ILLINOIS INDEPENDENT
TAX TRIBUNAL

THOMAS JOHN,	)	
Petitioner	)	
	)	
V	)	**No. 15 TT 265**
ILLINOIS DEPARTMENT	)	**Judge Brian F. Barov**
OF REVENUE,	)	
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:

1. The "Notice" was issued by the Department on October 19, 2015, assessing in the amount of $120,430.00 in tax, $47,483.00 in penalties and $11,665.76 in interest for taxable periods June I, 2009 through July 31, 2013. A copy of the "Notice" is attached to this Petition.

ANSWER: The Department admits that it issued the referenced Notice on October 19, 2015, and that a copy was attached to the petition. The Department further states that the Notice speaks for itself and therefore denies the description and characterization thereof and any remaining allegations in paragraph 1 of the petition.

2. Petitioner IS NOT a responsible officer, partner or individual of the Corporation of M & J Marathon, Inc., which is the subject of the tax issues.

ANSWER: The allegations in paragraph 2 of the petition consist primarily of legal and / or factual conclusions and are denied.

3. Petitioner is not aware of the address of the M & J Marathon, Inc., nor its phone number. The Taxpayer Account number is 3344-305 1.

ANSWER: The Department admits that The Taxpayer Account number is 3344-305 1. The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 3 of the petition and therefore neither admits or denies said allegations.

4. This action began in July of 2011 with liability being assessed against M & J Corporation.

ANSWER: The allegations in paragraph 4 of the petition are vague and conclusory and are denied.

5. When the action began the Petitioner reached out to Sunil Mani, the President of the Corporation who is in charge of paying taxes and filing returns with the Illinois Department of Revenue.

ANSWER: The allegations in paragraph 5 of the petition are vague and conclusory and are denied.

6. Sunil Mani assured Petitioner that he was in contact with the Illinois Department of Revenue and that the corporation would handle any outstanding tax balances acknowledging that Petitioner was not liable.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 6 of the petition and therefore neither admits or denies said allegations.

7. With the assurance of Sunil Mani that the matter was being taken care of, Petitioner did not obtain legal counsel or request a formal hearing in a timely fashion.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 7 of the petition and therefore neither admits or denies said allegations.

8. As of December 10, 2015, a Late Discretionary Hearing was granted with Tribunal Jurisdiction. A copy of the letter is attached to this Petition.

ANSWER: The Department admits the allegations in paragraph 8 of the petition.

9. Subsection (a)(5) of Section 5000.310 of the Tax Tribunal's rules

10. 35 ILCS 735/3-7

ANSWER: The allegations in paragraph 10 of the petition consist of legal conclusions and are thus denied.

11. 35 ILCS 735/3-7 that provides that any person who has control, supervision, or responsibility of filing returns or making payments for a taxpayer, and who willfully fails to do so, shall be personally liable ... has been violated in this matter.

ANSWER: The allegations in paragraph 11 of the petition consist of legal conclusions and are thus denied.

12. Petitioner was only a passive investor and not personally involved in the operation of the corporation or its businesses.

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. On November 20, 2012, an Order Pursuant to Department's Withdrawal was filed that ordered the Notice of Penalty Liability cancelled for Siby Joseph. A copy of that Order is attached to this Petition.

ANSWER: The Department admits that an order entered by Administrative Law Judge Kenneth J. Galvin on November 20, 2012 was attached to the petition. The Department states that the order speaks for itself and denies the remaining allegations in paragraph 13 of the petition.

14. Petitioner is similarly situated to Siby Joseph as it pertains to M & J Marathon, therefore all of Petitioner's Liability, Penalties and Interest should be cancelled as well.

ANSWER: The allegations in paragraph 14 of the petition consist primarily of legal and / or factual conclusions and are denied.

15. The Order of November 20, 2012, should also apply to the Petitioner in this matter.

ANSWER: The allegations in paragraph 15 of the petition consist primarily of legal and / or factual 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 Taxpayer; and granting such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: _____

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Special Assistant Attorney General

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ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLLINOIS

THOMAS JOHN	)	
	)	
v.	)	**15-TT-265**
	)	**Judge Brian F. Barov**
STATE OF ILLINOIS	)	
DEPARTMENT OF REVENUE	)	

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 3, 6, 7 and 12.

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: 1/21/16