

**REDACTED DECISION—10-161 F—BY GEORGE V. PIPER, ALJ—
SUBMITTED FOR DECISION on MAY 3, 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 9, 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 a long time employee 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 June 2, 2010. The revocation notice was based on: Registrant's failure to file thirty (30) consecutive monthly consumers sales and service tax returns and to remit all consumers sales and service taxes collected from customers from October 2000 through June 2008; Registrant's failure to file twenty-two (22) consecutive monthly combined sales and use tax returns and to remit any combined sales and use taxes due from July 2008 through April 2010 and Registrant's failure to file seventeen (17) consecutive quarterly withholding tax returns and to pay withholding taxes due from March 2001

through March 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 Monday, May 3, 2010. That same notice also informed Registrant that a “show cause” hearing was scheduled before this tribunal for Monday, May 3, 2010 at 9:30 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 consumers sales and service tax, interest, and additions to tax; an undetermined amount of delinquent combined sales and use tax, interest and additions to tax as a result of never having filed any combined sales and use tax returns and at least \$____ of delinquent withholding tax, interest, and additions to tax. The commissioner further showed that Registrant had thirteen (13) unreleased tax liens 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 in a county in West Virginia.

The revenue agent testified that he had met with Registrant three times in the past six months in an attempt to correct Registrant’s tax deficiencies, but that Registrant had failed to take corrective action.

Because the evidence shows that Registrant failed to file sixty-nine (69) state tax returns over a four year period and did willfully convert for its own personal use consumers sales and service tax and withholding tax that it collected on behalf of the State of West Virginia, this tribunal does hereby APPROVE the commissioner’s

REVOCAION of Registrant's business registration certificate, effective June 2, 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.