid consumers sales and service taxes, combined sales and use taxes, withholding taxes and corporate/franchise taxes, which liens were on record in the County Clerk’s Office of a county in West Virginia.

The revenue agent testified that Registrant had recently filed combined sales and use tax returns for June 2009 through March 2010; however none of the returns were paid.

Registrant testified that she had made a lot of mistakes in the past but that she was in the process of seeking a loan in the amount of \$_____ from a commercial lender and, if successful, will be making monthly payments to the respondent.

Because the evidence shows that Registrant did repeatedly and willfully convert for its own personal use consumers sales and service tax, combined sales and use tax, and withholding tax that it collected on behalf of the State of West Virginia, this tribunal does hereby APPROVE the Commissioner's REVOCATION of Registrant's business registration certificate, effective May 18, 2010. *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.