

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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<b>DORIAN PUGH,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 15-TT-110</b>
	)	<b>BAROV</b>
<b>DEPARTMENT OF REVENUE</b>	)	
<b>OF THE STATE OF ILLINOIS,</b>	)	
<b>Respondent.</b>	)	

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**RENEWED MOTION FOR JUDGMENT ON THE PLEADINGS**

NOW COME the Department of Revenue of the State of Illinois, by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, and for its Renewed Motion for Judgment on the Pleadings pursuant to Section 2-615(e) of the Illinois Code of Civil Procedure, state as follows:

1. Dorian Pugh (“Taxpayer” or “Petitioner” or “Pugh”) filed a Petition for review of the March 31, 2015, Notice of Personal Liability (“NPL”) in the Illinois Independent Tax Tribunal on June 1, 2015.
2. In his Petition, Pugh pleads “we understand this is our liability,” referring to himself and his business partner with respect to the NPL. (Taxpayer’s Petition, Paragraph 3).
3. Petitioner requested the Tribunal grant equitable relief in his petition, not decide the legal question of whether the NPL is correct as issued.
4. Pursuant to 35 ILCS 1010/1-45(a) the Independent Tax Tribunal may only resolve legal questions specifically delineated to it by the Illinois General Assembly with respect to

items specifically mentioned in that section. Its limited jurisdiction does not allow it to decide matters of equity.

5. On August 6, 2015, the Tax Tribunal entered an order dismissing the matter without prejudice, “so that the Petitioner may file a petition for review by the Board of Appeals.” The Order is attached as Exhibit A.
6. On June 9, 2015, and August 6, 2015, the Department emailed a Board of Appeals Petition to the Taxpayer at the email address provided on the Tribunal Petition. The emails are attached as Exhibit B.
7. As of September 25, 2015, no Petition has been filed at the Board of Appeals by the Taxpayer or on his behalf.
8. Therefore, the Department renews its Motion for Judgment on the Pleadings and requests the Tribunal dismiss the Taxpayer’s Petition *with prejudice*.
9. There is no issue of law to be decided based on Pugh’s admission of liability. Therefore, the Department is entitled to final judgment in its favor and against Pugh based on the admission.
10. A Section 2-615 motion is appropriate when the plaintiff cannot prove any set of facts, under any circumstances, that would entitle him or her to relief. Marshall v. Burger King Corp., 222 Ill. 2d 422, 429 (2006).

WHEREFORE, the Department of Revenue of the State of Illinois prays that the Tribunal uphold the Notice of Penalty Liability at issue and order judgment in favor of the Department and against the Taxpayer based on the pleadings and dismiss Taxpayer’s Petition with prejudice.

Date: September 25, 2015

Respectfully submitted,  
Illinois Department of Revenue,

By: /s/ Ashley Hayes Forte  
Ashley Hayes Forte  
Special Assistant Attorney General

Ashley Hayes Forte  
Illinois Department of Revenue  
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## **Exhibit A**



## **Exhibit B**

## **Forte, Ashley**

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**From:** Forte, Ashley  
**Sent:** Thursday, August 06, 2015 9:28 AM  
**To:** 'dorian4471@yahoo.com'  
**Subject:** FW: Board of Appeals Petition  
**Attachments:** BOA-1.pdf; BOA-4 (1).pdf

Dear Mr. Pugh,

I am sending a copy of this email and the attachments in the mail as well.

Very truly,

### **Ashley Hayes Forte**

Illinois Department of Revenue  
Special Assistant Attorney General  
James R. Thompson Center  
100 W. Randolph Street, 7th Floor  
Chicago, Illinois 60601  
312.814.3511  
312.814.4344 (fax)

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**From:** Forte, Ashley  
**Sent:** Tuesday, June 09, 2015 1:15 PM  
**To:** 'dorian4471@yahoo.com'  
**Subject:** Board of Appeals Petition

Dear Mr. Pugh,

As promised I have attached the Board of Appeals (BOA) petition for you to review and fill out. One thing I forgot to mention on the phone is that in order to petition the BOA the liability has to be final -- this is why you have to withdraw your petition at the Tribunal. A final liability means you can no longer go to the Tribunal to contest whether the tax is **legally** appropriate or not. However, given that you've taken responsibility for it in your Tax Tribunal Petition this is almost a moot point.

When you fill out your BOA petition, be sure to check the box requesting a Temporary Restraining Order. This will keep collections from calling you, sending you mail, trying to levy/lien while you're at the BOA. You only have to fill out the attached BOA-4 if you are trying to get financial waiver of some of the liability.

If and when you are ready to withdraw your petition from the Tribunal, please send Judge Brian Barov an email letting him know you are withdrawing so you can petition the Board of Appeals. He will issue a final order. Be sure to cc me on that email. Barov's email is: [Brian.Barov@illinois.gov](mailto:Brian.Barov@illinois.gov)

You can also read about the BOA on the Department's website: <http://tax.illinois.gov/LegalInformation/regs/part210/>. This is all their Regulations, so you can read it but it may not be pleasure reading.

Because I am not your attorney I suggest you consult legal counsel before making any decisions if you feel you need it. The Tribunal is a litigation forum so it is inherently adversarial. Personally, I like to try to do what is best for the tax payer when the law allows. However, should we move forward with the case, I also have an ethical duty to represent my client (the Department) to the best of my abilities. Given the facts of the case, your best bet for relief is the Board of Appeals.

If you have any questions please let me know. Thanks!

Very truly,

**Ashley Hayes Forte**

Illinois Department of Revenue

Special Assistant Attorney General

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