

**REDACTED DECISION—10-180 F—BY GEORGE V. PIPER, ALJ—
SUBMITTED FOR DECISION on MAY 17, 2010 —ISSUED on JUNE 2, 2010.**

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 April 22, 2010 the Assistant Director of the Compliance Division of the West Virginia State Tax Commissioner's Office ("the commissioner"), by his agent, personally served upon, an employee of 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 May 17, 2010. The revocation notice was based on: Registrant's repeated failure to remit all reported consumers sales and service taxes collected from customers from February 2005 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 May 2009 through April 2010. 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 May 17, 2010. That same notice also informed Registrant that a "show cause" hearing was scheduled before this tribunal for Monday, May 17, 2010 at 2:00 p.m., E.D.T., at which hearing Registrant

would have the opportunity to show cause why its 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 and at least \$____ of delinquent combined sales and use tax, interest and additions to tax. The commissioner further showed that Registrant had ten unreleased tax liens filed against its business for unpaid consumers sales and service taxes and combined sales and use taxes, which liens were on record in the County Clerk's Office in a county in West Virginia.

The revenue agent testified that she had worked with Registrant since 2007 in an attempt to correct Registrant's tax deficiencies, but that Registrant had failed to take corrective action.

Because the evidence shows that Registrant did repeatedly and willfully convert for its own personal use consumers sales and service tax and combined sales and use tax that it collected on behalf of the State of West Virginia, this tribunal does hereby APPROVE the Commissioner's REVOCATION of Registrant's business registration certificate, effective June 2, 2010. 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.