

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

FRED KLIPSCH,)	
)	
Petitioner,)	
)	
V)	No. 14 TT 133
ILLINOIS DEPARTMENT)	Judge Brian F. Barov
OF REVENUE)	
)	
Respondent)	
)	

ANSWER

Now comes the Department of Revenue of the State of Illinois (“the Department”) by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, and for its Answer to Taxpayer’s Petition states as follows:

- A. The name, address, and telephone number of the petitioner is:

14041 Staghorn Drive
Carmel, IN 46032-7765

ANSWER: The Department admits that the Petitioner is as stated.

- B. The name, address, telephone number and email address of the petitioner’s representatives are:

Kevin Wolfberg, Esq.
Patrick J. McGuire, Esq.
Schain Banks
70 W. Madison Street, Suite 5300
Chicago, IL 60602

Ph. 312.345.5700
kwolfberg@schainbanks.com
pmcguire@schainbanks.com

ANSWER: The Department admits that the Petitioner's representatives are as stated.

C. The taxpayer's identification number is:

Social Security Number: XXX-XX-6242

ANSWER: The Department admits that the last four digits of the taxpayer's social security number are as stated.

D. A copy of the Statutory Notice at issue is attached hereto as **Exhibit A**.

ANSWER: The Department admits the allegations in paragraph D of the petition.

E. The years or periods involved are:

Tax Year(s): January 1, 2009 through December 31, 2009.

ANSWER: The Department denies the allegations in paragraph E of the petition and states that the years or periods involved are February 1, 2005 through December 31, 2009.

1. Petitioner is an officer of Jamo Hi-Fi USA Inc., a Delaware corporation with significant operations in Indiana ("Taxpayer").

ANSWER: The Department admits the allegations in paragraph 1 of the petition.

2. Taxpayer was started by a foreign parent company to distribute electronic and sound system products to resellers in the United States.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 2 of the petition and therefore neither admits nor denies said allegations.

3. Taxpayer did not properly obtain all necessary resale certificates from its customers.

ANSWER: The Department admits that it audited the Taxpayer for the tax years involved and that the Taxpayer did not produce valid resale certificates for certain sales which it claimed to be sales for resale. The Department further states the allegations in paragraph 3 of the petition are vague and deny any further allegations in paragraph 3 of the petition.

4. At some point before the periods in question, Taxpayer made a limited number of retail sales to Illinois purchasers.

ANSWER: The Department admits that the Taxpayer made retail sales to Illinois purchasers. The Department denies that the sales were “limited”, as this term is vague and conclusionary.

5. The Illinois Department of Revenue (the “Department”) audited Taxpayer and alerted it to these issues.

ANSWER: The Department admits that it audited Taxpayer for the periods in question and presented its audit findings to the Taxpayer. The Department further states that the allegations in paragraph 5 of the petition are vague and deny any further allegations in paragraph 5 of the petition.

6. Taxpayer attempted to remit the outstanding tax payments but had problems remitting these payments because of issues with its Bank Positive Pay System.

ANSWER: The allegations in paragraph 6 of the petition are vague and partially unintelligible and are therefore denied.

7. Taxpayer worked with the Department to remit the proper amount of unpaid sales tax after it was notified of these payment issues.

ANSWER: The allegations in paragraph 7 of the petition are unduly vague and are denied.

8. Taxpayer has paid all of the outstanding tax liability and a portion of the outstanding penalties and interest related to this matter.

ANSWER: The Department admits the allegations in paragraph 8 of the petition.

9. Taxpayer has filed a petition with the Department's Board of Appeals requesting relief of a portion of the outstanding penalties and interest due to reasonable cause.

ANSWER: The Department admits the allegations in paragraph 9 of the petition.

10. During the periods in question, Taxpayer employed, through its parent company, a tax manager and vice president of accounting and finance to handle the filing of all tax returns and remitting of all tax payments.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 10 of the petition and therefore neither admits nor denies said allegations.

11. Petitioner did not have any control, supervision or responsibility for filing tax returns and making payments to the Department during the periods in question.

ANSWER: The allegations in paragraph 11 of the petition consist of legal and / or factual conclusions and are denied.

12. Petitioner did not willfully fail to file any Illinois tax returns or make payment to the Department during the period in question.

ANSWER: The allegations in paragraph 12 of the petition consist of legal and / or factual conclusions and are denied

13. Petitioner did not willfully attempt in any manner to evade or defeat any Illinois tax during the period in question.

ANSWER: The allegations in paragraph 13 of the petition consist of legal and / or factual conclusions and are denied.

14. The Department issued to Petitioner an Assessment and Notice of Intent of Officer Liability Penalty on May 19, 2014.

ANSWER: The Department admits the allegations in paragraph 14 of the petition.

15. This petition is timely and petitioner is entitled to relief sought herein.

ANSWER: The Department denies the allegations in paragraph 14 of the petition.

WHEREFORE, the Department prays that the Tribunal enter an order:

- a. denying the relief requested by the Petitioner;
- b. finding that the Notice of Penalty Liability at issue is correct as issued;
- c. ordering judgment in favor of the Department and against the Petitioner; and granting such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: 

George Foster
Special Assistant Attorney General

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**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

FRED S. KLIPSCH)	
)	
v.)	14-TT-133
)	
STATE OF ILLINOIS)	
DEPARTMENT OF REVENUE)	

**AFFIDAVIT OF MARK DYCKMAN
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)**

1. I am currently employed by the Illinois Department of Revenue in the Legal Services Bureau.
2. My current title is Deputy General Counsel.
3. I lack the personal knowledge required to either admit or deny the allegations alleged and neither admitted or denied in Petitioner's Petition paragraphs 2 and 10.

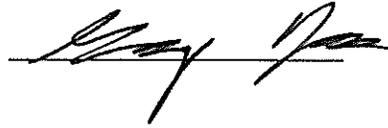
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies that he (she) verily believes the same to be true.

Mark Dyckman
Deputy General Counsel
Illinois Department of Revenue

DATED:

CERTIFICATE OF SERVICE

I, George Foster, an attorney, do hereby certify that on August 18, 2014 a copy of the Department's ANSWER was served on Kevin Wolfberg and Patrick J. McGuire, Schain Banks, by causing a copy to be sent by electronic mail to kwolfberg@schainbanks.com and to pmcguire@schainbanks.com

A handwritten signature in black ink, appearing to read "George Foster", is written over a horizontal line.