

**REDACTED DECISION—10-204 F—BY GEORGE V. PIPER, ALJ—
SUBMITTED FOR DECISION on JULY 29, 2010 —ISSUED on AUGUST 9, 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, made service by U. S. certified mail upon a representative 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 29, 2010. The revocation notice was based on Registrant's repeated failure to remit all reported consumers sales and service taxes collected from customers from November 2006 through June 2008; Registrant's failure to file combined sales and use tax returns and to remit all combined sales and use taxes collected from July 2008 through June 2010; Registrant's failure to file withholding tax returns and pay withholding taxes due from July 2007 through March 2010 and Registrant's failure to file personal income tax returns for tax years 2007, 2008 and 2009. 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 July 29, 2010. That same Notice also informed Registrant that a "show cause" hearing was scheduled before this tribunal for Thursday,

July 29, 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; at least \$____ of combined sales and use tax, interest and additions to tax; an undetermined amount of delinquent withholding tax, interest, and additions to tax as a result of not having filed withholding tax returns for twelve months and an undetermined amount of delinquent personal income tax as a result of not having filed personal income tax returns for the past three years. The commissioner further showed that Registrant had two unreleased tax liens totaling \$____, 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 of a county in West Virginia.

The revenue agent testified that she had made eight visits to Registrant to get the taxes current but that Registrant repeatedly failed to pay the delinquent amounts.

Because the evidence shows that Registrant did repeatedly and willfully fail to file combined sales and use tax, personal income tax and withholding tax returns, and 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 personal income tax 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 August 12, 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.