

REDACTED DECISION – Docket # 08-274 F – BY GEORGE V. PIPER, ALJ – SUBMITTED for DECISION on JANUARY 15, 2009 – ISSUED on JANUARY 21, 2009.

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 December 17, 2008, the Regional Supervisor 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, 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 February 4, 2009, because of Registrant's repeated failure to file consumers' sales and service tax returns and to remit all of the reported consumers' sales and service tax collected from customers for almost five (5) years, and because of Registrant's repeated failure to file combined sales and use tax returns and to remit all of the combined sales and use taxes due for five (5) months, and because of Registrant's repeated failures to file withholding tax returns and pay withholding taxes due for five (5) years, unless all delinquent state tax returns were filed and all taxes due the Commissioner were paid prior to January 15, 2009. That same Notice also informed the Registrant that a "show cause" hearing was scheduled before this tribunal for Thursday, January 15, 2009, 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 an undetermined amount of delinquent combined sales and use tax, interest and additions to tax, and at least \$____, of delinquent withholding tax, interest, and additions to tax. The Commissioner further showed that the Registrant had nine (9) unreleased tax liens filed against its business for unpaid consumers' sales and service taxes, and withholding taxes, which were on record in the County Clerk's Office of a county in West Virginia.

The revenue agent for the Respondent testified that over a period of two (2) years, he had met with the Registrant twice about his tax delinquencies; however, the Registrant was not cooperative and that during the extended period of June 30, 2001 through August, 2007 all attempts to contact the Registrant by either telephone, correspondence or e-mail did not elicit a response from the Registrant.

Because the evidence shows that the Registrant did repeatedly and willfully fail to file consumers' sales and service tax, combined sales and use tax and withholding tax returns, and did repeatedly and willfully convert for his own personal use consumers' sales and service tax, combined sales and use tax, and withholding tax that he 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 FEBRUARY 4, 2009**. 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.