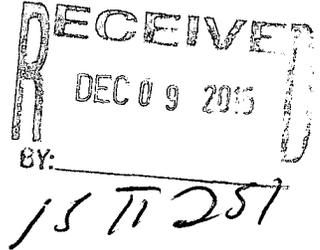


**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

ALLIANCE BUSINESS ENTERPRISES INC., )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS DEPARTMENT OF REVENUE, )  
 )  
 Respondent. )

No.



**PETITION**

Petitioner, Alliance Business Enterprises Inc. (“Petitioner”), by and through its attorneys, The Law Office of James E. Dickett, Ltd, complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

**PARTIES**

1. Petitioner is a defunct corporation formerly located at 13 North River Road, North Aurora, Illinois, 60542, and can be reached at 773-661-4742.
2. Petitioner is represented by 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](mailto:jdickett@aol.com).
3. Petitioner’s Account ID number is 3427-4774.
4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement of Illinois tax laws. 20 ILCS 5/5-15.

## **NOTICE**

5. On or about May 19, 2011, the Department mailed two (2) Notice of Tax Liability letters (“Notices”) to the Petitioner that became final assessments in July 2011 for the tax periods January 1, 2007 to December 31, 2009. The Department’s Notice of PROPOSED Liability dated January 21, 2011 is attached hereto as Exhibit 1. At present we do not have copies of the actual Notice of Tax Liability letters.

## **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.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner obtained a late discretionary hearing from the Department dated November 18, 2015 (copy attached as Exhibit 2), and then timely filed this Petition within 60 days of the Department’s letter granting the late discretionary hearing for Petitioner.

## **BACKGROUND**

8. Petitioner is a corporation formerly located in the far west suburbs of Chicago that was audited by the Department for sales tax for the tax periods January 1, 2007 to December 31, 2009.

9. The Department’s audit is severely overstated because the Department erroneously double-counted the Petitioner’s gasohol sales in the Department’s audit workpapers whereby the gasohol and diesel sales are the *exact same amount* even though the taxpayer only sold tax-exempt biodiesel in very low quantities during the audit tax periods. If the Department’s error is corrected, the audit liability is \$36,060, not \$187,031.

## COUNT I

### **Defendant's audit methodology overstates Petitioner's liability.**

10. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 9, inclusive, hereinabove.

11. The Department assessed the tax liabilities contained in the Notices based on a mathematical error.

12. Based on the Department's math error, the Department drastically and unreasonable inflated Petitioner's sales tax audit liability.

**WHEREFORE**, Petitioner prays that the Tribunal enter an order that:

- (a) enters judgment in favor of Petitioner and against the Defendants and revise the Notices;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notices;
- (c) grants such further relief as the Tribunal deems appropriate.

## COUNT II

### **All penalties should be abated based on reasonable cause.**

13. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 12, inclusive, hereinabove.

14. In its Notices, the Department assessed penalties.

15. Illinois law provides that penalties do not apply if a taxpayer shows that its failure to pay tax was due to reasonable cause. 35 ILCS 735/3-8.

16. The most important factor to be considered in making a determination to abate a penalty will be the extent to which the taxpayer made a good faith effort to determine its proper tax liability and to pay its proper tax liability in a timely fashion, and a taxpayer will be considered to have made a good faith effort to determine and pay its proper tax liability if it exercised ordinary business care and prudence in doing so. 86 Ill. Admin. Code 700.400(b).

17. Petitioner exercised ordinary business care and prudence when it reasonably determined its sales tax liability during the audit periods and clearly did not use the Department's mathematically incorrect sales tax audit results.

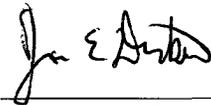
**WHEREFORE**, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that all penalties should be fully abated based on reasonable cause; and
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way collect the amount of penalties due on the Notices.

Thank you for considering this Petition.

Respectfully submitted,

Alliance Business Enterprises Inc.,  
Petitioner

By:   
One of Petitioner's Attorneys

Date: 12/4/15

James E. Dickett  
600 Hillgrove Avenue, Suite 1  
Western Springs, IL 60558  
708-784-3200 (fax 3201)

# Notice of Proposed Liability

Exhibit 1



January 21, 2011



Letter ID: L0672548800

ALLIANCE BUSINESS ENTERPRISE INC  
RIVERVIEW CITGO  
13 N RIVER RD  
NORTH AURORA IL 60542-1615

Taxpayer ID: 65-1198147  
Account ID: 3427-4774  
Audit ID: A238211072  
Return type: ST-1  
Audit periods: 01/2007 - 12/2009



We have audited your account and have determined that there is additional liability due.

Tax	\$187,031.00
Penalty	\$124,568.00
Interest	\$35,898.00
Total	<u>\$347,497.00</u>

Our calculations, periods covered, and other explanations resulting in the determination are attached for your review.

If you agree with the tax amount as shown, contact the auditor at the phone number shown below for further instructions. Please note, if you sign the Audit Report, you waive the right to seek review by the Informal Conference Board.

If you do not agree with the figures, you may request a review of this proposed liability by the Informal Conference Board (Section 2505-510). To do this, you must complete Form ICB-1, Request for Informal Conference Board Review, within 60 days from the date of this notice and mail it, along with a copy of the auditor's work papers and a copy of this notice, to:

INFORMAL CONFERENCE BOARD  
100 W RANDOLPH SUITE 7-341  
CHICAGO IL 60601

If you do not request an ICB review within 60 days from the date of this notice, we will issue a Notice of Tax Liability for the amount proposed to be due.

Sincerely,

Debra Campbell  
Revenue Auditor III

ILLINOIS DEPARTMENT OF REVENUE  
9511 W. HARRISON STREET  
# OFFICE  
DESPLAINES, IL 60016

847 294-4201  
312 636-9748 cell  
847 294-4246 fax



Exhibit 2

**Illinois Department of Revenue**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
Willard Ice Building  
101 West Jefferson Street – Level 5SW  
Springfield, IL 62702  
(217)782-6995

November 18, 2015

James E Dickett  
The Law Office of James E. Dickett, Ltd.  
600 Hillgrove Avenue, Suite 1  
Western Springs, IL 60558

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**  
Alliance Business Enterprises, Inc.  
Registration No.: 3427-4774  
2 Notices of Tax Liability (NTLs) dated May 19, 2011  
Letter ID: L2075295264  
Letter ID: L0129138208

Dear Mr. Dickett:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing regarding the above NTLs. Based on the information provided in your request, I believe that it is appropriate to grant your request for a late discretionary hearing for the above NTLs.

The amount of liability at issue for this protest exceeds the statutory amount (\$15,000, exclusive of penalties and interest) or (\$15,000 for notices that involve only penalties and interest) for which the Department has jurisdiction for late discretionary hearings that are granted on or after January 1, 2014. For late discretionary hearings that are granted on or after January 1, 2014 and that exceed the statutory amount, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.*

The Tax Tribunal's website ([www.illinois.gov/taxtribunal](http://www.illinois.gov/taxtribunal)) contains rules that include guidance on filing requirements and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that, when a late discretionary hearing is granted and the protest meets the statutory amount, the taxpayer shall file a petition with the Tax Tribunal within 60 days and shall attach a copy of the letter granting the late discretionary hearing.** See Subsection (a)(5) of Section 5000.310 of the Tax Tribunal's

rules. Please note that the Tax Tribunal has different requirements than the Department for filing protests, including the payment of filing fees and the filing of a petition in the form required by the Tax Tribunal.

I recommend that you review the information provided on the Tax Tribunal's website and contact them if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Charlton", written in a cursive style.

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Terry D. Charlton  
Chief Administrative Law Judge  
Illinois Department of Revenue

TDC