



liability of G.R.M. LUBEPROS INC, due to your status as a responsible officer, partner, or individual of G.R.M. LUBEPROS INC."

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

4. Petitioner disputes the findings of the Department that he was "a responsible officer, partner, or individual of G.R.M. LUBEPROS INC.

ANSWER: The Department admits the allegations in paragraph 4 of the answer.

5. The Department has determined G.R.M. LUBEPROS INC. has an unpaid balance totaling \$16,554.38 for sales/use tax and E911 surcharge for the following periods: (as set forth in the petition but not retyped here)

ANSWER: The Department admits the allegations in paragraph 5 of the answer.

6. Petitioner also disputes the findings of the Department that G.R.M. LUBEPROS INC. has an unpaid balance of \$16,554.38.

ANSWER: The Department admits the allegations in paragraph 6 of the answer.

7. G.R.M LUBEPROS INC. Illinois account ID is: 2503-1181 and Federal employer identification number is: 36-3925051.

ANSWER: The Department admits the allegations in paragraph 7 of the answer.

8. Petitioner is an individual or stated by the Department to be a Responsible Officer of G.R.M. LUBEPROS INC. doing business at 145 E. Boughton Road, Bollingbrook, Illinois with a mailing address of P.O. Box 8286 Romeoville, IL 60446.

ANSWER: The allegations that GRM LUBEPROS INC. has a "mailing address" of P.O. Box 8286 Romeoville, IL 60446 is vague and is denied. The Department admits the remaining allegations in paragraph 8 of the Petition.

9. G.R.M. LUBEPROS INC. was incorporated in the State of Illinois approximately 1991. G.R.M issued 150 shares of stock which were distributed in equal sums (50) to: Michael Marsek, David Richmond and Matthew Galbraith.

.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 9 of the petition and therefore neither admits or denies said allegations.

10. From 1991 until approximately 1998 Matthew Galbraith was the responsible person for all day to day operations (manager), accounting and reporting of all tax related information to the Department.

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 or denies said allegations.

11. In approximately 1998 Matthew Galbraith's 50 shares of G.R.M stock were distributed in equal shares to Michael Marsek and David Richmond.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 11 of the petition and therefore neither admits or denies said allegations.

12. From approximately 1998 until the summer of 2012 Michael Marsek was the responsible party to the Department. Michael Marsek controlled all the "financial books" which included the checking account, merchant (credit/debit) account and reported monthly with the Department.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 12 of the petition and therefore neither admits or denies said allegations.

13. In approximately the summer of 2012 Michael Marsek transferred his shares of G.R.M to Brian Deutsch.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 13 of the petition and therefore neither admits or denies said allegations.

14. Brian Deutsch ("Deutsch") assumed the duties that had been performed by Michal Marsek. Deutsch was the day to day manager of G.R.M. and received a monthly salary from G.R.M. Deutsch hired employees, dismissed employees, controlled the accounting which included the accounts receivable, accounts payable, checkbook, accounting, collecting Illinois sales tax, paying Illinois sales tax and all corresponding with the Department.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 14 of the petition and therefore neither admits or denies said allegations.

15. On October 11, 2013 the Department sent G.R.M. a "Notice of Administrative Hearing" regarding the revocation of G.R.M.'s certificate of registration before an administrative law judge on November 14, 2013. The location was at the Illinois Department of Revenue office in Springfield Illinois.

ANSWER: The Department admits the allegations in paragraph 15 of the petition.

16. Deutsch being the responsible person attended the November 14, 2013 meeting and represented G .R.M. Deutsch prepared an "income and expense" report for the Department in November 2013.

ANSWER: The Department admits that Deutsch prepared an "income and expense" report for the Department in November 2013. The remaining allegations in paragraph 16 of the petition are vague and conclusory and are denied.

17. All phone calls and correspondents from G.R.M. to the Department were carried out by Deutsch. The Department and Deutsch had several phone calls and a repayment plan was submitted by Deutsch and accepted by the Department.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 17 of the petition and therefore neither admits or denies said allegations.

18. Deutsch collected the Illinois sales tax. Deutsch prepared the Departments monthly sales tax reports. Deutsch submitted to the Department the monthly sales tax reports. Deutsch arraigned the payments to the Department by electronic means or signed check by Deutsch.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 18 of the petition and therefore neither admits or denies said allegations.

19. Deutsch was the one and only responsible person for G.R.M. with any and all dealings with the Department.

ANSWER: The allegations in paragraph 19 of the petition are vague and conclusory and are denied.

20. The Department corresponded with G.R.M. by U.S. mail. All mail was delivered to G.R.M.'s P.O. Box 8286 in Romeoville, IL. Deutsch was the only authorized person by the U.S. Postal Service to access the P.O. Box. Deutsch had the only access to the P.O. Box and the Petitioner has never accessed the G.R.M. P.O. Box.

ANSWER: The Department admits that it corresponded with G.R.M. by U.S. mail. The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 20 of the petition and therefore neither admits or denies said allegations.

21. Deutsch was in complete control of all G.R.M. documentation located at his home or the business in Bollingbrook.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 21 of the petition and therefore neither admits or denies said allegations.

22. Petitioner never went to Deutsch's home and reviewed any documentation. Many times the Petitioner would not go to the business for many months.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 22 of the petition and therefore neither admits or denies said allegations.

23. Petitioner was not responsible for the accounts payable, accounts receivable or any G.R.M. business dealings with the Department. Petitioner did not sign checks or arrange for electronic funds transfers from G.R.M. checking accounts for the Department or accounts payable to G.R.M. vendors and employees.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 23 of the petition and therefore neither admits or denies said allegations.

24. Petitioner did not have any dealings in person, by correspondent or phone with the Department.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 24 of the petition and therefore neither admits or denies said allegations.

25. The Department has not provided any documentation showing the Petitioner

had knowledge of, or responsibility to the Department as a responsibility party by G.R.M.

ANSWER: The allegations in paragraph 25 of the petition are vague and conclusory and are denied.

26. Petitioner is not aware of any documents prepared by G.R.M. showing liability for sales/use taxes for the disputed periods of 31 Aug 20 13, 30 Sep 20 13, 31 Jan 2014, 28 Feb 2014 and 31 Mar. 2014.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 26 of the petition and therefore neither admits or denies said allegations.

27. The Department has not provided Petitioner with any documentation showing G.R.M. liability for the disputed periods.

ANSWER: The allegations in paragraph 27 are vague as to what specific documents the Petitioner is alluding to, particularly since the liability for G.R.M. for the relevant periods did not result from any type of Department audit or estimate, but rather from G.R.M. filing returns without submitting the tax shown as due thereon. Therefore the allegations in paragraph 27 of the petition are denied.

28. Petitioner never had access to G.R.M. electronic reporting web-site to the Department.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 28 of the petition and therefore neither admits or denies said allegations.

29. Petitioner believes G.R.M. electronically prepared (by Deutsch) monthly sales and tax statements that were based on G.R.M. monthly accounting that was also prepared by Deutsch and transmitted to the Department by Deutsch.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 29 of the petition and therefore neither admits or denies said allegations.

30. Petitioner was never authorized or issued a password to access the G.R.M. account with the Department and did not access the Departments G.R.M. account.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 30 of the petition and therefore neither admits or denies said allegations.

31. All records, receipts, accounting, correspondents with the Department were conducted and in the control of Deutsch.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 31 of the petition and therefore neither admits or denies said allegations.

32. Petitioner was a stock holder of G.R.M. Petitioner was listed as "President" in G.R.M.'s yearly filing. The term "President" given to the Petitioner was ceremonial and did not authorize the Petitioner to conduct business for G.R.M. Petitioner received no compensation for being "President" of G.R.M. For all practical purposes the Petitioner was a stock holder and received equity payments from G.R.M. Petitioner did not have any authority in the daily operations and dealings with the Department.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 31 of the petition and therefore neither admits or denies said allegations.

33. In approximately 2005 the Petitioner and previous stock holder Marsek hired Deutsch as G.R.M.'s manager. In the summer of 2012 Marsek sold his G.R.M. stock to Deutsch.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 33 of the petition and therefore neither admits or denies said allegations.

34. Deutsch continued as G.R.M.'s manager in the summer of 2012 and assumed the duties of being the Responsible person to the Department.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 34 of the petition and therefore neither admits or denies said allegations.

35. Deutsch was G.R.M.'s manager, accountant, responsible person to the Department and stock holder.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 35 of the petition and therefore neither admits or denies said allegations.

36. The Department determined the Petitioners status as a responsible officer, partner, or individual of G.R.M. LUBEPROS INC. made the Petitioner responsible of the amount of unpaid liability of G.R.M. LUBEPROS INC. and that is the Departments error. 35 ILCS 735/3-7(a) Any officer or employee of any taxpayer subject to the provisions of a tax Act administered by Department who has the control, supervision or responsibility of filing returns and making payment of the amount of any trust tax imposed in accordance with that Act and who wilfully fails to file the return or make the payment to the Department or wilfully attempts in any other manner to evade or defeat the tax shall be personally liable... The Petitioner never had control, supervision or responsibility of filing returns or making payments for G.R.M and therefore is not a responsible person to the liability of G.R.M. The Department has provided no proof the Petitioner had control, supervision or responsibility of filing returns and making payments for G.R.M. LUBEPROS INC. and the Department has the burned to prove the Petitioner is a responsible person of G.R.M.

ANSWER: The allegations in paragraph 36 of the petition consist primarily of legal and other conclusions and are denied.

**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 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

George Foster  
Illinois Department of Revenue  
100 W. Randolph Street, Level 7  
Chicago, Illinois 60601  
312-814-3493  
[george.foster@illinois.gov](mailto:george.foster@illinois.gov)

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

---

<b>DAVID C. RICHMOND</b>	)	
	)	
v.	)	<b>15-TT-178</b>
	)	<b>Chief Judge James M. Conway</b>
<b>STATE OF ILLINOIS</b>	)	
<b>DEPARTMENT OF REVENUE</b>	)	

---

**AFFIDAVIT OF BRIAN GOLDBERG  
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 9,10,11,12,13,14,17,18,20,21,22,23,24,26,28, 29,30,31,32, 33,34, and 35.

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.



---

Brian Goldberg  
Deputy General Counsel  
Illinois Department of Revenue

DATED: 10/8/15