

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

SMOKY JENNINGS CHEVROLET, INC.,)	
Petitioner,)	
)	
)	
v.)	18 TT 98
)	Chief Judge James M. Conway
ILLINOIS DEPARTMENT)	
OF REVENUE,)	
Respondent.)	

ORDER

The parties having appeared before the Tax Tribunal today for a status conference, it is hereby ORDERED:

1. This matter relates to a case being litigated in the Tax Tribunal- 18 TT 94 Richard Ellis d/b/a/ Super Snake Motors, LLC v. IDOR. A reading of both petitions informs the reader that both cases involve the same transaction. Mr. Ellis was going to provide a classic car to a classic car museum that was to be built by Smoky Jennings in Beardstown, Illinois. While certain title documents were filled out, the car never changed hands as the museum never was never completed. Both taxpayers received notices of liability for use tax from the Department. Of course, a determination of the underlying facts will be made by the Department while litigating both cases.

At the initial status conference this morning, the Department alerted both the Court and counsel for Smoky Jennings that the petition in this matter was filed four days after 60-day statute of limitations period calculated from the day the notice of liability was issued. While counsel for Smoky Jennings pointed to certain facts alleged in the petition that support an argument that the taxpayer was confused as to what course of action to take, the appropriate course of action at this time is for the Petitioner to request a late discretionary hearing from the

Department's Office of Administrative Hearings. While the sole discretion to grant such a hearing is with Chief Judge Terry Charlton, it is the recommendation of the Tax Tribunal to grant such a request in order that the transaction at issue be litigated fully and the appropriate amount of tax be assessed or abated for each party to the transaction; and

2. This matter will be stayed pending the determination by OAH to grant a late discretionary hearing or not until the next status conference which will be held on February 14, 2019 at 9:45 a.m. by telephone.

/s/ James Conway
JAMES M. CONWAY
Chief Administrative
Law Judge

Date: December 10, 2018