

**REDACTED DECISION—10-366 F—BY GEORGE V. PIPER, ALJ—
SUBMITTED FOR DECISION on SEPTEMBER 29, 2010 —ISSUED on
OCTOBER 19, 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 September 2, 2010, the Assistant Director of the Compliance Division of the West Virginia State Tax Commissioner's Office ("the commissioner"), by his agent, made service by U. S. certified mail upon an appropriate representative 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 October 29, 2010. The revocation notice was based on Registrant's repeated failure to remit all reported consumers sales and service taxes collected from customers from June 2003 through June 2008; Registrant's failure to file combined sales and use tax returns and to remit all combined sales and use taxes collected from July 2008 through August 2010, and Registrant's failure to pay withholding taxes due from March 2004 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 September 29, 2010. That same notice also informed Registrant that a "show cause" hearing was scheduled before this tribunal for

Wednesday, September 29, 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 combined sales and use tax, interest and additions to tax; and \$____ of delinquent withholding tax, interest, and additions to tax. The commissioner further showed that Registrant had seven unreleased tax liens totaling \$____, filed against its business for unpaid consumers sales and service taxes and withholding taxes, which liens were on record in the County Clerk's Office of a county in West Virginia.

The revenue agent testified that she and the registrant had met eight times in order to get the registrant's taxes current but that Registrant repeatedly failed to pay the delinquent amounts.

Because the evidence shows that Registrant did repeatedly and willfully fail to file combined sales and use tax returns and did repeatedly and willfully convert for its own personal use consumers sales and service tax and combined sales and use tax that it collected on behalf of the State of West Virginia, and 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 October 29, 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.