

ILLINOIS INDEPENDENT
TAX TRIBUNAL



BEAU B. SUTHERLAND)
Petitioner,)
)
v.)
)
ILLINOIS DEPARTMENT)
OF REVENUE,)
)
Respondent.)

Account ID: 3472-9951
32-0096011-000

NPL: 1300462
1002D: 1300463
NPL: 700064

14 11 2014

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 October 2, 2014 assessing in the amount of \$38,155.00 in Sales/Use Tax & E911 Surcharge, \$6,724.55 in Interest, \$4596.38 in Penalty NPL: 700064 for taxable periods July 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 October 2, 2014 assessing in the amount of \$9,099.54 in IL Withholding Income Tax, \$201.54 in Interest, \$1,277.65 in 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 October 2, 2014 assessing in the amount of \$109,984 in Sales/Use Tax & E911 Surcharge, \$2,901.98 in Interest, \$14,721.11 in Penalty 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

Beau Sutherland 10/29/14

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

Collection Action
Notice of Intent



October 2, 2014



Letter ID: L0189223184

BEAU B. SUTHERLAND
1107 E FORREST HILL AVE

PEORIA IL 61603-1448

Taxpayer ID: XXX-XX-0744
NPL Penalty ID: 700064



WP G HOLDINGS THREE LLC
121 SW ADAMS ST
PEORIA IL 61602-1328

Demand for Payment

**We intend to issue a levy against your assets
unless you pay us.**

You must pay us \$46,515.66 by October 23, 2014. If you do not, we intend to issue a levy for this amount against your assets without further notice to you.

A levy means we can, by legal authority, take your assets held by someone else. Examples of assets we may levy include your wages, contractual payments, bank accounts, and accounts receivables.

The following pages detail the items that need your immediate attention.

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

DAVID FINLEY
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19035
101 W JEFFERSON
SPRINGFIELD IL 62794-9035

217 524-4720 ext. 31015
217 785-2635 fax

For information about
› how to pay
› what you owe
› collection actions

Turn page

Collection Action

Notice of Intent



October 2, 2014



Letter ID: L0189223184

BEAU B. SUTHERLAND
1107 E FORREST HILL AVE
PEORIA IL 61603-1448

Taxpayer ID: XXX-XX-0744
NPL Penalty ID: 700064



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.

Sales/Use Tax & E911 Surcharge

Account ID: 3472-9951

| Period | Tax | Penalty | Interest | Other | Payments/Credits | Balance |
|-----------------------|----------|---------|----------|-------|------------------|------------------|
| 31-Jul-2008 | 7,006.00 | 800.60 | 1,183.81 | 0.00 | (2,594.60) | 6,395.81 |
| 31-Aug-2008 | 6,850.00 | 921.88 | 1,275.73 | 0.00 | 0.00 | 9,047.61 |
| 30-Sep-2008 | 6,123.00 | 712.30 | 1,117.06 | 0.00 | 0.00 | 7,952.36 |
| 31-Oct-2008 | 6,245.00 | 724.50 | 1,112.67 | 0.00 | 0.00 | 8,082.17 |
| 30-Nov-2008 | 5,829.00 | 682.90 | 1,013.46 | 0.00 | 0.00 | 7,525.36 |
| 31-Dec-2008 | 6,102.00 | 754.20 | 1,021.82 | 0.00 | (365.67) | 7,512.35 |
| Total Balance: | | | | | | 46,515.66 |

Collection Action
Notice of Intent



October 2, 2014



Letter ID: L1129042192

BEAU B. SUTHERLAND
1107 E FORREST HILL AVE
PEORIA IL 61603-1448

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



WP G HOLDINGS THREE LLC
121 SW ADAMS ST
PEORIA IL 61602-1328

Demand for Payment

**We intend to issue a levy against your assets
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You must pay us \$127,594.93 by October 23, 2014. If you do not, we intend to issue a levy for this amount against your assets without further notice to you.

A levy means we can, by legal authority, take your assets held by someone else. Examples of assets we may levy include your wages, contractual payments, bank accounts, and accounts receivables.

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October 2, 2014



Letter ID: L1129042192

BEAU B. SUTHERLAND
1107 E FORREST HILL AVE
PEORIA IL 61603-1448

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.

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 | 259.30 | 0.00 | 0.00 | 7,901.38 |
| 30-Jun-2012 | 7,980.00 | 1,057.60 | 288.28 | 0.00 | 0.00 | 9,325.88 |
| 31-Jul-2012 | 6,806.00 | 916.72 | 228.33 | 0.00 | 0.00 | 7,951.05 |
| 31-Aug-2012 | 6,804.00 | 916.48 | 210.92 | 0.00 | 0.00 | 7,931.40 |
| 30-Sep-2012 | 6,276.00 | 853.12 | 178.13 | 0.00 | 0.00 | 7,307.25 |
| 31-Oct-2012 | 7,867.00 | 1,044.04 | 204.42 | 0.00 | 0.00 | 9,115.46 |
| 30-Nov-2012 | 7,509.00 | 1,001.08 | 176.50 | 0.00 | 0.00 | 8,686.58 |
| 31-Dec-2012 | 6,650.00 | 898.00 | 150.34 | 0.00 | 0.00 | 7,698.34 |
| 31-Jan-2013 | 7,920.00 | 1,050.40 | 179.02 | 0.00 | 0.00 | 9,149.42 |
| 28-Feb-2013 | 7,673.00 | 1,020.76 | 173.41 | 0.00 | 0.00 | 8,867.17 |
| 31-Mar-2013 | 11,889.00 | 1,526.68 | 268.72 | 0.00 | 0.00 | 13,684.40 |
| 30-Apr-2013 | 8,037.00 | 1,064.44 | 181.65 | 0.00 | 0.00 | 9,283.09 |
| 31-May-2013 | 6,775.00 | 913.00 | 153.16 | 0.00 | 0.00 | 7,841.16 |
| 30-Jun-2013 | 5,941.00 | 812.92 | 134.30 | 0.00 | 0.00 | 6,888.22 |
| 31-Aug-2013 | 5,123.00 | 737.79 | 115.50 | 0.00 | (12.16) | 5,964.13 |
| Total Balance: | | | | | | 127,594.93 |

Collection Action
Notice of Intent



October 2, 2014



Letter ID: L1651724768

BEAU B. SUTHERLAND
1107 E FORREST HILL AVE
PEORIA IL 61603-1448

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



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

Demand for Payment

**We intend to issue a levy against your assets
unless you pay us.**

You must pay us \$10,459.50 by October 23, 2014. If you do not, we intend to issue a levy for this amount against your assets without further notice to you.

A levy means we can, by legal authority, take your assets held by someone else. Examples of assets we may levy include your wages, contractual payments, bank accounts, and accounts receivables.

The following pages detail the items that need your immediate attention.

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

DAVID FINLEY
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19035
101 W JEFFERSON
SPRINGFIELD IL 62794-9035

217 524-4720 ext. 31015
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Collection Action

Notice of Intent



October 2, 2014



Letter ID: L1651724768

BEAU B. SUTHERLAND
1107 E FORREST HILL AVE
PEORIA IL 61603-1448

Taxpayer ID: XXX-XX-0744

1002D Penalty ID: 1300463



This statement lists our most recent information about your unpaid balance, available credits, or returns you have not filed.

IL Withholding Income Tax

Account ID: 32-0096011-000

| Period | Tax | Penalty | Interest | Other | Payments/Credits | Balance |
|-----------------------|----------|---------|----------|-------|------------------|-----------|
| 31-Mar-2013 | 4,777.08 | 658.95 | 104.49 | 0.00 | (119.22) | 5,421.30 |
| 30-Jun-2013 | 4,322.46 | 618.70 | 97.04 | 0.00 | 0.00 | 5,038.20 |
| Total Balance: | | | | | | 10,459.50 |

EXHIBIT A

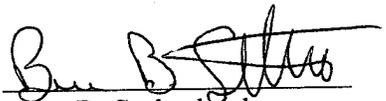
AFFIDAVIT OF BEAU B. SUTHERLAND

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.

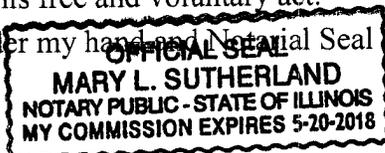
Dated this 29th day of OCTOBER, 2014


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 29th day of October, 2014.



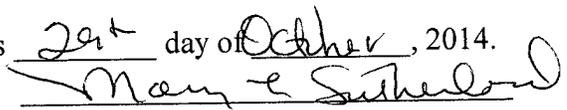

Notary Public

EXHIBIT B
AGREEMENT TO PURCHASE UNITS
TERMINATION OF MEMBERSHIP INTEREST
OF
BEAU B. SUTHERLAND

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 so 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.

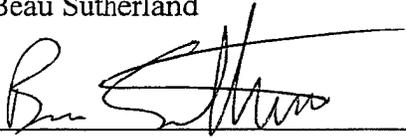
j. This Agreement supercedes all prior agreements and undertakings between the parties and represents the complete agreement and undertakings of the parties with respect to the subject matter herein. No oral statement or prior written materials not specifically incorporated herein shall be of any force 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 black ink, appearing to read "Terry Charlton". The signature is written in a cursive style with a large initial "T".

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

TDC:vs



ILLINOIS INDEPENDENT TAX TRIBUNAL
Net Worth Statement

RECEIVED
 OCT 21 2007

1477007

| | | | |
|--|--------------------------|---|------------------------------------|
| Business Name | | | |
| Owner Name | BEAU SUTHERLAND | Business Phone | 309.453.7857 |
| Residence Address | 1107 EAST FERREST HILL | Residence Phone | |
| City, State, & Zip Code | PEORIA, IL 61603 | Email | bsutherland@peoria CivicCenter.com |
| ASSETS | | LIABILITIES | |
| (not \$, not ¢) | | (not \$, not ¢) | |
| Cash on hand and in Banks | \$ 200. ⁰⁰ | Accounts Payable | \$ 12,000. ⁰⁰ |
| Savings Account | \$ | Notes Payable to Banks and Others (Describe in Section 2) | \$ |
| IRA or Other Retirement Account | \$ 15,000. ⁰⁰ | Installment Account (Auto) | \$ |
| Accounts and Notes Receivable | \$ | Monthly Payments | \$ |
| Life Insurance— Cash Surrender Value (Describe in Section 8) | \$ | Installment Account (Other) | \$ 3600. ⁰⁰ |
| Stock and Bonds (Describe in Section 3) | \$ | Monthly Payments | \$ |
| Real Estate (Describe in Section 4) | \$ | Loan on Life Insurance | \$ |
| Automobile — Present Value | \$ 2,000. ⁰⁰ | Mortgages on Real Estate | \$ |
| Other Personal Property (Describe in Section 5) | \$ | Unpaid Taxes (Describe in Section 6) | \$ |
| Other Assets (Describe in Section 5) | \$ | Other Liabilities (Describe in Section 7) | \$ 12,500. ⁰⁰ |
| | | TOTAL LIABILITIES | \$ 28,100. ⁰⁰ |
| TOTAL ASSETS | \$ 17,200. ⁰⁰ | NET WORTH (Assets - Liabilities = NET WORTH) | \$ 10,900. ⁰⁰ |

| | | | |
|---|--------------------------|-----------------------------------|----|
| Section 1. Source of Income | | Contingent Liabilities | |
| Salary | \$ 63,000. ⁰⁰ | As Endorser of Co-Maker | \$ |
| Net Investment Income | \$ | Legal Claims and Judgments | \$ |
| Real Estate Income | \$ | Provisions for Federal Income Tax | \$ |
| Other Income (Describe below)* | \$ | Other Special Debt | \$ |
| Description of Other Income in Section 1. | \$ | | |

*Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted towards total income.

Section 2. Notes Payable to Banks and Others (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

| Name & Address of Noteholder(s) | Original Balance | Current Balance | Payment Amount | Frequency (monthly, etc.) | How Secured or Endorsed Type of Collateral |
|---------------------------------|------------------|-----------------|----------------|---------------------------|--|
| | | | | | |
| | | | | | |
| | | | | | |

| Section 3. Stocks and Bonds (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.) | | | | | |
|--|--------------------|------|-------------------------------------|-----------------------------|-------------|
| Number of Shares | Name of Securities | Cost | Market Value Quotations/Exchange | Date of Quotations/Exchange | Total Value |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| Section 4. Real Estate Owned (List each parcel separately. Use attachment if necessary. Each attachment must be identified as part of this statement and signed.) | | | |
|---|------------|------------|------------|
| | Property A | Property B | Property C |
| Type of Property | | | |
| Address | | | |
| Date Purchased | | | |
| Original Cost | | | |
| Present Market Value | | | |
| Name & Address of Mortgage Holder | | | |
| Mortgage Account Number | | | |
| Mortgage Balance | | | |
| Amount of Payment per Month/Year | | | |
| Status of Mortgage | | | |

Section 5. Other Personal Property and Other Assets (Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment and if delinquent, describe delinquency)

Section 6. Unpaid Taxes (Describe in detail, as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

Section 7. Other Liabilities (Describe in detail)

CHILD SUPPORT

Section 8. Life Insurance Held (Give face amount and cash surrender value of policies - name of insurance company and beneficiaries)

I swear, under penalties of perjury, that I have read this statement, and to the best of my knowledge and belief, it is true, accurate, and complete.

| | | |
|--|----------------|------------------|
| Signature:  | Date: 10/28/14 | SSN: 355-70-0744 |
| Signature: | Date: | SSN: |