

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

JAY T. SANKAR, )  
 )  
 ) Petitioner, )  
 )  
 ) v. )  
 )  
 ) ILLINOIS DEPARTMENT OF REVENUE, )  
 )  
 ) Defendant. )

No. RECEIVED  
AUG 11 2014  
BY: 14 T159

**PETITION**

Petitioner, Jay T. Sankar (“Petitioner”), by and through his attorneys, Romanoff & Dickett, Ltd, complains of the Defendant, the Illinois Department of Revenue (“Department”), and alleges as follows:

**PARTIES**

1. Petitioner is an individual who lives at 2728 Modaff Road, Naperville, Illinois, 60565, and can be reached at 630-235-7863.
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).
3. Petitioner’s Taxpayer ID is XXX-XX-3727.
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 June 10, 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 \$112,610.80, for the unpaid liability of Springbrook Food Mart Inc. for the tax periods ending May 31, 2012 to January 31, 2014. The Notice is attached hereto as Exhibit A.

## 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 timely filed this Petition within 60 days of the Notice.

## BACKGROUND

8. Petitioner is a corporate officer of Springbrook Food Mart Inc. which is now defunct.

9. Even though Petitioner was involved in the day-to-day activities of Springbrook Food Mart Inc., Petitioner was not involved in the filing, preparation, and payment of Illinois sales tax for the corporation during the tax periods at issue because the corporation retained and reasonably relied on an outside accountant to prepare both the Illinois state sales tax returns and Naperville local motor fuel tax returns.

## COUNT I

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

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

11. 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 35 ILCS 735/3-7.

12. Petitioner is a corporate officer of Springbrook Food Mart 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.

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

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

- (a) finds and declares that Petitioner is not personally liable for the unpaid sales tax, penalties, and interest of the corporation because Petitioner did not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments; and
- (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 Notice; and
- (c) enters judgment in favor of Petitioner and cancels the Notice.

## COUNT II

### Petitioner did not willfully fail to pay the sales tax penalties and interest of Springbrook Food Mart Inc.

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

15. 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 35 ILCS 735/3-7.

16. Petitioner was a corporate officer of Springbrook Food Mart 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.

17. 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.

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

- (a) finds and declares that Petitioner is not personally liable for the unpaid sales tax penalties and interest of the corporation because Petitioner did not willfully fail to pay such amounts;
- (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 Notice;
- (c) enters judgment in favor of Petitioner and against the Defendants and cancels the Notice; and
- (d) grants such further relief as the Tribunal deems appropriate.

### COUNT III

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

18. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 17, inclusive, hereinabove.

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

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

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

22. The Department’s determination that Petitioner personally owes the unpaid penalties and interest of Springbrook Food Mart Inc. is not supported by law.

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

- (a) finds and declares that Petitioner is not personally liable for the unpaid sales tax penalties and interest of the corporation because such amounts were not collected “in trust” for the state;
- (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 Notice;
- (c) enters judgment in favor of Petitioner and against the Defendants and cancels the Notice; and
- (d) grants such further relief as the Tribunal deems appropriate.

Thank you for considering this Petition.

Respectfully submitted,

Jay T. Sankar,  
Petitioner

By:   
\_\_\_\_\_  
One of Petitioner's Attorneys

Date: 8/8/14

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

**Collection Action**  
**Assessment and Notice of Intent**



Exhibit A

June 10, 2014



Letter ID: L1210418912

JAY T. SANKAR  
2728 MODAFF RD  
NAPERVILLE IL 60565-4344

Taxpayer ID: XXX-XX-3727  
NPL Penalty ID: 1340553



SPRINGBROOK FOOD MART INC  
1295 RICKERT DR  
NAPERVILLE, IL 60540-0954

**We have determined you are personally liable  
for a penalty of \$112,610.80.**

The penalty is equal to the amount of unpaid liability of SPRINGBROOK FOOD MART INC, due to your status as a responsible officer, partner, or individual of SPRINGBROOK FOOD MART INC.

Illinois law (35 ILCS 735/3-7) 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 for a penalty equal to the amount of tax due including penalty and interest.

**Pay us \$112,610.80.** Your payment must be guaranteed (i.e., cashier's check, money order) and made payable to the Illinois Department of Revenue. Send or bring it to us at the address below.

**If you do not agree, you may contest this notice by following the instructions listed below.**

- **If the amount of this liability is more than \$15,000,** file a petition with the Illinois Independent Tax Tribunal within **60 days** of this notice. Your petition must be in accordance with the rules of practice and procedure provided by the Tribunal (35 ILCS 1010/1-1, et seq.).
- **In all other cases that do not fall within the jurisdiction of the Illinois Independent Tax Tribunal,** file a protest with us, the Illinois Department of Revenue, and request an administrative hearing within **60 days** of the date of this notice, which is **August 9, 2014**. Your request must be in writing, clearly indicate that you want to protest, and explain in detail why you do not agree with our actions. ~~If you do not file a protest within the time allowed, you will waive your right to a hearing, and this liability will become final.~~ An administrative hearing is a formal legal proceeding conducted pursuant to the rules adopted by the Department and is presided over by an administrative law judge. A protest of this notice does not preserve your rights under any other notice.
- **Instead of filing a petition with the Illinois Independent Tax Tribunal or a protest with us, the Illinois Department of Revenue,** you may instead, under Sections 2a and 2a.1 of the State Officers and Employees Money Disposition Act (30 ILCS 230/2a, 230/2a.1), pay the total liability under protest using Form RR-374, Notice of Payment Under Protest (available on our website at [tax.illinois.gov](http://tax.illinois.gov)), and file a complaint with the circuit court for a review of our determination.

If the debt remains unpaid and this penalty becomes final, we intend to take collection enforcement action against you personally to collect this debt. Collection action can include the seizure and sale of your assets, and levy of your wages and bank accounts.

BETH WINTER  
100% PENALTY UNIT  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19035  
SPRINGFIELD IL 62794-9035

For information about  
› how to pay  
› submitting proof  
› collection actions



217 782-9904 ext. 31606  
217 785-2635 fax  
IDOR-SP-NPL (R-11/13)

**Collection Action**  
**Assessment and Notice of Intent**



June 10, 2014



Letter ID: L1210418912

JAY T. SANKAR  
 2728 MODAFF RD  
 NAPERVILLE IL 60565-4344

Taxpayer ID: XXX-XX-3727  
 NPL Penalty ID: 1340553



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: 5570-2831
Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-May-2012	24,545.00	1,067.45	218.63	-	(18,393.76)	6,437.32
30-Jun-2012	22,457.00	713.60	163.44	-	(13,320.00)	7,014.04
31-Jul-2012	23,066.00	146.93	2.43	-	(22,973.12)	244.24
31-Aug-2012	26,771.00	964.18	196.72	-	(17,679.20)	10,252.70
30-Sep-2012	24,351.00	1,039.18	178.23	-	(14,959.20)	10,609.21
31-Oct-2012	25,100.00	705.92	100.70	-	(19,040.80)	6,865.82
30-Nov-2012	26,092.00	603.49	70.85	-	(21,057.12)	5,709.22
31-Dec-2012	23,735.00	143.05	1.38	-	(23,643.28)	236.15
31-May-2013	31,409.00	1,072.62	134.97	-	(21,232.80)	11,383.79
30-Jun-2013	31,243.00	475.67	6.74	-	(30,696.32)	1,029.09
31-Jul-2013	28,950.00	1,324.65	135.19	-	(18,744.64)	11,665.20
31-Aug-2013	26,898.00	1,042.96	104.27	-	(19,040.96)	9,005.27
30-Sep-2013	25,283.00	846.69	82.18	-	(19,040.84)	7,151.23
31-Oct-2013	26,345.00	803.93	77.54	-	(20,478.88)	6,747.59
30-Nov-2013	23,972.00	717.75	65.75	-	(19,007.36)	5,748.14

IDOR-5P-NPL (R-11/13)

Statement continues on the following page(s).

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: L1210418912  
 JAY T. SANKAR

**Total amount due: \$112,610.80**  
 Write the amount you are paying below.

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

\$ \_\_\_\_\_  
 Write your Taxpayer ID on your check.

000 006 000017065120 731 123199 5 0000011261080

# Collection Action

June 10, 2014

## Sales/Use Tax & E911 Surcharge

Account ID: 5570-283

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2013	26,195.00	795.40	66.76	-	(20,400.00)	6,657.16
31-Jan-2014	24,138.00	711.63	46.12	-	(19,041.12)	5,854.66