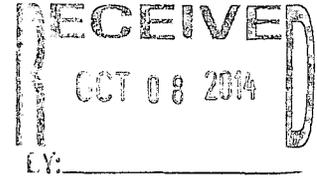


ILLINOIS INDEPENDENT
TAX TRIBUNAL



BLAIR MINTON,)
)
 Petitioner,)
)
 v.)
)
 ILLINOIS DEPARTMENT OF REVENUE,)
)
 Respondent.)

14 TT 188

PETITION

The Petitioner, BLAIR MINTON, hereby petitions the Illinois Independent Tax Tribunal to review and reverse the Assessment and Notice of Intent (“Notice”) issued by the Illinois Department of Revenue (“Department”) to the Petitioner for the reasons stated below:

INTRODUCTION

1. The Notice was issued by the Department on August 25, 2014 assessing a penalty in the amount of \$192,609.55 to Petitioner as a responsible officer, partner, or individual, for unpaid tax liabilities of GB Invest, LLC (the “Taxpayer”) for taxable periods June 30, 2009 and December 31, 2010. A copy of the Notice is attached to this Petition as Exhibit 1.

2. Petitioner is an individual, his social security number is known to the Department and is not supplied here for privacy protection.

3. The principal place of business of the Taxpayer was 1475 Harvard Drive, Suite D, Kankakee, Illinois. The Taxpayer’s Account No. stated on the Notice from the Department is 3952-5058.

4. Petitioner is not a responsible person of the Taxpayer as defined in 35 ILCS 735/3-7 (the “Act”), and is not liable for the tax liabilities and penalties being assessed by the Department.

BACKGROUND AND RELEVANT FACTS

5. Petitioner received a Notice of Intent dated March 11, 2013 regarding the Department’s intent to hold him personally responsible for sales and use tax liabilities of the Taxpayer. Exhibit 2 attached.

6. Prior to receipt of the Notice of Intent, Petitioner did not receive any previous notices, correspondence, documents, or inquiries regarding the Taxpayer’s sales tax liabilities from the Department or any other party, and had no previous knowledge of the sales tax liabilities allegedly owed by the Taxpayer.

7. Petitioner responded to the Notice of Intent by providing documents and information to the Department to prove that he was not, and is not a responsible officer, partner or individual of the Taxpayer. Exhibit 3 attached.

8. During the period relevant Petitioner was the sole member for Toulouse Investments, LLC (Toulouse), and Toulouse became a Member of GB Invest, LLC on or about February 5, 2009.

9. Petitioner became a Co-Manager of GB Invest, LLC on or about February 5, 2009. Greg Yates was the other Co-Manager of GB Invest, LLC at that time.

10. Petitioner never had control, supervision or responsibility for filing returns or making payments on behalf of GB Invest, LLC, those were the responsibility of and actually done by Greg Yates.

11. Petitioner never had any authority to sign checks on behalf of the Taxpayer and was not a signatory on the bank accounts of the Taxpayer, and Petitioner never acted in any manner to disburse funds of Taxpayer.

12. All management decisions, sales activities, financial matters, reporting requirements, filing responsibilities, payment responsibilities, and day-to-day operations were during the entire period Petitioner was involved with GB Invest, LLC, the responsibility of and performed by Greg Yates, the other Manager of Taxpayer.

13. Petitioner resigned as Manager of GB Invest, LLC on July 1, 2009. Exhibit 4 attached.

14. Toulouse Investment, LLC assigned its Membership Interest in GB Invest, LLC on July 1, 2009 to Quality Concepts, LLC. Exhibit 5 attached.

15. From and after July 1, 2009, Petitioner had no ownership interest in, no position with, no relationship with, nor any connection whatsoever, with the Taxpayer, GB Invest, LLC.

APPLICABLE LAW

16. Personal liability under 35 ILCS 735/3-7 is imposed on one who is “responsible” for the filing of tax returns and payment of taxes shown to be due thereon, who willfully fails to file and/or pay such taxes. Neither this provision nor its predecessor provision, define “responsible” person or “willful” conduct. However, the Illinois Supreme Court, in cases where it has considered responsible person personal liability, the Court has referenced and applied interpretations of similar language in section 6672 of the Internal Revenue Code (26 U.S.C. §6672), which imposes liability on corporate officers who willfully fail to collect, account for, or pay over employees’ social security and Federal income withholding taxes. Branson v. Department of Revenue, 168 Ill 2d 247 (1995); Department of Revenue v. Heartland

Investments, Inc., 106 Ill. 2d 19 (1985); Department of Revenue v. Joseph Bublick & Sons, Inc., 68 Ill. 2d 568 (1977).

17. Federal courts have addressed officer/employee liability with respect to who is considered “responsible” for §6672 purposes. The courts have considered specific facts in determining whether individuals were “responsible” for the payment of employee taxes, to wit: 1) the duties of the officer as outlined in the corporate by-laws; 2) the ability of the individual to sign checks of the corporation; 3) the identity of the officers, directors, and shareholders of the corporation; 4) the identity of the individuals who hired and fired employees; and, 5) the identity of the individuals who were in control of the financial affairs of the corporation. Monday v. United States, 421 F. 2d 1210 (7th Cir. 1970), cert. den. 400 U.S. 821 (1970); Gephart v. United States, 818 F. 2d 469 (6th Cir. 1987); Peterson v. United States, 758 F. Supp. 1209 (N.D. Ill. 1990). As the facts set forth above show Petitioner did not act in a manner that meets the criteria to be held responsible for unpaid tax of Taxpayer.

ERRORS

18. The Department erroneously assessed the penalty against Petitioner for the tax period ended June 30, 2009. Petitioner had no involvement in the day-to-day operations of Taxpayer, and had no control, supervision, or responsibility of filing returns or making payments for Taxpayer for this period. All such control, supervision and activity were the responsibility of Greg Yates. Petitioner never disbursed any funds of Taxpayer.

19. The Department erroneously assessed the penalty against Petitioner for the tax period ended December 31, 2010. Petitioner resigned as Manager and assigned and conveyed his interest through the LLC in Taxpayer on July 1, 2009. Petitioner had no economic interest in, no ownership in, no management position in, nor control, supervision, or

responsibility of filing returns for making payments on behalf of the Taxpayer any time after July, 2009.

CONCLUSION AND RELIEF REQUESTED.

20. Petitioner is not a responsible person of the Taxpayer under 35 ILCS 735/3-7 and is not liable for the tax liabilities and penalties being assessed by the Department.

21. The full penalty in the amount of \$192,609.55 being assessed under 35 ILCS 735/3-7 should be abated.

WHEREAS, Petitioner requests that the "Notice" and all Penalty, Tax and other Charges associated therewith be modified and canceled for the reasons stated herein.

BLAIR MINTON

By: Thomas J. Brett II
_____, one of the Attorneys
Representing Petitioner

Floyd D. Perkins (ARDC #02173476)
Thomas F. Brett, II (ARDC #3121580)
UNGARETTI & HARRIS LLP
70 W. Madison Street
Suite 3500
Chicago, Illinois 60602
Phone: 312-977-4400
Facsimile: 312-977-4405
fdperkins@uhl.com
tfbrett@uhl.com

Collection Action Assessment and Notice of Intent



BLAIR M. MINTON
556 BEACH AVE
BOURBONNAIS IL 60914-4906

August 25, 2014



Letter ID: L1362750992

Taxpayer ID: XXX-XX-6526

NPL Penalty ID: 3284008



GB INVEST LLC
601 N 5TH AVE
A
KANKAKEE IL 60901-2344

We have determined you are personally liable for a penalty of \$192,609.55.

The penalty is equal to the amount of unpaid liability of GB INVEST LLC, due to your status as a responsible officer, partner, or individual of GB INVEST LLC.

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 \$192,609.55. 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 **October 24, 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), 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.

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

217 782-9904 ext. 31614
217 785-2635 fax

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



Collection Action
Assessment and Notice of Intent



August 25, 2014



Letter ID: L1362750992

BLAIR M. MINTON
556 BEACH AVE
BOURBONNAIS IL 60914-4906

Taxpayer ID: XXX-XX-6526
NPL Penalty ID: 3284008



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: 3952-5058

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	7,196.00	2,978.00	2,021.60	-	-	12,195.60
31-Dec-2010	139,211.00	27,942.00	13,260.95	-	-	180,413.95

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: L1362750992
BLAIR M. MINTON

Total amount due: \$192,609.55

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 Account ID on your check.

000 006 018880851369 731 123199 4 0000019260955

Collection Action
Notice of Intent



March 11, 2013



Letter ID: L1730264992

MINTON BLAIR
3173 TOULOUSE

BOURBONNAIS IL 60914-4546

Taxpayer ID: 26-1458918



GB INVEST LLC
601 N 5TH AVE
A
KANKAKEE, IL 60901-2344

You have been identified as a responsible officer, partner, or individual of GB INVEST LLC .

Illinois law provides that we may hold you personally liable for a penalty equal to the total tax, penalty, and interest due from GB INVEST LLC .

The following pages detail the current amount of debt we are pursuing against GB INVEST LLC . This debt must be paid immediately. 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 this debt is not paid, we intend to issue a penalty against you for the full amount of the debt. Once the penalty becomes final, we can take further collection action against you personally which may include the seizure and sale of your assets and levy of your wages and bank accounts.

If you believe you are not personally responsible for this debt, send us written proof within 10 days. If the information you submit is insufficient, we may continue to issue the penalty.

If you have any questions, please write or call our office weekdays from 8:30 a.m. to 4:30 p.m.

LAWRENCE MACKIN
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19035
SPRINGFIELD, IL 62794-9035

217 836-9731
217 524-2549 fax

- For information about**
- › how to pay
 - › submitting proof
 - › what you owe
 - › collection actions

Turn page

Taxpayer Statement



March 12, 2013



Letter ID: L0508028832

MINTON BLAIR
3173 TOULOUSE
BOURBONNAIS IL 60914-4546

Taxpayer ID: 26-1458918

Total amount due: \$185,893.35



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: 3952-5058

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2009	7,196.00	2,978.00	1,392.38	-	-	11,566.38
31-Dec-2010	141,796.00	27,942.00	7,173.97	-	(2,585.00)	174,326.97

SOC

Retain this portion for your records.

P-000496

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

Taxpayer Statement (R-12/08) (136)



Letter ID: L0508028832

MINTON BLAIR

Total amount due: \$185,893.35

Write the amount you are paying below.

\$ _____

Write your Taxpayer ID on your check.

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

UNGARETTI & HARRIS

THOMAS F. BRETT, II
Direct Telephone: 312.977.4879
Direct Fax: 312.523.2879
tfbrett@uhl.com

Three First National Plaza
70 West Madison - Suite 3500
Chicago, Illinois 60602.4224
Telephone: 312.977.4400
Fax: 312.977.4405
www.uhl.com

UNGARETTI & HARRIS LLP
CHICAGO, ILLINOIS
SPRINGFIELD, ILLINOIS
WASHINGTON, D.C.

May 10, 2013

Via Telecopier No. (217) 524-2549
and Via Regular Mail

Mr. Laurence Mackin
Revenue Officer
Illinois Department of Revenue
P.O. Box 19035
Springfield, IL 62794-9035

Re: Blair Minton/GB Invest, LLC
Employer Identification Number: 26-1458918
NOTICE OF INTENT/RESPONSIBLE OFFICER LETTER

Dear Mr. Mackin:

Enclosed is IL-Form 2848, Power of Attorney submitted on behalf of Blair Minton, in connection with the Collection Action/Notice of Intent dated March 11, 2013 regarding the Illinois Department of Revenue (IDOR) intent to hold him personally responsible for sales tax liability of GB Invest, LLC. A copy of the Notice is enclosed. My partner, Floyd Perkins, and I are representing Mr. Minton in this matter.

Mr. Minton was not a responsible party for GB Invest, LLC. Although Mr. Minton was named as a Manger in the company's Operating Agreement, that was in name only. All management decisions, sales, financial matters, reporting requirements and day to day operations were the responsibility of Greg Yates. More importantly, Mr. Minton was not a member of GB Invest, nor a manager of GB Invest, during the tax period ended December 31, 2010. Attached are copies of the following documents evidencing the withdrawal of Mr. Minton (and his wholly-owned entity, Toulouse Investments, LLC) from GB Invest as of July 1, 2009:

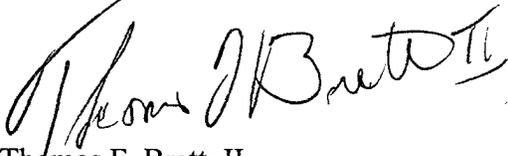
- (1) Assignment of Membership Interest in GB Invest, LLC dated July 1, 2009.
- (2)  Registration of Blair Minton (as Manager) from GB Invest, LLC dated July 1, 2009.
- (3) First Amendment to Operating Agreement of GB Invest, LLC dated July 1, 2009.

UNGARETTI
& HARRIS

Mr. Laurence Mackin
Illinois Department of Revenue
May 10, 2013
Page 2

Please correct your records to remove Mr. Minton as a responsible party for GB Invest, LLC and send confirmation that this Collection Action has been rescinded.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas F. Brett, II". The signature is written in a cursive style with a large initial "T" and "B".

Thomas F. Brett, II
TFB:krm

Enclosures

cc: Blair Minton (w/enc.) (via e-mail)
Floyd D. Perkins, Esq. (w/enc.) (via e-mail)

**ASSET DIVISION AGREEMENT
FOR
GB INVEST LLC**

THIS AGREEMENT, made and entered into by and between **QUALITY CONCEPTS, LLC**, an Illinois limited liability company ("Quality Concepts"), and **TOULOUSE INVESTMENTS LLC**, an Illinois limited liability company ("Toulouse Investments").

1. **RECITALS:** Quality Concepts and Toulouse Investments stipulate and declare as follows:

(a) Quality Concepts and Toulouse Investments are each the owner of fifty percent (50%) of the membership interest of GB Invest, LLC, an Illinois limited liability company ("GB Invest").

(b) GB Invest is the owner of all of the assets of the electrical lighting and components manufacturing, assembly, sales, and service business known as Stingray Energy Systems ("Stingray").

(c) GB Invest is also the owner of or holds options to acquire all of the shares of common stock of Healthcare Funding Corporation, an Indiana corporation ("HFC") which is engaged in the business of providing funding for self-funded medical benefit plans sponsored by various employers.

(d) Quality Concepts is more familiar with and desires to acquire the exclusive ownership of the assets of Stingray.

(e) Toulouse Investments is more familiar with and desires to acquire the exclusive ownership of the common stock and stock options of HFC.

(f) Quality Concepts and Toulouse desire, therefore, for Toulouse Investments or its nominee to acquire from GB Invest all of the common stock and stock options of HFC and for Toulouse Investments to then release all of its right, title, and interest in GB Invest so that Quality Concepts through GB Invest becomes the exclusive owner of the assets of Stingray.

(g) Toulouse Investments desires to assign all of its right, title, and interest under this agreement to acquire the common stock and stock options of HFC to BMA Ventures LLC, an Illinois limited liability company ("BMA Ventures").

(h) Quality Concepts and Toulouse believe that the value of the investment of GB Invest in Stingray exceeds by the sum of One Hundred Thousand and no/100 Dollars (\$100,000.00) the investment of GB Invest in HFC and desire, therefore, to provide for Quality Concepts to pay to Toulouse Investments this sum for the exchange of the assets in equal monthly installments of \$4,166.67 each beginning August 1, 2009, and continuing on the first day of each and every month thereafter until fully paid.

2. **HFC STOCK:** Upon the execution of this agreement, GB Invest shall assign and transfer to BMA Ventures all of the common stock and stock options in HFC held by GB Invest, all right, title, and interest of GB Invest in the Agreement for Sale of Stock relative to HFC dated as of June 8, 2009, and all other right, title, and interest of GB Invest in HFC.

3. **GB INVEST MEMBERSHIP:** Upon the execution of this agreement, Toulouse Investments shall assign and transfer to Quality Concepts all of the membership interest of Toulouse Investments in GB Invest and all other right, title, and interest which Toulouse Investments may hold in GB Invest including in the assets of Stingray.

4. **PAYMENT TO TOULOUSE INVESTMENTS:** In consideration for the exchange of business assets, Quality Concepts shall pay or cause to be paid to Toulouse Investments the sum of One Hundred Thousand and no/100 Dollars (\$100,000.00) in the following manner: \$4,166.67 on August 1, 2009, and \$4,166.67 on the first day of each and every month thereafter until July 1, 2011, when any remaining unpaid balance shall be paid in full. This unpaid balance shall not bear interest. However, if Quality Concepts fails to make any required payments when due and such default continues after not less than fifteen (15) days written notice citing the instance or instances of default, Toulouse Investments may declare the entire unpaid balance due in full together with interest at the rate of nine percent (9%) per annum from the date of the default notice until the entire balance has been paid in full.

5. **FURTHER DOCUMENTS:** Quality Concepts shall execute and deliver or cause GB Invest to execute and deliver to Toulouse Investments or BMA Ventures such other and further documents and take such other and further action as is required in connection with carrying out the division of assets pursuant to this agreement. Toulouse Investments shall execute and deliver or cause BMA Ventures to execute and deliver to Quality Concepts or GB Invest such other and further documents and take such other and further action as is required in connection with carrying out the division of assets pursuant to this agreement.

6. **CROSS INDEMNITY:** Quality Concepts shall hold Toulouse Investments and BMA Ventures free, harmless, and indemnified and shall cause GB Invest to hold Toulouse Investments and BMA Ventures free, harmless, and indemnified against all obligations, indebtedness, liabilities, actions, causes of action, claims, demands, damages, costs, and expenses of any sort and arising at any time relative to Stingray including all attorneys' fees, costs and expenses incurred in defending against any such matters or in enforcing the terms of this indemnity. Toulouse Investments shall hold Quality Concepts and GB Invest free, harmless, and indemnified and shall cause BMA Ventures to hold Quality Concepts and GB Invest free, harmless, and indemnified against all obligations, indebtedness, liabilities, actions, causes of action, claims, demands, damages, costs, and expenses of any sort and arising at any time relative to HFC including all attorneys' fees, costs and expenses incurred in defending against any such matters or in enforcing the terms of this indemnity.

7. **GENERAL PROVISIONS:** The titles to the paragraphs of this agreement are for informational purposes only and do not define, limit, or construe the contents of the paragraphs. Time is of the essence of this agreement and of every term, condition, and provision of it. This agreement shall be interpreted and enforced in accordance with the laws of the State of Illinois. Each of the parties waives any right to trial by jury in any litigation relative to this agreement. The invalidity or unenforceability of any provision of this agreement shall not affect or impair the validity of any other

provision. All of the terms, conditions, and indemnities contained in this agreement or in any instrument or document provided for in this agreement shall survive the termination of this agreement. This agreement shall apply to and bind the parties and their respective heirs, personal representatives, successors, and assigns.

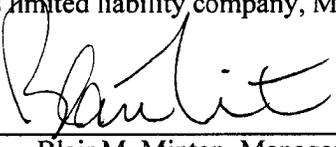
Dated effective as of July 1, 2009.

QUALITY CONCEPTS, LLC, an Illinois
limited liability company, Member

By 

Greg Yates, Manager

TOULOUSE INVESTMENTS LLC, an
Illinois limited liability company, Member

By 

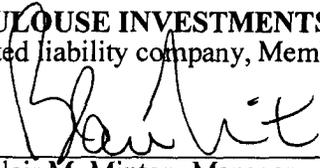
Blair M. Minton, Manager

**ASSIGNMENT OF MEMBERSHIP INTEREST
IN
GB INVEST LLC**

The Assignor, **TOULOUSE INVESTMENTS LLC**, an Illinois limited liability company, hereby assigns, transfers, and sets over to the Assignee, **QUALITY CONCEPTS, LLC**, an Illinois limited liability company, all of the right, title, and interest of the Assignor as a member of or otherwise in **GB INVEST LLC**, an Illinois limited liability company.

Dated: July 1, 2009

TOULOUSE INVESTMENTS LLC, an Illinois limited liability company, Member

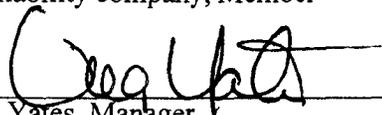
By 
Blair M. Minton, Manager

ACCEPTANCE OF ASSIGNMENT

The Assignee, **QUALITY CONCEPTS, LLC**, an Illinois limited liability company, hereby accepts the foregoing assignment and, in consideration of it, releases the Assignor from all obligations relative to and agrees to hold the Assignor free, harmless, and indemnified against any further obligations as a member of **GB INVEST LLC**.

Dated: July 1, 2009

QUALITY CONCEPTS, LLC, an Illinois limited liability company, Member

By 
Greg Yates, Manager

**RESIGNATION OF BLAIR MINTON
FROM
GB INVEST LLC**

July 1, 2009

BLAIR MINTON hereby resigns effective immediately from the following capacities with **GB INVEST LLC**, an Illinois limited liability company ("the Company"):

(1) One of the Managers

and from any other capacities whatsoever with the Corporation.

July 1, 2009

A handwritten signature in cursive script, appearing to read "Blair Minton", is written above a horizontal line.

Blair Minton