

**REDACTED DECISION—10-307 F—BY GEORGE V. PIPER, ALJ—  
SUBMITTED FOR DECISION on AUGUST 17, 2010 —ISSUED on AUGUST 30,  
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 July 16, 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 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 September 17, 2010. The revocation notice was based on Registrant's failure to file an international fuel agreement tax return and to remit all international fuel tax agreement taxes due from January 2007 through March 2010, and Registrant's repeated failure to file withholding tax returns and pay withholding taxes due from October 2007 through June 2010. 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 August 17, 2010. That same notice also informed Registrant that a "show cause" hearing was scheduled before this tribunal for Tuesday, August 17, 2010 At 9:00 a.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 international fuel tax agreement tax, interest and

additions to tax, and at least \$ \_\_\_\_ of delinquent withholding tax, interest, and additions to tax. The commissioner further showed that Registrant had one unreleased tax lien totaling \$ \_\_\_\_, filed against its business for unpaid withholding taxes, which lien was on record in the County Clerk's Office of a county in West Virginia.

The revenue agent testified that he had made three visits to Registrant to get the taxes current but that Registrant repeatedly failed to pay the delinquent amounts. He further testified that Registrant had defaulted on a prior payment plan and that its bank account had been levied but contained no funds.

Because the evidence shows that Registrant did fail to file international fuel tax agreement tax and withholding tax returns, and did repeatedly and willfully convert for its own personal use withholding tax that was due the State of West Virginia, this tribunal does hereby APPROVE the Commissioner's REVOCATION of Registrant's business registration certificate, effective September 17, 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.