

**REDACTED DECISION—10-268 F—BY GEORGE V. PIPER, ALJ—  
SUBMITTED FOR DECISION on JULY 15, 2010 —ISSUED on JULY 26, 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 June 23, 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 of a corporation, 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 August 4, 2010. The revocation notice was based on Registrant's repeated failure to file combined sales and use tax returns and to remit all combined sales and use taxes due from August 2009 through May 2010, and Registrant's failure to file withholding tax returns and pay withholding taxes due from July 2009 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 July 15, 2010. That same Notice also informed Registrant that a "show cause" hearing was scheduled before this tribunal for Thursday, July 15, 2010 at 1:30 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 combined sales and use tax, interest and additions to tax; and at least \$\_\_\_\_ of delinquent withholding tax, interest, and additions to tax.<sup>1</sup>

The revenue agent testified that during the past eleven months she had made several visits to Registrant including follow-up telephone calls to get the taxes current but that Registrant repeatedly failed to pay the delinquent amounts. The revenue agent further testified that during her visits Registrant exhibited threatening behavior which included profanity and threats of bodily harm.

Because the evidence shows that Registrant did repeatedly and willfully fail to file combined sales and use tax and withholding tax returns, and did repeatedly and willfully convert for its own personal use 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 August 4, 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.

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<sup>1</sup> Except for the months of August and September, 2009 all of the delinquent amounts were estimated and all were incurred by the registrant while she operated the business.

