

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

WASEEM AHMED,)	
Petitioner)	
v.)	15-TT-135
ILLINOIS DEPARTMENT OF REVENUE,)	
Respondent)	

ANSWER

NOW COMES the Department of Revenue of the State of Illinois (the “Respondent”), through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and for its Answer to Waseem Ahmed’s (the “Petitioner”) Petition (the “Petition”) respectfully pleads as follows:

PARTIES

1. Petitioner is an individual who lives at 8610 West 142nd Place, Orland Park, Illinois, 60462, and can be reached at 708-655-3870.

ANSWER: The Respondent admits that the Petitioner is an individual who lives at 8610 West 142nd Place, Orland Park, Illinois 60462. The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in Paragraph 1.

2. Petitioner is represented by The Law Office of James E. Dickett, Ltd. attorney James E. Dickett, located at 600 Hillgrove Avenue, Suite 1, Western Springs, Illinois, 60558 and can be reached at 708-784-3200 or jdickett@aol.com.

ANSWER: The Respondent admits the allegations in Paragraph 2.

3. Petitioner’s NPL Penalty ID is 2620566.

ANSWER: The Respondent admits the allegations in Paragraph 3.

4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

ANSWER: The Respondent admits the allegations in Paragraph 4.

NOTICE

5. On June 17, 2015, the Department issued a Collection Action Assessment and Notice of Intent for a personal liability penalty (a.k.a. NPL) (“Notice”) against the Petitioner in the amount of \$146,655.96. The Notice is attached hereto as Exhibit 1.

ANSWER: The Respondent admits the allegations in the first sentence of Paragraph 5. A copy of the Collection Action: Assessment and Notice of Intent issued by the Respondent to the Petitioner, for the reporting periods of June and November 2009 (the “Periods”), dated June 17, 2015 and with Letter ID L0932325520, attached to the Petition (the “Notice”), is not a material allegation of fact, and therefore does not require an answer pursuant to Illinois Independent Tax Tribunal Regulation (“Rule”) 310(b)(2) (86 Ill. Adm. Code 5000.310), but to the extent an answer is required, the Respondent admits issuing the Notice and states that the Notice speaks for itself.

JURISDICTION

6. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act (“Tribunal Act”), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

ANSWER: The Respondent admits the allegations in Paragraph 6.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the Notice.

ANSWER: The Respondent admits the allegations in Paragraph 7.

BACKGROUND

8. Petitioner was a partial owner of the underlying corporation, B W Services Inc., which was located in Hickory Hills and is now defunct.

ANSWER: The Respondent admits that B W Services Inc. (the “Corporation”) was located in Hickory Hills, Illinois, and that the Notice assesses personal liability against the Petitioner for the Illinois Sales and Use Tax, and E911 Surcharge liability, and corresponding penalties and interest, of the Corporation for the Periods. The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in Paragraph 8.

9. Petitioner was not involved in the day-to-day operations of the business nor was he ever involved in the filing, preparation, and payment of Illinois sales tax for the underlying corporation because he relied on a daily manager and outside accountant for those duties.

ANSWER: The Respondent objects to Paragraph 9 in that it is vague as to the “business” and the “underlying corporation.” Notwithstanding said objections, and without waiving the same, the Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 9.

10. Moreover, the underlying corporate liability is based on a sales tax audit that occurred after the business was already closed.

ANSWER: The Respondent objects to Paragraph 10 in that it is vague as to the “underlying corporate liability,” the “sales tax audit,” and the “business.” Notwithstanding said objections, and without waiving the same, the Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 10.

COUNT I

Petitioner is not a responsible officer who failed to pay the sales tax, penalties, and interest of B W Services Inc.

11. Petitioner realleges and incorporates by reference the allegation [sic] made in paragraphs 1 through 10, inclusive, hereinabove.

ANSWER: The Respondent incorporates and repeats its answers to Paragraphs 1 through 10 as if fully set forth herein.

12. A corporate officer who does not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments is not personally liable for the corporation's unpaid sales tax, penalties, and interest. 35 ILCS 35 ILCS [sic] 735/3-7.

ANSWER: Paragraph 12 contains legal conclusions, not material allegations of fact, and therefore no response is required pursuant to Rule 310(b)(2).

13. Petitioner did not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments and therefore is not personally liable for the corporation's unpaid sales tax, penalties, and interest.

ANSWER: The Respondent objects to Paragraph 13 in that it is vague as to the "corporation." Notwithstanding said objection, and without waiving the same, the Respondent denies the allegations in Paragraph 13.

14. Contrary to the Department's determination, Petitioner is not a responsible officer who failed to pay the sales tax, penalties, and interest of the corporation.

ANSWER: The Respondent objects to Paragraph 14 in that it is vague as to the "corporation." Notwithstanding said objection, and without waiving the same, the Respondent denies the allegations in Paragraph 14.

WHEREFORE, the Respondent prays that the Tribunal enter an order to:

- a. deny each prayer for relief in Count I of the Petitioner's Petition;
- b. find that the Notice (as that term is defined in the Answer to Paragraph 5) is correct as issued;
- c. order judgment in favor of the Respondent and against the Petitioner; and
- d. grant such further relief as this Tribunal deems appropriate under the circumstances.

COUNT II

Petitioner did not willfully fail to pay the sales tax, penalties, and interest of B W Services Inc.

15. Petitioner realleges and incorporates by reference the allegation [sic] made in paragraphs 1 through 14, inclusive, hereinabove.

ANSWER: The Respondent incorporates and repeats its answers to Paragraphs 1 through 14 as if fully set forth herein.

16. A corporate officer who does not willfully fail to pay the corporation's sales tax is not personally liable for the corporation's unpaid sales tax, penalties, and interest. 35 ILCS 35 ILCS [sic] 735/3-7.

ANSWER: Paragraph 16 contains legal conclusions, not material allegations of fact, and therefore no response is required pursuant to Rule 310(b)(2).

17. Petitioner did not willfully fail to pay the sales tax, penalties, and interest and therefore is not personally liable for such amounts because he relied on a daily manager and outside accountant for all tax matters and also because the underlying corporate liability is based on an audit that occurred after the business had already closed.

ANSWER: The Respondent objects to Paragraph 17 in that it is vague as to the entity to which the “sales tax, penalties, and interest” pertain, and as to the “tax matters,” the “underlying corporate liability,” the “audit,” and the “business.” Notwithstanding said objections, and without waiving the same, the Respondent denies the allegations in Paragraph 17.

18. Contrary to the Department’s determination, Petitioner is not a responsible officer who willfully failed to pay the sales tax, penalties, and interest of the corporation.

ANSWER: The Respondent objects to Paragraph 18 in that it is vague as to the “corporation.” Notwithstanding said objection, and without waiving the same, the Respondent denies the allegations in Paragraph 18.

WHEREFORE, the Respondent prays that the Tribunal enter an order to:

- a. deny each prayer for relief in Count II of the Petitioner’s Petition;
- b. find that the Notice (as that term is defined in the Answer to Paragraph 5) is correct as issued;
- c. order judgment in favor of the Respondent and against the Petitioner; and
- d. grant such further relief as this Tribunal deems appropriate under the circumstances.

COUNT III

The Department cannot assess a personal liability assessment for penalties and interest amounts related to unpaid corporate sales taxes.

19. Petitioner realleges and incorporates by reference the allegation [sic] made in paragraphs 1 through 18, inclusive, hereinabove.

ANSWER: The Respondent incorporates and repeats its answers to Paragraphs 1 through 18 as if fully set forth herein.

20. The Illinois statute regarding personal liability assessments improperly defines unpaid corporate sales tax to include penalties and interest. 35 ILCS 735/3-7.

ANSWER: Paragraph 20 contains legal conclusions, not material allegations of fact, and therefore no response is required pursuant to Rule 310(b)(2).

21. The intent of Illinois statute regarding personal liability assessments for unpaid corporate sales taxes is to allow the state to pursue responsible, willful corporate officers for unpaid corporate sales taxes that were collected “in trust” for the state.

ANSWER: Paragraph 21 contains legal conclusions, not material allegations of fact, and therefore no response is required pursuant to Rule 310(b)(2).

22. The unpaid corporate sales tax penalties and interest contained in the Notice at issue were not collected “in trust” for the state.

ANSWER: Paragraph 22 contains legal conclusions, not material allegations of fact, and therefore no response is required pursuant to Rule 310(b)(2).

23. The Department’s determination that Petitioner personally owes the unpaid penalties and interest of the corporation is not supported by law.

ANSWER: The Respondent objects to Paragraph 23 in that it is vague as to the “determination” and the “corporation.” Notwithstanding said objections, and without waiving the same, the Respondent denies the allegations in Paragraph 23.

WHEREFORE, the Respondent prays that the Tribunal enter an order to:

- a. deny each prayer for relief in Count III of the Petitioner’s Petition;

- b. find that the Notice (as that term is defined in the Answer to Paragraph 5) is correct as issued;
- c. order judgment in favor of the Respondent and against the Petitioner; and
- d. grant such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: /s/ Daniel A. Edelstein
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AFFIDAVIT OF DMITRI CORNELIER
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)

Under penalties as provided by Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109, I, Dmitri Cornelier, being first duly sworn on oath, depose, and state as follows:

1. I am currently employed by the Illinois Department of Revenue (the "Respondent").
2. My current title is Revenue Tax Specialist.
3. I reviewed the Collection Action: Assessment and Notice of Intent issued by the Respondent to Waseem Ahmed (the "Petitioner"), dated June 17, 2015 and with Letter ID L0932325520, and documents related to the formation and operation of B W Services Inc., and to its previously finalized Illinois Sales and Use Tax, and E911 Surcharge liability, and corresponding penalties and interest, for the reporting periods of June and November 2009.
4. I lack the requisite knowledge to either admit or deny the allegations alleged in the Petitioner's Petition, Paragraphs 1, and 8-10.
5. I am an adult resident of the State of Illinois and can truthfully and competently testify to the matters contained herein based upon my own personal knowledge.

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 as aforesaid that he verily believes the same to be true.


Dmitri Cornelier
Revenue Tax Specialist
Illinois Department of Revenue

Date: 8-14-2015