

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

TED’S PLACE, LTD.,)	
Petitioner)	
v.)	15-TT-164
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 Ted’s Place, Ltd.’s (the “Petitioner”) Petition (the “Petition”) respectfully pleads as follows:

INTRODUCTION

1. The “Notice” was issued by the Department on June 15, 2015 assessing the amount of \$ 29,680.00 in tax, \$20,920.00 in penalties and \$1,855.38 in interest for taxable periods July 1, 2011 through December 31, 2013. A copy of the “Notice” is attached to this Petition as Exhibit “A”.

ANSWER: A copy of the Notice of Tax Liability issued by the Respondent to the Petitioner, for the reporting periods of July 2011 through December 2013 (the “Periods”), dated June 15, 2015 and with Letter ID CNXXXX58X6328481, attached to the Petition as the first page of Exhibit A thereto (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. The Respondent denies any remaining allegations in Paragraph 1.

2. Petitioner is an Illinois Corporation with its principal place of business in Chicago, IL.
(See Exhibit “B”)

ANSWER: The Respondent admits that the Petitioner is an Illinois Corporation with its principal place of business in Chicago, IL. The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in Paragraph 2.

3. Ted's Place, LTD [sic] is located at 4425 N. Central Ave and its telephone number is 847-254-4118. The Taxpayer Account number is 0106-3634.

ANSWER: The Respondent admits that the Petitioner is located at 4425 N. Central Ave., and that the Petitioner’s Taxpayer Account number is 0106-3634. The Respondent denies the remaining allegations in Paragraph 3.

4. The landlord of record is Virginia Koulogeorge who resided at 957 Whitehall Drive, Buffalo Grove, IL.

ANSWER: The Respondent objects to Paragraph 4 in that it is vague and ambiguous as to the phrase “landlord of record,” and in that it is vague as to the period of time to which it relates. Notwithstanding said objections, and without waiving the same, the Respondent denies the allegations in Paragraph 4, and affirmatively states that between August 2011 and December 2013, Gina Delorge (“Ms. Delorge”) owned the building in which the Petitioner was located.

5. The current owner of the business is Gina DeLorge (“DeLorge”), 957 Whitehall Drive, Buffalo Grove, IL. DeLorge owns 100% of the stock in Ted’s Place, LLC.

ANSWER: The Respondent admits the allegations in the first sentence of Paragraph 5. The Respondent denies the allegations in the second sentence of Paragraph 5, and affirmatively states that Ms. Delorge owns all of the stock of the Petitioner.

6. The business, Ted's Place, LTD [sic], is a small tavern which serves alcohol and other snacks and beverages within the City of Chicago.

ANSWER: The Respondent admits that the Petitioner is a small tavern which serves alcohol and other beverages within the City of Chicago. The Respondent denies the remaining allegations in Paragraph 6.

BACKGROUND AND RELEVANT FACTS

7. On August 16, 2011, Virginia Koulogeorge, the previous owner of Ted's Place, died in Cook County, Illinois. She is survived by her only daughter, Gina DeLorge, who is the administrator of Virginia Koulogeorge's estate.

ANSWER: The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 7.

8. Shortly after her mother's death, DeLorge began operating Ted's Place. DeLorge had limited prior experience with operating her mother's bar and had never been involved in any of the accounting relating to the bar.

ANSWER: The Respondent objects to Paragraph 8, in that it is vague as to the phrases "limited prior experience" and "accounting related to the bar." 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 8.

9. DeLorge continued to use the same vendors to purchase alcohol to supply the business.

ANSWER: The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 9.

10. DeLorge continued to use the same accountant to handle the taxes for the corporation. To the best of DeLorge's knowledge, there had been no problems with prior audits.

ANSWER: The Respondent objects to Paragraph 10 in that it is vague as to the phrases "handle the taxes" and "problems with prior audits." Notwithstanding said objections, and without waiving the same, the Respondent admits that after the death of Ms. Delorge's mother (Virginia Koulogeorge, or "Ms. Koulogeorge") in August 2011, Ms. Delorge continued to use the services of the same accountant that Ms. Koulogeorge had used during Ms. Koulogeorge's operation of the Petitioner. The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in Paragraph 10.

APPLICABLE LAW

11. Pursuant to the Notice of Tax Liability, the Department concluded Ted's Place owed \$29,680.00 in sales and use taxes in [sic] which this Tribunal has jurisdiction.

ANSWER: The Respondent admits issuing the Notice and states that the Notice speaks for itself. The Respondent also admits that this Tribunal has jurisdiction over the Petition. The Respondent denies any remaining allegations in Paragraph 11.

12. Pursuant to the Notice of Tax Liability, the Department assessed a Fraud Penalty in the amount of \$14,840.00 pursuant to 35 ILCS 735 et. seq as well as other late filing and interest penalties [sic]

ANSWER: The Respondent admits issuing the Notice and states that the Notice speaks for itself. The Respondent also admits that the Uniform Penalty and Interest Act,

35 ILCS 735/3-1, *et seq.*, provides for the imposition of the penalties and interest assessed by the Notice. The Respondent denies the remaining allegations in Paragraph 12.

ERROR I

13. The Department incorrectly estimated, or incorrectly tabulated, the receipts for purchases made by Ted's Place during the time period of July 1, 2011 through December 31, 2011. The gross receipts the Department used to calculate the tax liability for this six month time period were equal to the gross receipts for the entire year for both 2012 and 2013.

ANSWER: The Respondent denies the allegations in Paragraph 13.

14. Upon information and belief, the Petitioner presumes the Department doubled the actual receipts for the period July 1, 2011 through December 31, 2011. Consequently, the total tax liability was overstated for the reporting period of July 1, 2011 through December 31, 2013.

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

15. The Petitioner is in possession of actual receipts which match the receipts of its liquor distributors establishing the tax liability for the reporting period is overstated.

ANSWER: The Respondent objects to Paragraph 15 in that it is vague and ambiguous as to the phrase "actual receipts." Notwithstanding said objection, and without waiving the same, the Respondent denies the allegations in Paragraph 15.

16. Due to the overstatement of the tax liability, the remaining amounts in the Notice of Tax Liability are overstated.

ANSWER: The Respondent denies the allegations in Paragraph 16.

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

- a. deny each prayer for relief in Error I of the Petitioner's Petition;
- b. find that the Notice (as that term is defined in the Answer to Paragraph 1) 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.

ERROR II

17. The Department erroneously concluded Gina DeLorge engaged in activity which constituted intent to defraud to justify the 50% fraud penalty.

ANSWER: The Respondent denies the allegations in Paragraph 17 (incorrectly numbered as the second Paragraph 16 in the Petition).

18. DeLorge began operating the bar shortly after her mother's death which was the beginning of the reporting period.

ANSWER: The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 18 (incorrectly numbered as Paragraph 17 in the Petition).

19. DeLorge continued to use the same distributors and accountants who had been supplying goods and services for the bar for several years prior to DeLorge's involvement with the bar.

ANSWER: The Respondent objects to Paragraph 19 in that it is vague as to the terms "several" and "involvement." 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 19 (incorrectly numbered as Paragraph 18 in the Petition).

20. DeLorge never personally handled the calculation for any taxes owed on gross receipts.

ANSWER: The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 20 (incorrectly numbered as Paragraph 19 in the Petition).

21. DeLorge never destroyed or failed to keep records of the bar's purchases and is able to confirm the bar's purchases through its distributors.

ANSWER: The Respondent denies the allegations in Paragraph 21 (incorrectly numbered as Paragraph 20 in the Petition).

22. DeLorge did not personally supervise the accountants who calculated the tax due during the reporting period.

ANSWER: The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 22 (incorrectly numbered as Paragraph 21 in the Petition).

23. DeLorge never knew the taxes for the bar were being underreported as she had no prior experience operating the bar and relied upon the bar's accountants to remit the correct tax amounts.

ANSWER: The Respondent lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations in Paragraph 23 (incorrectly numbered as Paragraph 22 in the Petition).

24. DeLorge never engaged in any conduct which could be construed as filing a claim with the intent to defraud.

ANSWER: The Respondent objects to Paragraph 24 (incorrectly numbered as Paragraph 23 in the Petition) in that it is vague and ambiguous as to the term “claim.” Notwithstanding said objection, and without waiving the same, the Respondent denies the allegations in Paragraph 24.

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

- a. deny each prayer for relief in the Petitioner’s Petition;
- b. find that the Notice (as that term is defined in the Answer to Paragraph 1) is correct as issued;
- c. find that the Respondent’s assessment of the fraud penalty contained in the Notice (as that term is defined in the Answer to Paragraph 1) was appropriate and conformed with the law;
- d. order judgment in favor of the Respondent and against the Petitioner; and
- e. grant such further relief as this Tribunal deems appropriate under the circumstances.

CONCLUSION AND RELIEF REQUESTED

25. Petitioner seeks a pretrial conference and/or hearing to present evidence that the Department’s tax assessment is incorrect and she did not engage in any conduct which could lead to the conclusion she intended to defraud under existing law.

ANSWER: The Respondent denies the allegations in Paragraph 25 (incorrectly numbered as Paragraph 24 in the Petition).

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

- a. deny each prayer for relief in the Petitioner's Petition;
- b. find that the Notice (as that term is defined in the Answer to Paragraph 1) is correct as issued;
- c. find that the Respondent's assessment of the fraud penalty contained in the Notice (as that term is defined in the Answer to Paragraph 1) was appropriate and conformed with the law;
- d. order judgment in favor of the Respondent and against the Petitioner; and
- e. grant such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

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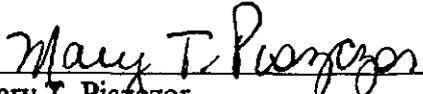
TED'S PLACE, LTD.,)
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v.) 15-TT-164
ILLINOIS DEPARTMENT OF REVENUE,)
Respondent)

AFFIDAVIT OF MARY T. PISZCZOR
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, Mary T. Piszczor, being first duly sworn on oath, depose, and state as follows:

1. I am currently employed by the Illinois Department of Revenue.
2. My current title is Revenue Auditor III.
3. I reviewed Ted's Place, Ltd.'s (the "Petitioner") Illinois sales and use tax audit for the reporting periods of July 2011 through December 2013.
4. I lack the requisite knowledge to either admit or deny the allegations alleged in the Petitioner's Petition, Paragraphs 2, 7-10, 18-20, 22 and 23.
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 she verily believes the same to be true.



Mary T. Piszczor
Revenue Auditor III
Illinois Department of Revenue

Date: 10-2-15