

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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<b>LAIQ BHATTI,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 14-TT-158</b>
	)	
<b>DEPARTMENT OF REVENUE</b>	)	
<b>OF THE STATE OF ILLINOIS,</b>	)	
<b>Respondent.</b>	)	

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**ANSWER**

The Department of Revenue of the State of Illinois, by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, answers the Taxpayer’s Petition as follows:

1. Petitioner is an individual who lives at 15781 Providence Drive, Hoffman Estates, Illinois 60192, and can be reached at 773-407-5000.

**ANSWER:** The information contained in Paragraph 1 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(A) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the factual allegations contained in Paragraph 1.

2. Petitioner is represented by Romanoff & Dickett, Ltd. 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).

**ANSWER:** The information contained in Paragraph 2 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(B) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the factual allegations contained in Paragraph 2.

3. Petitioner's Tax ID is XXX-XX-6963.

**ANSWER:** The information contained in Paragraph 3 is required by Illinois Tax Tribunal Regulations Section 310(a)(1)(C) (86 Ill. Admin. Code §5000.310) and is not a material allegation of fact that requires an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the factual allegations contained in Paragraph 3.

4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax law. 20 ILCS 5/5-15.

**ANSWER:** Paragraph 4 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

5. On June 30, 2014, Petitioner received a Collection Action Assessment and Notice of Intent for a personal liability penalty (a.k.a. NPL) ("Notice") in the amount of \$400,484.48, for the unpaid liability of Accurate Repairs Inc. for the tax period ending June 30, 2009. The Notice is attached hereto as Exhibit A.

**ANSWER:** The Department admits the factual allegations in Paragraph 5.

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.

**ANSWER:** Paragraph 6 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

7. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the Notice.

**ANSWER:** Paragraph 7 contains a legal conclusion, not a material allegation of fact, and

therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations.

8. Petitioner is a corporate officer of Accurate Repairs Inc.

**ANSWER:** The Department admits the factual allegations in Paragraph 8.

9. Even though Petitioner was involved in the day-to-day activities of the corporation, Petitioner was not involved in the filing, preparation, and payment of Illinois sales tax for the corporation because the corporation retained and reasonably relied on an outside accountant to prepare the Illinois sales tax returns during the audit tax periods at issue.

**ANSWER:** The Department lacks sufficient information to either admit or deny the allegations in Paragraph 9 and therefore demands strict proof thereof.

10. The underlying corporate sales tax liability is based on a sales tax audit whereby the Department conducted an audit after the corporation was closed and assessed tax because the corporation did not properly invoice its customers regarding the allocation between parts, labor, and sales tax.

**ANSWER:** The Department admits it conducted an audit with respect to Accurate Repairs, Inc. and assessed additional taxes. The basis of the assessment is as set forth in the audit file including the audit narrative, and the Department therefore denies the Petitioner's characterization thereof and all other allegations in Paragraph 10.

### **COUNT I**

#### **Petitioner is not a responsible officer who failed to pay the sales tax, penalties, and interest of Accurate Repairs Inc.**

11. Petitioner realleges and incorporates by reference the allegations made in Paragraphs 1 through 10, inclusive, hereinabove.

**ANSWER:** The Department incorporates and repeats its answers to Paragraphs 1 through 10 as though fully set forth herein.

12. A corporate officer who does not have control or supervision for filing or paying sales tax is not personally liable for the corporation's debt. 35 ILCS 735/3-7.

**ANSWER:** Paragraph 12 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the existence, force and effect of Section 3-7 of the Uniform Penalty and Interest Act (35 ILCS 735 *et seq.*), and states that the statute speaks for itself.

13. Petitioner is a corporate officer of Accurate Repairs Inc. who did not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments and therefore is not personally liable for the corporation's unpaid sales tax, penalties, and interest because the corporation retained and reasonably relied on an outside accountant to prepare the sales tax returns and such outside accountant did not properly advise the corporation regarding how to invoice the corporation's customers for parts, labor, and sales tax.

**ANSWER:** The Department admits Petitioner was a corporate officer of Accurate Repairs Inc. The Department lacks sufficient information to either admit or deny whether the corporation retained and reasonably relied on an outside accountant to prepare the sales tax returns and therefore demands strict proof thereof. The remainder of the allegations in Paragraph 13 contain legal conclusions, not material allegations of fact, do not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations and are therefore denied.

14. Contrary to the Department's determination, Petitioner is not a responsible officer who failed to pay the sales tax of the corporation.

**ANSWER:** Paragraph 14 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department denies the legal conclusions/allegations contained in Paragraph 14.

**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
- d. granting such further relief as this Tribunal deems appropriate under the circumstances.

#### **COUNT II**

#### **Petitioner did not willfully fail to pay the sales tax, penalties, and interest of Accurate Repairs Inc.**

15. Petitioner realleges and incorporates by reference the allegations made in Paragraph 1 through 14, inclusive, hereinabove.

**ANSWER:** The Department incorporates and repeats its answers to Paragraphs 1 through 14 as though fully set forth herein.

16. A corporate officer who does not willfully fail to pay the corporation's sales tax is not personally liable for the corporation's unpaid sales tax penalties and interest. 35 ILCS 735/3-7.

**ANSWER:** Paragraph 16 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department admits the existence, force and effect of Section 3-7 of the Uniform Penalty and Interest Act (35 ILCS 735 *et seq.*), and states that the statute speaks for

itself.

17. Petitioner was a corporate officer of Accurate Repairs Inc. who did not willfully fail to pay the sales tax, penalties, and interest and therefore is not personally liable for such amounts because the corporation retained and reasonably relied on an outside accountant and also because the underlying corporation's sales tax audit liability is based on improper invoicing.

**ANSWER:** The Department admits Petitioner was a corporate officer of Accurate Repairs Inc. The assertion that Petitioner did not act willfully is a legal conclusion, not a material allegation of fact, does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations and is therefore denied. The Department lacks sufficient information to either admit or deny whether the corporation retained and reasonably relied on an outside accountant to prepare the sales tax returns and therefore demands strict proof thereof. The Department denies the Petitioner's characterization of the audit and all other allegations in Paragraph 17.

18. Contrary to the Department's determination, Petitioner is not a responsible officer who willfully failed to pay the sales tax, penalties, and interest of the corporation.

**ANSWER:** Paragraph 18 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department denies the legal conclusions/allegations contained in Paragraph 18.

**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

d. granting such further relief as this Tribunal deems appropriate under the circumstances.

**COUNT III**

**The Department cannot assess a personal liability assessment for penalties and interest amounts related to unpaid corporate sales taxes.**

19. Petitioner realleges and incorporates by reference the allegations made in Paragraphs 1 through 18, inclusive, hereinabove.

**ANSWER:** The Department incorporates and repeats its answers to Paragraphs 1 through 18 as though fully set forth herein.

20. The Illinois statute regarding personal assessments improperly defines unpaid corporate sales tax to include penalties and interest. 35 ILCS 735/3-7.

**ANSWER:** Paragraph 20 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department denies the legal conclusions/allegations contained in Paragraph 20.

21. The intent of the Illinois statute regarding personal liability assessments for unpaid corporate sales tax is to allow the state to pursue responsible, willful corporate officers for unpaid corporate sales taxes that were collected “in trust” for the state.

**ANSWER:** Paragraph 21 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department denies the legal conclusions/allegations contained in Paragraph 21.

22. The unpaid corporate sales tax penalties and interest contained in the Notice at issue were not collected “in trust” for the state.

**ANSWER:** The allegations in Paragraph 22 of the petition contain a legal conclusion, not a material allegation of fact, do not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations and are therefore denied.

23. The Department's determination that Petitioner personally owes the unpaid penalties and interest of Accurate Repairs Inc. is not supported by law.

**ANSWER:** Paragraph 23 contains a legal conclusion, not a material allegation of fact, and therefore does not require an answer under Section 310(b)(2) of the Tax Tribunal Regulations. The Department denies the legal conclusions/allegations contained in Paragraph 23.

**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
- d. granting such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully submitted,  
Illinois Department of Revenue

By: /s/ Ashley Hayes Forte  
Ashley Hayes Forte  
Special Assistant Attorney General

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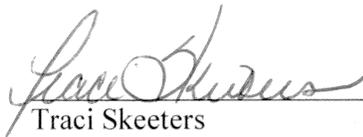
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**AFFIDAVIT OF TRACI SKEETERS  
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)**

1. I am currently employed by the Illinois Department of Revenue in the Collections Bureau's 100% Penalty Unit.
2. My current title is RTS III.
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, 13 and 17.

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.

  
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Traci Skeeters  
RTS III  
Illinois Department of Revenue

DATED: 9-11-2014