

**REDACTED DECISION – DOCKET # 09-151 F – BY GEORGE V. PIPER, ALJ –
SUBMITTED FOR DECISION on JUNE 4, 2009 – ISSUED on JUNE 15, 2009.**

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 May 12, 2009 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 ("Registrant"), 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 registrant, effective June 24, 2009. The revocation notice was based on: Registrant's repeated failure to file consumers sales and service tax returns and to remit all reported consumers sales and service tax collected from customers from January 1997 through June 2008; Registrant's repeated failure to file combined sales and use tax returns and to remit all combined sales and use taxes due from July 2008 through May 2009; and Registrant's failure to file a withholding tax return and pay withholding taxes due from January 2003 through December 2008. 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 June 4, 2009. That same Notice also informed the Registrant that a "show cause" hearing was scheduled before this tribunal on a day in June, at 10:00 a.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 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; 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. The Commissioner further showed that the Registrant had eight unreleased tax liens, totaling \$_____, filed against her business for unpaid consumers sales and service taxes and personal income taxes, which liens were on record in the County Clerk's Office of a county in West Virginia.

The Registrant asked for leniency because of personal problems which had adversely affected her business.

Because the evidence shows that the Registrant did repeatedly and willfully fail to file consumers sales and service tax and combined sales and use tax returns, and did repeatedly and willfully convert for her own personal use consumers sales and service tax, combined sales and use tax, and withholding tax that she collected on behalf of the State of West Virginia, this tribunal does hereby APPROVE the Commissioner's REVOCATION of the Registrant's business registration certificate, effective June 24, 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.