

ILLINOIS INDEPENDENT
TAX TRIBUNAL

Thomas John,)
)
Petitioner,)
)
vs.)
)
ILLINOIS DEPARTMENT)
OF REVENUE)
)
Respondent,)

RECEIVED
DEC 23 2015
BY: 15 TT 265

PETITION

The Petitioner, Thomas John, hereby petitions the Illinois Independent Tax Tribunal to review and reverse the Notice of Tax Liability, Notice of Late Payment Penalty, Notice of Late Filing Penalty Increase and Interest and Notice of Assessment and Intent (“Notice”) issued by the Illinois Department of Revenue (“Department”) for the reasons stated below:

INTRODUCTION

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 1, 2009 through July 31, 2013. A copy of the “Notice” is attached to this 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.

3. Petitioner is not aware of the address of the M & J Marathon, Inc., nor its phone number. The Taxpayer Account number is 3344-3051.

BACKGROUND AND RELEVANT FACTS

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

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.

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.

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.

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.

APPLICABLE LAW

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

10. 35 ILCS 735/3-7

ERROR I

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.

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

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.

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.

CONCLUSION AND RELIEF REQUESTED

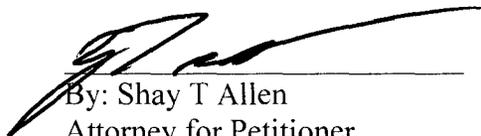
15. The Order of November 20, 2012, should also apply to the Petitioner in this matter.

16. Petitioner requests that 100% of the Tax, Penalty and Interest be cancelled.

WHEREAS, Petitioner requests the "Notice" be cancelled for the reasons contained herein.

THOMAS JOHN

560 Wikkiki, Des Plaines, IL, 847-840-1655


By: Shay T Allen
Attorney for Petitioner

The Law Office of Shay T Allen
19150 S. Kedzie, Suite 201
Flossmoor, IL 60422
(708) 960-0113
sallen@attorneyshaytallen.com

Collection Action

Assessment and Notice of Intent



October 19, 2015



Letter ID: L0875275232

THOMAS JOHN
560 WIKKIKI
DESPLAINES IL 60016

Taxpayer ID: XXX-XX-8637
NPL Penalty ID: 560855

This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed. A payment voucher is included so you may pay the balance due.

Sales/Use Tax & E911 Surcharge

Account ID: 3344-3051

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-May-2013	116,625.00	45,723.00	11,462.11	-	(2,722.40)	171,087.71
30-Jun-2013	2,901.00	1,242.00	153.34	-	(44.00)	4,252.34
31-Jul-2013	904.00	518.00	50.42	-	14.00	1,486.42

IDOR-5P-NPL (N-03/07)

Retain this portion for your records.

Fold and detach on perforation. Return bottom portion with your payment.

Collection Action

(R-12/08) (136)



Letter ID: L0875275232
THOMAS JOHN

Mail this voucher and your payment to:
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19035
SPRINGFIELD IL 62794-9035

Total amount due: \$176,826.47

Write the amount you are paying below.

\$ _____

Write your Account ID on your check.



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

December 10, 2015

Shay T. Allen
19150 South Kedzie Ave., Suite 201
Flossmoor, IL 60422

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
Thomas John
Collection Action, Assessment and Notice of Intent dated July 12, 2011
NPL Penalty ID: 1400349
Letter ID: L0229016608

Dear Mr. Allen:

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

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) 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 cursive script, appearing to read "Terry Charlton".

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

TDC:vs

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

v.

SIBY JOSEPH, As Responsible Officer of
M & J MARATHON, INC.
TAXPAYER

No. 11-SF-0878
Letter ID: L 1791462432
NPL Penalty ID: 600343

Kenneth J. Galvin
Administrative Law Judge

ORDER PURSUANT TO DEPARTMENT'S WITHDRAWAL

This cause coming on to be heard *sua sponte*, the Department of Revenue (hereinafter "Department") having jurisdiction of the parties and subject matter, and the Administrative Law Judge being fully advised in the premises,

IT IS HEREBY FOUND THAT:

1. This cause arose by way of a protest filed by Siby Joseph in response to the Department's issuance of a Notice of Penalty Liability, captioned above, dated July 12, 2011.
2. Prior to the convening of a formal hearing in this matter or the consideration of any evidence, the Department's litigator, by way of correspondence dated November 19, 2012, and made a part of this record, notified the Administrative Law Judge that the Notice of Penalty Liability should be cancelled.
3. As a result of the Department's cancellation, there is no further case or controversy before this office, and no issues of fact which must be determined.

WHEREFORE, for the reasons stated above, it is hereby ordered that the Notice of Penalty Liability, captioned above, issued to Siby Joseph and all further proceedings in this matter are cancelled and the matter is closed.

Kenneth J. Galvin

November 20, 2012

Administrative Law Judge