

**REDACTED DECISION -- 08-022 F -- BY GEORGE V. PIPER, ALJ --  
SUBMITTED for DECISION on MARCH 18, 2008 -- ISSUED on MARCH 20, 2008**

### **SYNOPSIS**

**BUSINESS REGISTRATION TAX -- CERTIFICATE REVOKED  
(CANCELLED)** -- The repeated willful refusal to remit state taxes when due authorizes revocation (cancellation) 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 August 31, 2007, the Director of the Compliance "Division" of the West Virginia State Tax Commissioner's Office ("the Commissioner"), by his agent, personally served upon the Registrant's agent (Manager) a "Notice of Intent to Revoke Business Registration Certificate," wherein the Commissioner gave notice that he intended to revoke (cancel) the Registrant's West Virginia business registration certificate, effective April 7, 2008, because of Registrant's repeated failure to remit consumers' sales and service taxes collected from customers for over five (5) years, unless all delinquent consumers' sales and service taxes due the Commissioner were paid prior to March 18, 2008. That same Notice also informed the Registrant that a "show cause" hearing was scheduled before this tribunal for Wednesday, March 18, 2008 at 1:00 p.m., E.D.T., at which hearing the Registrant would have the opportunity to show cause why her business registration certificate should not be revoked (cancelled) as proposed by the Commissioner.

At the scheduled show cause hearing the Commissioner showed that the Registrant owed \$\_\_\_\_\_ of delinquent consumer's sales and service tax, interest, and

additions to tax, as evidenced by tax liens totaling that amount filed against Registrant in a certain county in West Virginia. The Commissioner further showed that the Registrant had also defaulted on three (3) payment plans because she could not keep current with her payment.

In response Registrant testified that she knew that she owed all of the delinquent taxes and that it was wrong for her to live on the collected taxes during these years; however, she was hopeful in the future to pay what was owed if the business was allowed to stay open and sales improved.

Because the evidence shows that the Registrant did repeatedly and willfully convert for her own personal use consumers' sales and service tax that she collected on behalf of the State of West Virginia, this tribunal does hereby **APPROVE** the Commissioner's **REVOCATION (CANCELLATION)** of the **REGISTRANT'S BUSINESS REGISTRATION CERTIFICATE, EFFECTIVE APRIL 7, 2008**. *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.