

**REDACTED DECISION -- 08-230 F -- BY GEORGE V. PIPER, ALJ --  
SUBMITTED for DECISION on NOVEMBER 3, 2008 -- ISSUED on NOVEMBER  
6, 2008**

### **SYNOPSIS**

**BUSINESS REGISTRATION TAX -- CERTIFICATE REVOKED  
(CANCELLED)** -- The repeated willful refusal or neglect to file state tax returns or 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 October 9, 2008, the Regional Supervisor of the Compliance "Division" of the West Virginia State Tax Commissioner's Office ("the Commissioner"), by his revenue agent, personally served upon the Registrant's agent 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 November 3, 2008, because of Registrant's repeated failures to file monthly consumers' sales and service tax returns and to remit all of the reported consumers' sales and service tax collected from customers for eight (8) years, and because of Registrant's repeated failures to file monthly withholding tax returns and remit all of the reported withholding taxes due for eight (8) years, and because of Registrant's repeated failures to file corporate license tax returns and pay corporate license taxes and because of Registrant's repeated failures to file business franchise tax returns and pay business franchise taxes, unless all delinquent state tax returns were filed and all taxes due the Commissioner were paid prior to November 3, 2008. That same Notice also informed the Registrant that a "show cause" hearing was scheduled before

this tribunal for Monday, November 3, 2008, at 1:00 p.m., E.S.T., at which hearing the Registrant would have the opportunity to show cause why its 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 at least \$\_\_\_\_, of delinquent consumers' sales and service tax, interest, and additions to tax, and at least \$\_\_\_\_, of delinquent withholding tax, interest and additions to tax, and at least \$\_\_\_\_, of delinquent corporate license tax, interest, and additions to tax and at least \$\_\_\_\_ of business franchise tax. The Commissioner further showed that the Registrant had eighteen (18) unreleased tax liens filed against its business for unpaid consumers' sales and service taxes, withholding taxes, corporate license taxes and business franchise taxes which were on record in the County Clerk's Office of Kanawha County, West Virginia.

The revenue agent for the Commissioner testified that since the time he initiated this show cause proceeding, the Registrant had failed to correspond with Respondent.

Because the evidence shows that the Registrant did repeatedly and willfully fail to file consumers' sales and service tax, withholding tax, corporate license tax and business franchise tax returns over the course of eight (8) years and did repeatedly 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 **REVOCATION (CANCELLATION)** of the **REGISTRANT'S BUSINESS REGISTRATION CERTIFICATE, EFFECTIVE NOVEMBER 28, 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.