

**REDACTED DECISION—19-190 F—BY GEORGE V. PIPER, ALJ—
SUBMITTED FOR DECISION on MAY 24, 2010 —ISSUED on JUNE 15, 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 28, 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 the owner 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 24, 2010. The revocation notice was based on: Registrant's failure to file a business registrant tax return for the period ending June 30, 2010; 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 March 2010 and Registrant's repeated failure to file withholding tax returns and Registrant's repeated failure to pay withholding taxes due from September 2009 through March 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 24, 2010. That same notice also informed Registrant that a "show cause" hearing was

scheduled before this tribunal for Monday, May 24, 2010 at 11:00 a.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 combined sales and use tax, interest and additions to tax; and an undetermined amount of delinquent withholding tax, interest, and additions to tax as a result of never having filed any withholding tax returns. The commissioner further showed that Registrant had an unreleased tax lien in the amount of \$____ filed against its business for unpaid combined sales and use taxes which lien was on record in the County Clerk's Office in a county in West Virginia.

The revenue agent testified that she made five visits to Registrant and ten telephone calls in an attempt to correct Registrant's tax deficiencies, but that Registrant had failed to take corrective action. The revenue agent also testified that Registrant had defaulted on several prior payment plan agreements.

Registrant testified that her husband had abandoned her and her children; that she had high medical bills because of her seriously ill son and that the recession had caused financial problems for the business.

Because the evidence shows that Registrant did repeatedly and willfully convert for its own personal use combined sales and use tax that it collected on behalf of the State of West Virginia and withholding tax that was due the State of West Virginia, this tribunal does hereby APPROVE the commissioner's REVOCATION of Registrant's

business registration certificate, effective June 18, 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.