ILLINOIS INDEPENDENT
TAX TRIBUNAL

JASBIR KAUR,	)	
Petitioner	)	
	)	
V	)	**No. 16 TT 118**
ILLINOIS DEPARTMENT	)	**Chief Judge James M. Conway**
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 Petitioner is an individual with a current residence located at 2978 Heirloom Lane, Greenwood, Indiana 46143.

ANSWER: The Department admits the allegations in paragraph 1 of the petition.

2. The Petitioner's telephone number is (916) 420-1798.

ANSWER: The Department admits the allegations in paragraph 2 of the petition.

3. The Petitioner's taxpayer identification number is (redacted)

ANSWER: The Department admits the allegations in paragraph 3 of the petition.

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.

ANSWER: The allegations in paragraph 4 of the petition consist of legal conclusions and are thus denied.

5. On information and belief, a Notice of Penalty Liability[1] 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 3, 2012. Attached hereto as Exhibit B is a copy of a statement provided by the Department's Board of Appeals[2] 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.

ANSWER: The Department admits that a Notice of Penalty Liability 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. The Department states that the referenced documents attached to the petition as Exhibit B speak for themselves and therefore deny the remaining allegations in paragraph 5 of the Petition.

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. 1010/1-45.

ANSWER: The allegations in paragraph 6 of the petition consist of legal conclusions and are thus denied.

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.

ANSWER: The Department states that the letter attached to the petition as Exhibit C speaks for itself and therefore denies the allegations in paragraph 7 of the petition.

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.

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

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

ANSWER: The Department admits the allegations in paragraph 9 of the petition except that the Department denies that Lakhwinder Singh was the President of JSI Petroleum, Inc. in 2010 based on the Annual Report filed with the Secretary of State's Office.

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.

ANSWER: The allegations in paragraph 10 of the petition consist primarily of legal and / or factual conclusions and are denied.

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.

ANSWER: The Department admits the allegations in paragraph 11 of the petition.

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.

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. 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.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 13 of the petition and therefore neither admits or denies said allegations.

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.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 14 of the petition and therefore neither admits or denies said allegations.

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

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 15 of the petition and therefore neither admits or denies said allegations.

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.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 16 of the petition and therefore neither admits or denies said allegations.

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.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 17 of the petition and therefore neither admits or denies said allegations.

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.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 18 of the petition and therefore neither admits or denies said allegations.

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

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 19 of the petition and therefore neither admits or denies said allegations.

COUNT I

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

ANSWER: The Department incorporates and repeats its answers to paragraphs 1 through 19 as though 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.

ANSWER: The allegations in paragraph 21 of the petition consist of legal conclusions and are thus denied.

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.

ANSWER: The allegations in paragraph 22 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 Petitioner; and granting such further relief as this Tribunal deems appropriate under the circumstances.

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

ANSWER: The Department incorporates and repeats its answers to paragraphs 1 through 22 as though 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. 3 5 ILCS section 73 5/3-7.

ANSWER: The allegations in paragraph 24 of the petition consist of legal conclusions and are thus denied.

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.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 25 of the petition and therefore neither admits or denies said allegations.

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.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 26 of the petition that 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 and therefore neither admits or denies said allegations. The remaining allegations in paragraph 26 of the petition consist 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 Petitioner; and granting such further relief as this Tribunal deems appropriate under the circumstances.

COUNT III

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

ANSWER: The Department incorporates and repeats its answers to paragraphs 1 through 27 as though fully set forth herein.

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

ANSWER: The Department admits the allegations in paragraph 28 of the petition.

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.

ANSWER: The allegations in paragraph 29 of the petition consist of legal conclusions and are thus denied.

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.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 30 of the petition that The Petitioner was not even aware of the company's sales tax return filing or payment obligations and therefore neither admits or denies said allegations. The remaining allegations in paragraph 30 of the petition consist primarily of legal and / or factual conclusion 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 Petitioner; and granting such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: _____

George Foster
Special Assistant Attorney General

George Foster
Illinois Department Of Revenue
100 W. Randolph Street, Level 7
Chicago, Illinois 60601
312-814-3493
george.foster@illinois.gov

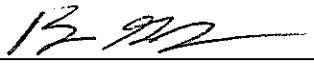
ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLLINOIS

JASBIR KAUR	)	
	)	
v.	)	**16-TT-118**
	)	**Chief Judge James F. Conway**
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 12,13,14,15,16,17,18,19,25,26 and 30.

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: 7/18/16