

IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL

JASBIR KAUR,

)

)

Petitioner,

)

v.

)

Case No.15-2029

)

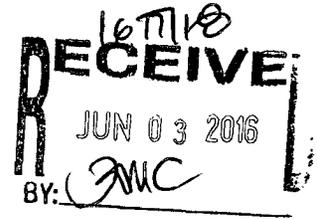
ILLINOIS DEPARTMENT OF REVENUE,

)

)

Respondent.

)



PETITION

Petitioner, by and through her attorney Jonathan Decatorsmith, The Tax Practice at IIT Chicago-Kent College of Law, who is duly authorized to represent the Petitioner in this matter pursuant to the Power of Attorney attached hereto as Exhibit A, complains of the Respondent, Illinois Department of Revenue, as follows:

PARTIES

1. The Petitioner is an individual with a current residence located at 2978 Heirloom Lane, Greenwood, Indiana 46143.
2. The Petitioner's telephone number is (916) 420-1798.
3. The Petitioner's taxpayer identification number is [REDACTED]

4. The Respondent, Illinois Department of Revenue (the “Department”), is an agency of the state of Illinois responsible for administering and enforcing the revenue laws of the state of Illinois.

JURISDICTION

5. On information and belief, a Notice of Penalty Liability¹ was issued to the Petitioner asserting responsible officer liability for the unpaid sales taxes of JSI Petroleum, Inc., a business that was incorporated under the laws of the state of Illinois on November 21, 2006, and involuntarily dissolved on April 13, 2012. Attached hereto as Exhibit B is a copy of a statement provided by the Department’s Board of Appeals² setting forth the periods and responsible officer liabilities asserted and assessed against the Petitioner in the total amount of \$542,551.24, as well as a levy notice from the Department’s Springfield Collection Enforcement unit issued to the Petitioner’s employer in connection with these assessments.

6. This Tribunal has original jurisdiction over all Department determinations reflected on Notices of Penalty Liability, among other notices, where the amount at issue exceeds \$15,000.00, exclusive of penalties and interest. 35 ILCS sec.

¹ For reasons not entirely known, the Petitioner did not receive a copy of the Notice of Penalty Liability, nor any other additional communications regarding the unpaid sales taxes nor the imposition of individual liability therefor prior to her wages being levied.

² On or about December 1, 2015, the Petitioner filed an Offer in Compromise with the Department’s Board of Appeals based on her extreme and continuing economic hardship. The case (#15-2029) was dismissed on the basis that it could not be maintained at the same time as this liability dispute, and could only be re-filed after the subject dispute has been resolved.

1010/1-45.

7. By letter dated April 7, 2016, the Department's Office of Administrative Hearings granted the Petitioner's request for a late discretionary hearing regarding the subject assessments. See Exhibit C attached hereto.

BACKGROUND

8. On information and belief, JSI Petroleum, Inc. was an Illinois corporation engaged in the business of operating a retail gasoline station between 2006 and 2011. The company went out of business and was involuntarily dissolved on April 13, 2012. See the Corporation File Detail Report from the Illinois Secretary of State attached hereto as Exhibit D.

9. The President of JSI Petroleum, Inc. was Lakhwinder Singh, the Petitioner's husband.

10. On information and belief, Lakhwinder Singh was the sole individual responsible for the financial record-keeping, banking, tax return preparation and payment of taxes, and control of all aspects of the operations of JSI Petroleum, Inc., and its retail gasoline station.

11. On information and belief, JSI Petroleum, Inc. failed to collect and/or pay over to the Department sales taxes due the Department in amounts exceeding \$381,000.00, exclusive of penalties and interest.

12. During the years 2006 through 2010, the Petitioner worked as a cashier at the retail gas station owned by JSI Petroleum, Inc. In addition, the Petitioner was raising her children.

13. In 2010, the Petitioner moved to Indiana from Illinois, and was employed in a position unrelated to JSI Petroleum, Inc., or any other business of her husband's.

14. The Petitioner was apparently designated by her husband on some corporate filings as an officer or owner of JSI Petroleum, Inc., but such designation was done without her knowledge at the time, nor her permission, consent or subsequent ratification.

15. The Petitioner never performed any officer or management-type duties on behalf of JSI Petroleum, Inc. at any time.

16. While she worked as a cashier at the retail gas station owned and operated by JSI Petroleum, Inc., the Petitioner had no management or supervisory duties. She did not have responsibility nor authority to file tax returns, conduct financial or bank transactions, pay any bills, hire or fire employees. Her duties were strictly limited to operating the cash register at the gas station.

17. The Petitioner first became aware of a problem with the company's failure to pay its sales taxes when her wages were garnished in August of 2015. See Exhibit B hereto.

18. On information and belief, the Petitioner did not benefit in any way from JSI Petroleum, Inc.'s failure to pay over the subject underlying sales taxes to the Department.

19. The Petitioner is currently suffering from an extreme and continuing economic hardship, and has difficulty paying her modest living expenses.

COUNT I

THE PETITIONER IS NOT A RESPONSIBLE OFFICER BECAUSE SHE DID NOT HAVE CONTROL, RESPONSIBILITY OR SUPERVISION OF FILING RETURNS AND MAKING PAYMENTS OF THE SUBJECT UNDERLYING SALES TAXES.

20. The Petitioner hereby restates and alleges the allegations contained in paragraphs 1 through 19, inclusive, as if fully set forth herein.

21. In order for the Department to impose individual liability on the Petitioner for JSI Petroleum, Inc.'s unpaid sales taxes, the Department must establish that the Petitioner had control, supervision, or the responsibility of filing returns and making payment of the amount of the subject trust taxes. 35 ILCS section 735/3-7.

22. As alleged in paragraphs 15 and 16, above, the Petitioner was a mere clerk working for her husband's business during the subject years, and had no responsibility nor authority to file the sales tax returns nor make the trust tax payments. The Petitioner did not control the books or records of the business, nor

did she have any decision-making authority regarding paying the bills or taxes of the business. Consequently, the Petitioner was not a responsible officer upon whom individual liability for the unpaid sales taxes could legally be imposed.

WHEREFORE, the Petitioner prays that the Tax Tribunal find and enter an order that the Petitioner was not a responsible officer individually liable for the unfiled or unpaid sales taxes of JSI Petroleum, Inc.

COUNT II

THE PETITIONER IS NOT LIABLE INDIVIDUALLY FOR THE UNPAID SALES TAXES BECAUSE SHE DID NOT WILLFULLY FAIL TO FILE SALES TAX RETURNS OR MAKE PAYMENTS OF THE SUBJECT SALES TAXES TO THE DEPARTMENT.

23. The Petitioner hereby restates and alleges the allegations contained in paragraphs 1 through 22, inclusive, as if fully set forth herein.

24. Even if the Petitioner could legally be considered a “responsible officer”, the Department would need to additionally establish that her failure to file sales tax returns or make the sales tax payments was willful. 35 ILCS section 735/3-7.

25. The Petitioner had no responsibility nor authority to make or file the subject sales tax returns on behalf of JSI Petroleum, Inc., nor did she have authority to make the tax payments. She was a mere clerk, working at the retail location, and

had no managerial nor financial responsibilities whatsoever during the subject years.

26. Moreover, the Petitioner was not even aware of the unpaid sales taxes until after the responsible officer penalty liabilities were assessed against her and her wages were levied. She could not be, and was not in fact, willful, in connection with any non-filing nor underpayment of the subject sales taxes for JSI Petroleum, Inc.

WHEREFORE, the Petitioner prays that the Tax Tribunal find and enter an order that the Petitioner did not act willfully in connection with the non-filing of JSI Petroleum, Inc. sales tax returns or the non or underpayment of such sales taxes and, accordingly, is not therefore liable individually for the unpaid taxes.

COUNT III

ANY PENALTIES MUST BE ABATED FOR REASONABLE CAUSE

27. The Petitioner hereby restates and alleges the allegations contained in paragraphs 1 through 26, inclusive, as if fully set forth herein.

28. The Department assessed late payment penalties in its notices to the Petitioner.

29. Under Illinois law, no penalties shall be imposed on a taxpayer if her failure

to pay the taxes was due to reasonable cause. 35 ILCS section 735/3-7.

30. The Petitioner was not even aware of the company's sales tax return filing or payment obligations, nor did she have any responsibility nor authority therefor. It was absolutely reasonable under the circumstances for her not to pay the sales taxes of JSI Petroleum, Inc. , and accordingly, any and all late payment penalties imposed by the Department should be abated.

WHEREFORE, the Petitioner prays that the Tax Tribunal find and enter an order that any penalties assessed by the Department be abated in full.

Dated: June 3, 2016 By: _____

Johnathan Decatorsmith
Attorney for Petitioner Jasibir Kaur
The Tax Practice
IIT Chicago-Kent College of Law
565 West Adams Street, Suite 600
Chicago, Illinois 60661
312-906-5041
jdecator@kentlaw.edu
Attorney No. 6193962



Illinois Department of Revenue
IL-2848 Power of Attorney

Read this information first

Attach a copy of this form to each specific tax return or item of correspondence for which you are requesting power of attorney.
Do not send this form separately.

Step 1: Complete the following taxpayer information

1 Jashir Kaur Taxpayer's name
 2 [REDACTED] Taxpayer's identification number(s)
 3 2978 Heirloom Ln Taxpayer's street address
 4 [REDACTED] City State ZIP

Step 2: Complete the following information

4 The taxpayer named above appoints the following to represent him before the Illinois Department of Revenue.

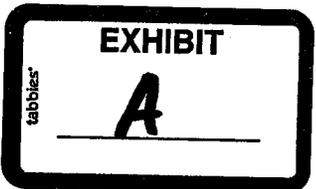
<u>Jonathan P. Decatorsmith</u> Name	<u>Sha Ni</u> Name	<u></u> Name
<u>Tax Clinic at Chicago-Kent Law</u> Name of firm	<u>Tax Clinic at Chicago-Kent Law</u> Name of firm	<u></u> Name of firm
<u>565 West Adams, Suite 600</u> Street address	<u>565 West Adams, Suite 600</u> Street address	<u></u> Street address
<u>Chicago</u> IL <u>60661</u> City State ZIP	<u>Chicago</u> IL <u>60661</u> City State ZIP	<u></u> State ZIP
<u>(312) 906-5041</u> Daytime phone number	<u>(312) 906-5041</u> Daytime phone number	<u>()</u> Daytime phone number
<u>jdecator@kentlaw.edu</u> E-mail address	<u>sni@kentlaw.edu</u> E-mail address	<u></u> E-mail address
<u>Sales tax</u> 1990 thru 2010 Specific tax type Year or period	<u>Sales tax</u> 1990 thru 2010 Specific tax type Year or period	<u></u> Year or period

5 The attorneys-in-fact named above shall have, subject to revocation, full power and authority to perform any act that the principals can and may perform, including the authority to receive confidential information.

- The attorneys-in-fact named above do not have the power to – *Check only the items below you do not wish to grant.*
- endorse or collect checks in payment of refunds.
 - receive checks in payment of any refund of Illinois taxes, penalties, or interest.
 - execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
 - execute consents extending the statutory period for assessments or collection of taxes.
 - delegate authority or substitute another representative.
 - file a protest to a proposed assessment.
 - execute offers in compromise or settlement of tax liability.
 - represent the taxpayer before the department in all proceedings including hearings (requiring representation by an attorney) pertaining to matters specified above.
 - obtain a private letter ruling on behalf of the taxpayer.
 - perform other acts (explain) _____

6 This power of attorney revokes all prior powers of attorney on file with the department with respect to the same matters and years or periods covered by this form, except for the following:

<u></u> Name	<u></u> Name	<u></u> Name
<u></u> Street address	<u></u> Street address	<u></u> Street address
<u></u> City State ZIP <u>()</u>	<u></u> City State ZIP <u>()</u>	<u></u> City State ZIP <u>()</u>
<u></u> Daytime phone number	<u></u> Daytime phone number	<u></u> Daytime phone number
<u></u> Date granted	<u></u> Date granted	<u></u> Date granted



7 Copies of notices and other written communications addressed to the taxpayer in proceedings involving the matters listed on the front of this form should be sent to the following:

Name	Name	Name
Street address	Street address	Street address
City State ZIP	City State ZIP	City State ZIP
Daytime phone number	Daytime phone number	Daytime phone number

Step 3: Taxpayer's signature

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

<u>Jarvis Kater</u> Taxpayer's signature		9/30/2015 Date
Spouse's signature	Title, if applicable	Date
If corporation or partnership, signature of officer or partner	Title, if applicable	Date

Step 4: Complete the following if the power of attorney is granted to an attorney, a certified public accountant, or an enrolled agent

- I declare that I am not currently under suspension or disbarment and that I am
- a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
 - duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
 - enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 230.

<u>Attorney</u> Designation (attorney, C.P.A., enrolled agent)	<u>IL</u> Jurisdiction (state(s), etc.)	<u>[Signature]</u> Signature	<u>10/1/15</u> Date
<u>Attorney</u> Designation (attorney, C.P.A., enrolled agent)	<u>IL</u> Jurisdiction (state(s), etc.)	<u>[Signature]</u> Signature	<u>10/1/2015</u> Date
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date

Step 5: Complete the following if the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following.

Any person signing as or for the taxpayer

_____ is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here.

Signature of witness Date

Signature of witness Date

_____ appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

Signature of notary Date

Notary seal



15-2029 - Asbir Kaur as RO for JSI Petroleum
Statement of Liabilities - Current as of 3/30/16
Confidential - Work Product

ROT - NPL #600651						
Period	Tax	Penalty	Interest	Subtotals	Credit	Balance
5/31/2007	\$ 21,633.00	\$ 760.26	\$ 1,783.81	\$ 24,177.07	\$ (22,213.26)	\$ 1,963.81
6/30/2007	\$ 20,975.00	\$ 629.13	\$ 1,653.52	\$ 23,257.65	\$ (15,683.73)	\$ 7,573.92
7/31/2007	\$ 29,540.00	\$ 1,491.30	\$ 2,655.98	\$ 33,687.28	\$ (25,510.93)	\$ 8,176.35
8/31/2007	\$ 23,680.00	\$ 664.54	\$ 1,689.53	\$ 26,034.07	\$ (18,034.65)	\$ 7,999.42
9/30/2007	\$ 20,418.00	\$ 593.36	\$ 1,446.76	\$ 22,458.12	\$ (15,484.40)	\$ 6,973.72
10/31/2007	\$ 20,097.00	\$ 518.15	\$ 1,194.98	\$ 21,810.13	\$ (15,915.55)	\$ 5,894.58
11/30/2007	\$ 20,578.00	\$ 471.96	\$ 758.51	\$ 21,808.47	\$ (17,858.42)	\$ 3,950.05
12/31/2007	\$ 21,509.00	\$ 673.31	\$ 1,564.94	\$ 23,747.25	\$ (15,775.91)	\$ 7,971.34
1/31/2008	\$ 17,937.00	\$ 384.10	\$ 757.39	\$ 19,078.49	\$ (15,095.95)	\$ 3,982.54
2/29/2008	\$ 20,886.00	\$ 612.48	\$ 1,341.89	\$ 22,840.37	\$ (15,761.20)	\$ 7,079.17
3/31/2008	\$ 19,419.00	\$ 492.84	\$ 1,003.93	\$ 20,915.77	\$ (15,490.66)	\$ 5,425.11
4/30/2008	\$ 19,069.00	\$ 521.06	\$ 1,058.03	\$ 20,648.09	\$ (14,858.40)	\$ 5,789.69
5/31/2008	\$ 32,280.00	\$ 1,647.00	\$ 3,781.93	\$ 37,708.93	\$ (16,810.05)	\$ 20,898.88
6/30/2008	\$ 20,466.00	\$ 511.65	\$ 987.56	\$ 21,965.21	\$ (16,349.45)	\$ 5,615.76
7/31/2008	\$ 24,298.00	\$ 856.98	\$ 1,782.28	\$ 26,937.26	\$ (16,728.20)	\$ 10,209.06
8/31/2008	\$ 27,610.00	\$ 1,172.24	\$ 2,477.65	\$ 31,259.89	\$ (16,887.65)	\$ 14,372.24
9/30/2008	\$ 20,967.00	\$ 721.98	\$ 1,411.66	\$ 23,100.64	\$ (14,747.25)	\$ 8,353.39
10/31/2008	\$ 22,830.00	\$ 795.62	\$ 1,550.39	\$ 25,176.01	\$ (15,873.77)	\$ 9,302.24
11/30/2008	\$ 18,584.00	\$ 486.12	\$ 845.78	\$ 19,915.90	\$ (14,722.77)	\$ 5,193.13
12/31/2008	\$ 16,848.00	\$ 544.66	\$ 736.76	\$ 18,129.42	\$ (13,503.26)	\$ 4,626.16
6/30/2009	\$ 175,598.00	\$ 33,989.00	\$ 41,079.15	\$ 250,666.15	\$ (19,388.79)	\$ 231,277.36
6/30/2010	\$ 23,706.00	\$ 948.50	\$ 1,278.07	\$ 25,932.57	\$ (15,221.00)	\$ 10,711.57
7/31/2010	\$ 19,777.00	\$ 419.29	\$ 467.97	\$ 20,664.26	\$ (16,584.16)	\$ 4,080.10
10/31/2010	\$ 14,730.00	\$ 413.39	\$ 430.52	\$ 15,573.91	\$ (11,596.16)	\$ 3,977.75
11/30/2010	\$ 15,125.00	\$ 218.19	\$ 19.49	\$ 15,362.68	\$ (14,971.17)	\$ 391.51
12/31/2010	\$ 121,425.00	\$ 21,348.00	\$ 16,251.60	\$ 159,024.60	\$ (18,262.21)	\$ 140,762.39
Subtotals	\$ 809,985.00	\$ 71,885.11	\$ 90,010.08	\$ 971,880.19	\$ (429,328.95)	\$ 542,551.24
(Payments)	\$ (428,768.69)	\$ (560.26)	\$ -	\$ -	\$ -	\$ -
Bal Due	\$ 381,216.31	\$ 71,324.85	\$ 90,010.08	\$ -	\$ -	\$ 542,551.24



Aug 26 16 02:16p

Attn: Tax Clinic

p.12

Collection Action
Levy



August 19, 2015



Letter ID: L0026918696

GENCO I INC
100 PAPERGRAFT PARK
PITTSBURGH, PA 15236-0200

Taxpayer ID: [REDACTED]
600651



Levy

We are issuing this levy to you because our records indicate that you pay wages, salaries, bonuses, commissions, or other compensation to:

JASBIR KAUR [REDACTED]

[REDACTED] on of these payments until the debt is paid in full.

Your first levy payment is due to us at the close of your current payroll period. Additional levy payments are due at least once every two months.

Copy the enclosed Form EDC-111, Response to Levy, and figure the amount of each levy payment due. Send us a completed Form EDC-111 with each levy payment.

Note: If you do not owe this debtor any funds, you must send us a completed Form EDC-111 immediately.

This levy is authorized by Illinois law and is effective from the date you receive this notice until the amount due shown on this levy is paid, you no longer owe the debtor, or we issue a levy release.

If you have any questions about this notice, you may contact us at the address and phone number listed below.

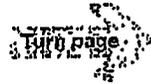
THERESA HAMMOND
SPFLD COLLECTION ENFORCEMENT
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19035
SPRINGFIELD IL 62784-9035

217 524-4720 ext. 31020
217 785-2636 fax

enclosures

For information about

- > how to pay
- > bankruptcy
- > legal authority





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

April 7, 2016

Jonathan P. Decatorsmith
Tax Clinic at Chicago – Kent Law
565 W. Adams, Suite 600
Chicago, IL 60661

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
Jasbir Kaur
NPL Penalty ID: 600651
Letter ID: L2145344160, dated December 14, 2012

Dear Mr. Decatorsmith:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing for Jasbir Kaur regarding the above NPL. There was a delay in responding to your request because a Board of Appeals Petition had also been filed on her behalf. If the Board were to accept that petition, I would not be able to grant your client a late discretionary hearing. The Board has informed me that they are declining to accept the petition to allow her to seek a late discretionary hearing. I believe that it is appropriate to grant your request for a late discretionary hearing for the above NPL.

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.*

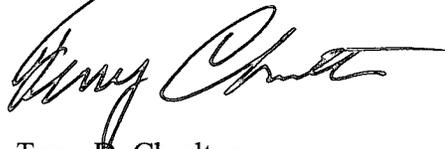
The Tax Tribunal's website (www.illinois.gov/taxtribunal) contains rules that include guidance on filing requirements and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that, when a late discretionary hearing is granted and the protest meets the statutory amount, the taxpayer 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 black ink, appearing to read "Terry Charlton", written in a cursive style.

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

TDC

WWW.CYBERDRIVEILLINOIS.COM

JESSE WHITE
SECRETARY OF STATE



CORPORATION FILE DETAIL REPORT

File Number	65163012		
Entity Name	JSI PETROLEUM, INC.		
Status	DISSOLVED		
Entity Type	CORPORATION	Type of Corp	DOMESTIC BCA
Incorporation Date (Domestic)	11/21/2006	State	ILLINOIS
Agent Name	LAKHWINDER SINGH	Agent Change Date	11/21/2006
Agent Street Address	341 W MAIN ST	President Name & Address	LAKHWINDER SINGH 341 W MAIN ST GALESBURG 61401
Agent City	GALESBURG	Secretary Name & Address	INVOLUNTARY DISSOLUTION 04 13 12
Agent Zip	61401	Duration Date	PERPETUAL
Annual Report Filing Date	00/00/0000	For Year	2011

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