

November 16, 2014

Illinois Department of Revenue
Office of Legal Services
100 W. Randolph Street, 7-900
Chicago, IL 60601

Re: 14 TT 207

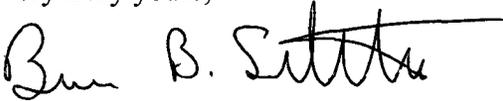
Dear Ladies and Gentlemen:

Pursuant to the Order I received from Judge Barov rejecting my original Petition but granting me the opportunity to refile my Petition in the above matter with correct statutory notices I am enclosing the following documents:

1. Petition with exhibits and affidavit
2. Notice of Late discretionary Hearing Granted

If you have any questions please contact me. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink that reads "Beau B. Sutherland". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

Beau B. Sutherland

309/453-7857

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

BEAU B. SUTHERLAND)	
Petitioner,)	14 TT 207
)	Judge Brian F. Barov
v.)	
)	Acct. ID 3472-9951
ILLINOIS DEPARTMENT)	32-0096011-000
OF REVENUE,)	NPL: 1300462,
)	1002D: 1300463
)	NPL: 700064
Respondent.)	

PETITION

The Petitioner, Beau B. Sutherland, hereby petitions the Illinois Independent Tax Tribunal to review and reverse the

_____ Notice of Deficiency (“Deficiency”)

___X___ Notice of Tax Liability (“Notice”)

_____ Claim Denial (“Claim”)

___X___ Penalty (“Penalty”)

___X___ Interest (“Interest”)

issued by the Illinois Department of Revenue (“Department”), for the reasons stated below:

INTRODUCTION

1. The “Notice” was issued by the Department on February 17, 2009 assessing in the amount of \$50,966.11 in Sales/Use Tax, NPL: 700064 for taxable periods May 1, 2008 through December 31, 2008. A copy of the “Notice” is attached to this Petition.
2. The “Notice” was issued by the Department on January 29, 2014 assessing in the amount of \$10,279.39 in IL Withholding Income Tax Penalty, 1002D: 1300463 for taxable periods March 1, 2013 through June 30, 2013. A copy of the “Notice” is attached to this Petition.

3. The “Notice” was issued by the Department on January 29, 2014 assessing in the amount of \$125,371.45 in Sales/Use Tax & E911 Surcharge, NPL: 1300462 for taxable periods May 1, 2012 through August 31, 2013. A copy of the “Notice” is attached to this Petition.
4. Petitioner is an individual with his principal residence at 1107 E. Forrest Hill, Peoria, IL, and his telephone number is 309-453-7857.

BACKGROUND AND RELEVANT FACTS

5. Petitioner was a minority member in this company and relinquished 100% of his membership interest in WPG Holdings III, LLC on August 30, 2004.
6. Petitioner had no association with or membership in WPG Holdings III, LLC during the tax periods being assessed and was not responsible for the collection or payment of any revenues or taxes for the above limited liability company.
7. Petitioner has produced his personal Affidavit with regard to this matter and is attached as Exhibit A.
8. Petitioner was not a member, manager, officer or employee of WPG Holdings III, LLC during or prior to any of the assessment dates since his membership interest was terminated as of August 30, 2004. A copy of this sale and termination is attached as Exhibit B.

APPLICABLE LAW

9. Pursuant to 35 ILCS 735/3-7 Petitioner is not a responsible party for any of the periods being assessed by the Department because he was not a member, manager, officer or employee at any time during any of the assessed taxed liabilities shown on any of the Department’s “Notices”

CONCLUSION AND RELIEF REQUESTED

10. The evidence is quite clear that Petitioner had no responsibility for the collection, accounting or payment of the taxes assessed against WPG Holdings III, LLC. He had no responsibility for the company's obligations in the payment of tax liability to the Illinois Department of Revenue.

11. For the reasons stated, Petitioner requests that the "Notices" including penalty and interest sought against him be dismissed and that the person or persons responsible for the payment of these taxes be held accountable for the payment of these assessments.

BEAU B. SUTHERLAND Individual

A handwritten signature in black ink that reads "Beau B. Sutherland". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

1107 East Forrest Hill Peoria, Illinois 61603
309.453.7857
bsutherland@peoriaciviccenter.com

Collection Action
Assessment and Notice of Intent



February 17, 2009



Letter ID: L1589140864

BEAU B. SUTHERLAND
3528 W RICHWOODS BLVD
PEORIA IL 61604-1040

Taxpayer ID: 355-70-0744
Account ID: 3472-9951
NPL ID: 700064



W P G HOLDINGS THREE LLC
121 SW ADAMS ST
PEORIA, IL 61602-1328

**We have determined you are personally liable
for a penalty of \$50,966.11.**

The penalty is equal to the amount of unpaid liability of W P G HOLDINGS THREE LLC , due to your status as a responsible officer, partner, or individual of W P G HOLDINGS THREE 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 \$50,966.11. Your payment must be guaranteed (i.e., cash, 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 that you are personally responsible for all or any of this liability, you may file a protest and request an administrative hearing within 60 days of the date of this notice. If you do not file a protest within the time allowed, you will give up your right to a hearing and this liability will become final. An administrative hearing is a formal legal proceeding that is conducted under the rules of evidence. An administrative law judge will preside over this hearing. You may be represented by your attorney. A protest of this notice does not preserve your rights under any other tax notice.

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.

HAROLD HARTLEY
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. 31613
217 785-2635 fax

Collection Action
Assessment and Notice of Intent



February 17, 2009



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Sales and Use Taxes

Account ID: 3472-9951

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-May-2008	7,577.00	939.24	20.76	-	(7,587.92)	949.08
30-Jun-2008	6,698.00	900.76	77.42	-	-	7,679.18
31-Jul-2008	7,006.00	600.60	69.45	-	-	7,876.05
31-Aug-2008	6,850.00	921.88	55.57	-	-	7,827.45
30-Sep-2008	6,123.00	712.30	40.28	-	-	6,875.58
31-Oct-2008	6,245.00	724.50	30.41	-	-	6,999.95
30-Nov-2008	5,829.00	682.90	18.20	-	-	6,530.10
31-Dec-2008	6,102.00	122.04	4.68	-	-	6,228.72

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: L1589140864
 BEAU B. SUTHERLAND

Total amount due: \$50,966.11

Write the amount you are paying below.

\$ _____
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31-Jul-2008	7,006.00	800.60	69.45	-	-	7,876.05
31-Aug-2008	6,850.00	921.88	55.57	-	-	7,827.45
30-Sep-2008	6,123.00	712.30	40.28	-	-	6,875.58
31-Oct-2008	6,245.00	724.50	30.41	-	-	6,999.95
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Collection Action

Assessment and Notice of Intent



January 29, 2014



Letter ID: L1266885984

BEAU B. SUTHERLAND
3528 W RICHWOODS BLVD
PEORIA IL 61604-1040

Taxpayer ID: XXX-XX-0744
1002D Penalty ID: 1300463

W P G HOLDINGS THREE LLC
121 SW ADAMS ST
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Pay us \$10,279.39. 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 **March 30, 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.

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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

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

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Collection Action
Assessment and Notice of Intent



January 29, 2014



Letter ID: L1266885984

BEAU B. SUTHERLAND
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31-Mar-2013	4,777.08	658.95	11.08	-	(119.22)	5,327.89
30-Jun-2013	4,322.46	619.78	10.34	-	-	4,951.50

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

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

Collection Action
Assessment and Notice of Intent



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BEAU B. SUTHERLAND
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Collection Action

Assessment and Notice of Intent



January 29, 2014



Letter ID: L0193144160

BEAU B. SUTHERLAND
3528 W RICHWOODS BLVD
PEORIA IL 61604-1040

Taxpayer ID: XXX-XX-0744
NPL Penalty ID: 1300462

W P G HOLDINGS THREE LLC
121 SW ADAMS ST
PEORIA, IL 61602-1328

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

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30-Jun-2012	7,980.00	1,057.60	126.93	-	-	9,164.53
31-Jul-2012	6,806.00	916.72	90.71	-	-	7,813.43
31-Aug-2012	6,804.00	916.48	73.34	-	-	7,793.82
30-Sep-2012	6,276.00	853.12	51.20	-	-	7,180.38
31-Oct-2012	7,867.00	1,044.04	45.31	-	-	8,956.40
30-Nov-2012	7,509.00	1,001.08	24.70	-	-	8,534.78
31-Dec-2012	6,650.00	898.00	16.88	-	-	7,563.88
31-Jan-2013	7,920.00	1,050.40	18.81	-	-	8,989.27
28-Feb-2013	7,673.00	1,020.76	19.28	-	-	8,712.04
31-Mar-2013	11,889.00	1,526.68	28.35	-	-	13,444.03
30-Apr-2013	8,037.00	1,064.44	19.15	-	-	9,120.59
31-May-2013	6,775.00	913.00	16.17	-	-	7,704.17
30-Jun-2013	5,941.00	812.92	14.17	-	-	6,768.09
31-Aug-2013	5,123.00	737.79	12.18	-	(12.16)	5,860.81

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- **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 **March 30, 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

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

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



Collection Action

Assessment and Notice of Intent



January 29, 2014



Letter ID: L0193144160

BEAU B. SUTHERLAND
3528 W RICHWOODS BLVD
PEORIA IL 61604-1040

Taxpayer ID: XXX-XX-0744
NPL Penalty ID: 1300462



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: 3472-9951

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-May-2012	6,734.00	908.08	123.15	-	-	7,765.23
30-Jun-2012	7,980.00	1,057.60	126.93	-	-	9,164.53
31-Jul-2012	6,806.00	916.72	90.71	-	-	7,813.43
31-Aug-2012	6,804.00	916.48	73.34	-	-	7,793.82
30-Sep-2012	6,276.00	853.12	51.20	-	-	7,180.38
31-Oct-2012	7,867.00	1,044.04	45.30	-	-	8,956.40
30-Nov-2012	7,509.00	1,001.08	24.70	-	-	8,534.78
31-Dec-2012	6,650.00	898.00	16.88	-	-	7,563.88
31-Jan-2013	7,920.00	1,050.40	18.87	-	-	8,989.27
28-Feb-2013	7,673.00	1,020.76	12.28	-	-	8,712.04
31-Mar-2013	11,889.00	1,526.68	28.35	-	-	13,444.03
30-Apr-2013	8,037.00	1,064.44	19.15	-	-	9,120.59
31-May-2013	6,775.00	913.00	16.17	-	-	7,704.17
30-Jun-2013	5,941.00	812.92	14.17	-	-	6,768.09
31-Aug-2013	5,123.00	737.79	12.18	-	(12.16)	5,860.81

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

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: L0193144160
BEAU B. SUTHERLAND

Total amount due: \$125,371.45

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

000 006 010706176168 731 123199 8 0000012537145

AFFIDAVIT

The undersigned, BEAU B. SUTHERLAND, being first duly sworn on his oath states as follows.

1. This Affidavit is given on my personal knowledge and if sworn as a witness I can testify competently to the matters setforth herein.
2. I have examined the correspondence from the Illinois Department of Revenue dated October 2, 2014 proposing to assess against me a personal liability referred to as NPL: 1300462 which proposes a penalty assessment of \$127,594.93 for unpaid tax liabilities of WPG Holdings III, LLC for the tax period from May 1, 2012 through August 31, 2013. Personal liability referred to as 1002D: 1300463 which proposes a penalty assessment of \$10,459.50 for unpaid tax liabilities of WPG Holdings III, LLC for the tax period from March 1, 2013 through June 30, 2013. Personal liability referred to as NPL: 700064 which proposes a penalty assessment of \$10,459.50 for unpaid tax liabilities of WPG Holdings III, LLC for the tax period from March 1, 2013 through June 30, 2013.
3. During the periods of time in question, I had no responsibility for the collection, accounting or payment of the taxes assessed against WPG Holdings III, LLC. During the period of time in question I was not a member nor an officer authorized or required to collect, account for and pay taxes for the company.
4. During the period of time for which the tax assessment is made, I was not affiliated with WPG Holdings III, LLC in any capacity.

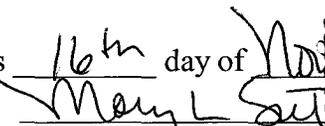
Dated this 16 day of NOVEMBER, 2014


Beau B. Sutherland

STATE OF Illinois
COUNTY OF Peoria

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that the above named party is personally known to me to be the same person whose name is subscribed to the foregoing document and that he acknowledged that he signed, sealed and delivered said Affidavit as his free and voluntary act.

Given under my hand and Notarial Seal this 16th day of November


Notary Public



AGREEMENT TO PURCHASE UNITS

This Agreement is dated as of August 30, 2004 between Beau Sutherland ("Seller") and WPG Holdings Three, LLC ("Purchaser").

BACKGROUND

Seller is the owner of 25 units of Purchaser (the "Units"). Purchaser wishes to purchase the Units, and Seller wishes to sell the Units.

AGREEMENTS

1. Purchase and Sale. Purchaser shall purchase and Seller shall sell the Units.
2. Purchase Price. The total purchase price for the Units shall be Fifteen Thousand Dollars (\$15,000).
3. Closing Date. The date of the closing of the purchase and sale of the Units shall be August 30, 2004.
4. Further Assurances. Each party shall execute, acknowledge, and deliver such additional documents, writings, and assurances as the other party may periodically require so as to give full force and effect to this Agreement.
5. Indemnification. Purchaser hereby agrees to indemnify, defend and hold harmless Seller for all costs, losses, damages or expenses of any kind whatsoever (including attorneys fees and costs) arising out of WPG Holdings Three, LLC, whether before or after the date of this Agreement; provided, however, that tax liability of Seller arising out of its ownership of Purchaser shall be excluded from this paragraph.
6. Allocation of Profit and Loss. The parties agree that the financial books and records of Purchaser shall be closed as of the date of closing set forth in Section 3 above for purposes of allocating profit and loss to Seller.

hereunder shall be effective upon delivery or mailing as above provided, except any notice of change of address shall be effective only on actual receipt.

g. Venue. As a substantial portion of the duties and obligations of the parties created hereunder are performable in Peoria County, Illinois. Peoria County, Illinois, shall be the sole and exclusive venue for any litigation or other proceedings as between the parties that may be brought, or arise out of, or in connection with or by reason of this Agreement.

h. Waiver. The waiver by either party of any such breach of this Agreement, whether in a single instance or repeatedly, shall not be construed as a waiver of rights under this Agreement. Further, such waiver shall not in any manner be construed as a waiver by any party to strictly adhere to the provisions and conditions of this Agreement, nor as a waiver of any claim for damages or other remedy by reason of any such breach.

i. Legal Construction. If any provision of this Agreement is held invalid by any tribunal in a final decision from which no appeal is or can be taken, such provision shall be deemed modified to eliminate the invalid element, and, as to modified, such provision shall be deemed a part of this Agreement. If it is not possible to modify any such provision to eliminate the invalid element, such provision of this Agreement shall not affect the force and effect of the remaining provisions.

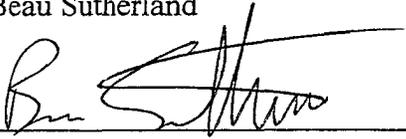
j. This Agreement supercedes all prior agreements and undertakings between the parties and represents the complete agreement and undertakings of the parties with respect to the subject matter herein. No oral statement or prior written materials not specifically incorporated herein shall be of any force or effect. Each party relies solely upon the representations and agreements contained in this Agreement and no

others. This Agreement may be amended from time to time pursuant to the written agreement of all parties.

Executed the day and year first above written.

SELLER:

Beau Sutherland



PURCHASER:

WPG Holdings Three, LLC

By: 

Keith Weinstein, President

Dated: August 30, 2004



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

October 7, 2014

Beau Sutherland
1107 E. Forrest Hill
Peoria, IL 61603

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
Beau Sutherland, Responsible Officer of WPG Holdings Three LLC
Account ID: 3472-9951
NPL: 1300462 Letter ID: L0193144160, dated January 29, 2014
1002D: 1300463 Letter ID: L1266885984, dated January 29, 2014
NPL: 700064 Letter ID: L1589140864, dated February 17, 2009

Dear Mr. Sutherland:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing regarding the above notices. Based on the information provided in your request, I believe that it is appropriate to grant your request for a late discretionary hearing for the above notices.

The amount of liabilities 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 cursive script, appearing to read "Terry Charlton".

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

TDC:vs