

**REDACTED DECISION—10-203 F—BY GEORGE V. PIPER, ALJ—
SUBMITTED FOR DECISION on JUNE 1, 2010 —ISSUED on JUNE 30, 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 May 6, 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 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 July 1, 2010. The revocation notice was based on: Registrant's repeated failure to remit all reported consumers sales and service taxes 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 March 2010; and Registrant's repeated failure to file withholding tax returns and Registrant's repeated failure to pay withholding taxes due from January 1997 through June 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 June 1, 2010. That same notice also informed Registrant that a "show cause" hearing was scheduled before this tribunal for Tuesday, June 1, 2010 at 10:30 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 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 Registrant had six unreleased tax liens, totaling \$____, filed against its business for unpaid consumers sales and service taxes, combined sales and use taxes, and withholding taxes, which liens were on record in the County Clerk's Office in a county in West Virginia.

The revenue agent testified that in 2009 Registrant had completed an income and expense analysis for the business as well as one in his individual capacity with the aim of Registrant entering into a payment plan or making an offer in compromise, but that Registrant did not sign a payment plan or make an acceptable offer in compromise.

Registrant testified that he was "lost early in life" and that he had "turned things around;" had paid off all of his tax debts except for the state taxes and that it would be unfair to be put out of business now and to have to let his employees go.

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 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 July 5, 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.