

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

Elizabeth Rhodes,)	
)	
vs.)	15 TT 143
Illinois Department,)	James Conway,
of Revenue)	Chief Judge

**NOTICE OF FILING AND
PROOF OF SERVICE**

To: Elizabeth J. Rhodes
33486 N. Troy Rd.
Avon, Illinois 61415

Please take notice that on August 25, 2015, the attached **ANSWER** was filed, a copy of which the undersigned certifies he filed, and served on August 25, 2015, on the individual listed above, by causing a copy to be placed in the U.S. mail, postage prepaid and addressed to the individual listed above.



George Foster
Special Assistant Attorney General

Dated: August 25, 2015

State of Illinois Department of Revenue
100 West Randolph Street, 7th Floor
Chicago, Illinois 60601
(312) 814-3493

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

ELIZABETH J. RHODES, Petitioner)	
)	
V)	No. 15 TT 143
ILLINOIS DEPARTMENT OF REVENUE,)	Chief Judge James M. Conway
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:

PETITION SECTION CAPTIONED ‘INTRODUCTION’

1. The collection action for NPL Penalty ID 2680580 was reissued by the Department on March 11, 2015 for \$28,841.88 in unpaid liability of MBLR, Inc. for Taxes, Interest, and Penalty for Sales/Use Tax & E911 Surcharge for the periods 31 January 2014 through 31 July 2014.

ANSWER: The Department admits that on March 11, 2015 the Department issued a Collection Action Assessment and Notice of Intent for a personal liability penalty which is attached to the Petition. The Department further states that the Notice speaks for itself and therefore denies the remaining allegations in paragraph 1 of the petition.

2. The collection action for 1002D penalty ID was reissued by the Department on March 11, 2015 for \$5,707.92 in unpaid liability of MBLR, Inc. for Taxes, Interest, and Penalty for Illinois Withholding Income Tax for the periods 31 March 2014 through September 2014.

ANSWER: The Department admits that on March 11, 2015 the Department issued a Collection Action Assessment and Notice of Intent for a 1002D personal liability penalty which is attached to the Petition. The Department further states that the Notice speaks for itself and therefore denies the remaining allegations in paragraph 2 of the petition.

3. The collection action –Notice of Lien: Lien no. 2140719; Document no: TX 15020 filed in the Office of the Recorder of Deeds or Registrar of Titles in Fulton County on May 11, 2015. The lien was filed for \$34,768.40 against Elizabeth Rhodes for unpaid tax liability of MBLR, Inc. stated in 1 & 2 above.

ANSWER: The Department admits the allegations in paragraph 3 of the petition.

PETITION SECTION CAPTIONED ‘BACKGROUND’

Petitioner is stated as having been determined (by the Illinois Department of Revenue) as a responsible officer, partner or individual of MBLR, Inc. and therefore personally responsible for the taxes, penalties, and interest due to the state. MBLR, Inc. was a restaurant owned and operated by my husband at 51 Monroe Street, St. Augustine, IL 61474.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations that “MBLR, Inc. was a restaurant owned and operated by my husband at 51 Monroe Street, St. Augustine, IL 61474” and therefore neither admits or denies said allegations. The Department admits the remaining allegations in the Petition section captioned “Background”.

PETITION SECTION CAPTIONED ‘ERRORS’

1. The Department has determined that I, Elizabeth J. Rhodes, was a responsible officer, partner or individual in the operation of MBLR, Inc. and therefore, under Illinois Law is personally responsible for the unpaid taxes, penalties, and interest of MBLR, Inc. It is my contention that I was never a responsible officer, partner or individual in the operation of MBLR, Inc.

ANSWER: The allegations in paragraph 1 above consist primarily of conclusions and are denied.

PETITION SECTION CAPTIONED 'FACTS'

1. My ex husband, Mikell Benjamin Rhodes purchased the business from my father, Al Wagdy on July 1, 2004 and operated it until it was closed on July 7, 2014. The business was organized as a S corporation, MBLR, Inc. dba Club 41. Ben was the sole decision maker of MBLR, Inc.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 1 of the petition and therefore neither admits or denies said allegations.

2. (For the sake of brevity the Department elects not to re-type what the Petitioner has numbered as paragraph 2 of this section in its petition but incorporates it by reference herein.)

ANSWER: The Department admits that Ben Rhodes has filed a petition with the Board of Appeals of the Department of Revenue. The allegations in the last sub part of paragraph 2 that the "facts are not disputed by my ex husband nor by anyone who has close knowledge of the operation of MBLR, Inc., and that he (Ben Rhodes) has accepted full responsibility for the tax debt, agrees that I am not responsible, and is attempting to settle the outstanding tax liabilities" are vague and conclusory and are denied.

The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 2 and therefore neither admits or denies said allegations.

PETITION SECTION CAPTIONED 'SPECIFIC LAW SUPPORTING THE ARGUMENT'

ANSWER: The Department denies the legal conclusions and all other allegations in the section of the petition captioned "Specific Law Supporting the Argument".

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

- a. denying the prayer for relief in the Petitioner's Petition in its entirety;
- b. finding that the Notices of Penalty Liability at issue are correct as issued;
- c. ordering judgment in favor of the Department and against the Taxpayer; 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**

ELIZABETH J. RHODES

v.

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE**

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15-TT-143

**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 section captioned Background, and in paragraphs 1 and 2 in Petitioner's Petition section captioned Facts.

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: 8-25-15