

SANITIZED DECS. – 04-546 FN, 04-547 U, 04-548 C, 04-551 U, 04-552 FN & 04-553 C – BY GEORGE V. PIPER – ISSUED – 10-06-04

**FINAL ORDER DISMISSING PETITIONS WITH PREJUDICE
UNDER OTA PROCEDURAL RULES 49.9 AND 54.2
FOR FAILURE TO APPEAR AT PREHEARING CONFERENCE
AND TO OTHERWISE PROSECUTE THIS MATTER AS REQUIRED BY LAW**

In June 2004, the Respondent West Virginia State Tax Commissioner issued a purchasers' use tax assessment against Atlas Trailer Rentals, Inc., dba Atlas Trailer Rentals and Sales and Used Cars for the period of March, 1999 through February, 2004, for tax, interest and no additions to tax, for a total assessment. Notice of the assessment was served upon this taxpayer in June, 2004.

In June, 2004, the Respondent West Virginia State Tax Commissioner issued a business franchise tax assessment against Atlas Trailer Rentals, Inc., dba Atlas Trailer Rentals and Sales and Used Cars for the period of January, 1999 through December, 2002, for tax, interest and additions to tax for a total assessment. Notice of the assessment was served upon this taxpayer in June, 2004.

In June, 2004, the Respondent West Virginia State Tax Commissioner issued a consumers sales and service tax assessment against Petitioner for the period of January, 2001 through February, 2004, for tax, interest and additions to tax for a total assessment. Notice of the assessment was served upon this taxpayer in June, 2004.

In June, 2004, the Respondent West Virginia State Tax Commissioner issued a business franchise tax assessment against Petitioner for the period of January, 1999 through December, 2002, for tax, interest and additions to tax for a total assessment. Notice of the assessment was served upon this taxpayer in June, 2004.

In June, 2004, the Respondent West Virginia State Tax Commissioner issued a purchasers' use tax assessment against Petitioner for the period of March, 1999 through February, 2004, for tax, interest and no additions to tax, for a total assessment. Notice of the assessment was served upon this taxpayer in June, 2004.

In June, 2004, the Respondent West Virginia State Tax Commissioner issued a consumers' sales and service assessment against for the period of January, 2001 through December, 2003, for tax, interest and additions to tax for a total assessment. Notice of the assessment was served upon this taxpayer in June, 2004.

In August, 2004, the Petitioners-taxpayers in the above captioned matter timely filed with this tribunal petitions for reassessment. Thereafter, this tribunal scheduled a prehearing conference in this matter for September, 2004. Notice of this explicitly "important" prehearing conference was served upon the Petitioners in September, 2004.

The Petitioner did not request a postponement of the prehearing conference. The Petitioners did not join in or submit the required prehearing statement and did **not** appear at the scheduled prehearing conference. After waiting for about twenty (20) minutes past the scheduled starting time for this prehearing conference, counsel for the Respondent moved to dismiss this matter for the Petitioner's failure to attend the scheduled prehearing conference and to otherwise prosecute this matter as required. This motion to dismiss was granted.

Accordingly, this tribunal does hereby enter this **FINAL ORDER DISMISSING THE PETITION, WITH PREJUDICE, under Rules 49.9 and 54.2 of the Rules of Practice and Procedure before the West Virginia Office of Tax Appeals, 121 C.S.R. 1, §§ 49.9 & 54.2 (Apr. 20, 2003), FOR FAILURE OF THE PETITIONERS TO**

APPEAR AT THE PREHEARING CONFERENCE AND TO OTHERWISE PROSECUTE THIS MATTER AS REQUIRED BY LAW.

Under the provisions of Rule 54.4 of these procedural rules, this dismissal operates as a final adjudication on the merits. Accordingly, the **assessments** are hereby **AFFIRMED**, and the assessments are now due and payable.