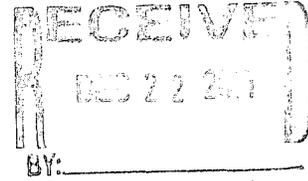


**IN THE
ILLINOIS INDEPENDENT TAX TRIBUNAL**

DIAMORA INC., SALVADORE MORALES)
and SANDRA C. DIAZ)
) Petitioner,)
))
) v.)
))
ILLINOIS DEPARTMENT OF REVENUE)
))
) Respondent.)

Case No.: _____



14777246 12/22/17

PETITION

NOW COME Diamora Inc., Salvadore Morales and Sandra C. Diaz (collectively the “Petitioners”), by and through their attorneys, Fornaro Law, pursuant to Section 1-50 of the Illinois Independent Tax Tribunal Act of 2012 (35 ILCS 1010/1 *et seq.*) (the “Act”) complains of the Illinois Department of Revenue (“IDOR” or “Department”) as follows:

JURISDICTION

1. This timely filed petition concerns various statutory notices (the “Notices”) that involve a tax assessment, including penalty and interest, in excess of \$15,000 under a tax law identified in Section 1-45 of the Act, therefore, the Tax Tribunal has jurisdiction over this petition. Copies of the Notices are attached hereto as Exhibits A-C.

PARTIES

2. Diamora, Inc. (“Diamora”) is formerly an Illinois corporation that conducted business at 210 E. Galena Blvd, Aurora, Illinois 60505. Diamora, Inc.’s Tax Account ID is 3316-5785. A copy of Diamora’s Notice granting Late Discretionary Hearing is attached hereto as Exhibit A.

3. Salvadore Morales (“Morales”), along with Sandra C. Diaz, was a shareholder of Diamora, Inc. Mr. Morales resides at 2840 McDuffee Circle, North Aurora, Illinois 60542. His

tax identification number is xxx-xx-1193. A copy of Morales's notice is attached hereto as Exhibit B.

4. Sandra C. Diaz ("Diaz") resides at 601 Carnation Drive, Oswego, Illinois 60543. Her tax identification number is xxx-xx-5865. A copy of Diaz's notice is attached hereto as Exhibit C.

5. IDOR is an agency of the Executive Department of the State of Illinois that is authorized, among other functions, to administer and enforce provisions of the Illinois Retailers' Occupation Tax Act ("ROTA"), and the Illinois Use Tax Act. 20 ILCS 2505/2505-25 and 20 ILCS 2505/2505-90

BACKGROUND

6. Diamora, Inc., formerly doing business as Club Gala, was engaged in the restaurant and tavern business, and was so engaged during the tax periods at issue in this petition.

7. On information and belief, IDOR conducted an audit of the Petitioner's business in or around September 2012.

8. IDOR had access to the Petitioner's books and records. The audit included tax periods July 1, 2009 through December 31, 2011 ("Tax Periods").

9. On information and belief, IDOR's auditor corrected Diamora's sales tax returns for the Tax Periods pursuant to Section 4 of the ROTA (35 ILCS 120/4). This section provides in pertinent part as follows:

...the Department shall examine such return and shall, if necessary, correct such return according to its best judgment and information.

10. On or about March 4, 2013 Diamora was assessed a tax liability of \$45,993.27 (the "Liability").

11. On information and belief, IDOR's auditor assessed a fraud penalty on Diamora based on the auditor's method of calculating gross receipts that far exceeded the actual gross receipts earned by Diamora, which resulted in an excessive tax liability.

12. On or about May 6, 2014 Diaz and Morales, as shareholders of Diamora, were personally assessed the Liability.

COUNT I

IDOR's Calculation of Diamora's Purported Tax Liability was Incorrect and not According to its Best Judgment and Information

13. Diamora restates and incorporates by reference paragraphs 1 through 12 of this Petition.

14. As previously noted, Section 4 of the ROTA requires that IDOR "...shall examine such return and shall, if necessary, correct such return according to its best judgment and information." 35 ILCS 120/4.

15. The auditor determined Diamora's marked-up alcohol receipts by applying a multiplier of 5.2 to its alcohol purchases. The auditor did not make a distinction between various types of alcohol, such as beer and liquor.

16. Diamora's actual marked-up alcohol receipts were based on a multiplier of 3.4, which generated actual alcohol receipts that were substantially lower than the amounts attributed to it by the auditor.

17. A reasonable review of Diamora's invoices, which confirmed its wholesale cost, relative to its actual sales, based on the prices reflected on its menu and confirmed on its point-of-sale receipts should have sufficiently informed the auditor that the proper multiplier was 3.4 rather than the 5.2 that she applied.

18. IDOR's auditor's calculated receipts and corrected return were not produced with

a minimum standard of reasonableness because the auditor did not use her best judgment based on the information provided by Diamora.

WHEREFORE, Diamora prays that the Tax Tribunal find and determine that the tax assessment, including penalty and interest, was incorrect and must therefore be withdrawn and or cancelled.

COUNT II

Diamora had no Intent to Defraud the Department

19. Diamora restates and incorporates by reference paragraphs 1 through 18 of this Petition.

20. The Illinois Uniform Penalty and Interest Act (the “UPIA”) provides that:

if any return or amended return is filed with the intent to defraud, in addition to any penalty imposed under Section 3-3 of this Act, a penalty shall be imposed in an amount equal to 50% of any resulting deficiency.

35 ILCS 735/3-6(a).

21. On information and belief, IDOR’s auditor assessed a fraud penalty on Diamora based on the fact that IDOR’s auditor’s method of calculating gross receipts resulted in a purported tax liability that far exceed the actual gross receipts generated by Diamora.

22. At no time, and in no way, did Diamora intend to defraud the State of Illinois.

WHEREFORE, Diamora prays that the Tax Tribunal find and determine that the fraud penalty assessed against Diamora is not consistent with Section 3-6 of the UPIA and must therefore be withdrawn.

COUNT III

IDOR's Calculation of Diaz's Purported Tax Liability was Incorrect and not According to its Best Judgment and Information

23. Diaz restates and incorporates by reference paragraphs 1 through 22 of this Petition.

24. Diaz has been personally assessed the Liability because she was a shareholder of Diamora.

25. As previously noted, Section 4 of the ROTA requires that IDOR "...shall examine such return and shall, if necessary, correct such return according to its best judgment and information." 35 ILCS 120/4.

26. The auditor determined Diamora's marked-up alcohol receipts by applying a multiplier of 5.2 to its alcohol purchases. The auditor did not make a distinction between various types of alcohol, such as beer and liquor.

27. Diamora's actual marked-up alcohol receipts were based on a multiplier of 3.4, which generated actual alcohol receipts that were substantially lower than the amounts attributed to it by the auditor.

28. A reasonable review of Diamora's invoices, which confirmed its wholesale cost, relative to its actual sales, based on the prices reflected on its menu and confirmed on its point-of-sale receipts should have sufficiently informed the auditor that the proper multiplier was 3.4 rather than the 5.2 that she applied.

29. IDOR's auditor's calculated receipts and corrected return were not produced with a minimum standard of reasonableness because the auditor did not use her best judgment based on the information provided by Diamora.

WHEREFORE, Diaz prays that the Tax Tribunal find and determine that the tax assessment, including penalty and interest, was incorrect and must therefore be withdrawn and or cancelled.

COUNT IV

Diaz had no Intent to Defraud the Department

30. Diaz restates and incorporates by reference paragraphs 1 through 29 of this Petition.

31. The Illinois Uniform Penalty and Interest Act (the “UPIA”) provides that:

if any return or amended return is filed with the intent to defraud, in addition to any penalty imposed under Section 3-3 of this Act, a penalty shall be imposed in an amount equal to 50% of any resulting deficiency.

35 ILCS 735/3-6(a).

32. On information and belief, IDOR’s auditor assessed a fraud penalty on Diamora based on the fact that IDOR’s auditor’s method of calculating gross receipts resulted in a purported tax liability that far exceed the actual gross receipts generated by Diamora.

33. At no time, and in no way, did Diamora intend to defraud the State of Illinois.

WHEREFORE, Diaz prays that the Tax Tribunal find and determine that the fraud penalty assessed against Diamora is not consistent with Section 3-6 of the UPIA and must therefore be withdrawn.

COUNT V

IDOR’s Calculation of Morales’s Purported Tax Liability was Incorrect and not According to its Best Judgment and Information

34. Morales restates and incorporates by reference paragraphs 1 through 33 of this Petition.

35. Morales has been personally assessed the Liability because she was a shareholder of Diamora.

36. As previously noted, Section 4 of the ROTA requires that IDOR "...shall examine such return and shall, if necessary, correct such return according to its best judgment and information." 35 ILCS 120/4.

37. The auditor determined Diamora's marked-up alcohol receipts by applying a multiplier of 5.2 to its alcohol purchases. The auditor did not make a distinction between various types of alcohol, such as beer and liquor.

38. Diamora's actual marked-up alcohol receipts were based on a multiplier of 3.4, which generated actual alcohol receipts that were substantially lower than the amounts attributed to it by the auditor.

39. A reasonable review of Diamora's invoices, which confirmed its wholesale cost, relative to its actual sales, based on the prices reflected on its menu and confirmed on its point-of-sale receipts should have sufficiently informed the auditor that the proper multiplier was 3.4 rather than the 5.2 that she applied.

39. IDOR's auditor's calculated receipts and corrected return were not produced with a minimum standard of reasonableness because the auditor did not use her best judgment based on the information provided by Diamora.

WHEREFORE, Morales prays that the Tax Tribunal find and determine that the tax assessment, including penalty and interest, was incorrect and must therefore be withdrawn and or cancelled.

COUNT VI

Morales had no Intent to Defraud the Department

40. Morales restates and incorporates by reference paragraphs 1 through 39 of this Petition.

41. The Illinois Uniform Penalty and Interest Act (the "UPIA") provides that:

if any return or amended return is filed with the intent to defraud, in addition to any penalty imposed under Section 3-3 of this Act, a penalty shall be imposed in an amount equal to 50% of any resulting deficiency.

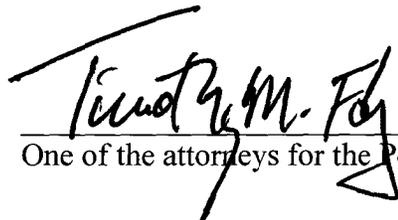
35 ILCS 735/3-6(a).

42. On information and belief, IDOR's auditor assessed a fraud penalty on Diamora based on the fact that IDOR's auditor's method of calculating gross receipts resulted in a purported tax liability that far exceed the actual gross receipts generated by Diamora.

43. At no time, and in no way, did Diamora intend to defraud the State of Illinois.

WHEREFORE, Morales prays that the Tax Tribunal find and determine that the fraud penalty assessed against Diamora is not consistent with Section 3-6 of the UPIA and must therefore be withdrawn.

Respectfully submitted,



One of the attorneys for the Petitioners.

FORNARO LAW
1022 South LaGrange Road
LaGrange, Illinois 60525
708.639.4320 - Telephone
708.390.0665 – Facsimile
Attorney Number 40511

Exhibit A

Exhibit A



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

October 21, 2014

Timothy F. Foley, EA
Tax Relief Inc.
1107 S. Mannheim Road, Suite 310
Westchester, IL 60154

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**
Diamora Inc.
Account ID: 3316-5785
Notice of Tax Liability (NTL)
Letter ID: CNXXXX3279616968, dated March 4, 2013

Dear Mr. Foley:

The Office of Administrative Hearings of the Illinois Department of Revenue received your request for a late discretionary hearing for Diamora Inc. regarding the above NTL. 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 NTL.

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

TDC:vs

Notice of Tax Liability

for Form EDA-105-R, ROT Audit Report



#BWNKMGV
#CNXX XX32 7961 6968#
DIAMORA INC
ATTN: ELIZABETH TELLER/AILEEN CRUZ/LUIS
HERNANDEZ
305 W DOWNER PL
AURORA IL 60506-5140

March 4, 2013



Letter ID: CNXXXX3279616968

Account ID: 3316-5785

We have audited your account for the reporting periods July 01, 2009, through December 31, 2011. As a result we have assessed the amounts shown below.

	<u>Liability</u>	<u>Payments/Credit</u>	<u>Unpaid Balance</u>
Tax	26,176.00	0.00	26,176.00
Late Payment Penalty Increase	5,235.00	0.00	5,235.00
Fraud Penalty	13,088.00	0.00	13,088.00
Late Filing Penalty Increase	73.00	0.00	73.00
Interest	1,421.27	0.00	1,421.27
Assessment Total	\$45,993.27	\$0.00	\$45,993.27

If you do not agree, you may file a protest and request an administrative hearing within 60 days of the date of this notice, which is **May 03, 2013**. 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.

If you have questions, please write us or call our Springfield office weekdays between 8:00 a.m. and 4:00 p.m. Our address and telephone number are listed below.

BUREAU OF AUDITS
TECHNICAL REVIEW SECTION
ILLINOIS DEPARTMENT OF REVENUE
PO BOX 19012
SPRINGFIELD IL 62794-9012

217 785-6579

Exhibit B

Exhibit B



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

October 21, 2014

Timothy F. Foley, EA
Tax Relief Inc.
1107 S. Mannheim Road Suite 310
Westchester, IL 60154

Re: **PROTEST DISMISSAL DUE TO LACK OF JURISDICTION**
Salvadore Morales
Account ID: 3316-5785 (Diamora Inc.)
Notice of Penalty Liability ID: 1880759
Letter ID: L2095780576, dated May 6, 2014
Notice of Penalty Liability (1002D) ID: 341077
Letter ID: L1750794976, dated May 6, 2014

Dear Mr. Foley:

The Office of Administrative Hearings of the Illinois Department of Revenue received your protest and request for an administrative hearing for the above Collection Actions. The mailing date of your protest and request for hearing indicate that the protest was sent within the 60-day protest period for requesting an administrative hearing stated on the above Collection Actions. However, the amount of liability at issue for the 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 protests filed on or after January 1, 2014. For protests that exceed the statutory amount and are filed on or after January 1, 2014, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.* **Because the Department does not have jurisdiction over this protest, the Department is respectfully dismissing your protest and request for administrative hearing.**

Because of these recent changes in Illinois law, the Department and the Tax Tribunal recognize that there may be instances, such as this, when a protest and request for an administrative hearing may be filed in the wrong jurisdiction. The Tax Tribunal's website (www.illinois.gov/taxtribunal) contains rules that include guidance on filing in the wrong jurisdiction and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that**

a timely protest that is dismissed by the Department for lack of jurisdiction may be filed with the Tax Tribunal within 60 days of the notice of such dismissal. See Subsection (a)(3) 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.

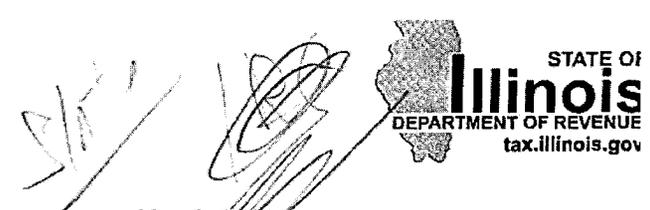
Sincerely,

A handwritten signature in black ink, appearing to read "Terry Charlton", written in a cursive style.

Terry D. Charlton
Chief Administrative Law Judge

TDC:vs

Collection Action
Assessment and Notice of Intent



SALVADOR MORALES
2840 MC DUFFEE CIR
NORTH AURORA IL 60542-2031

May 6, 2014



Letter ID: L2095780576

Taxpayer ID: XXX-XX-1193
NPL Penalty ID: 1880759



DIAMORA INC
210 E GALENA BLVD
AURORA, IL 60505-3416

**We have determined you are personally liable
for a penalty of \$48,038.86.**

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

This 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 \$48,038.86. 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 **July 5, 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.

BETH WINTER
100% PENALTY UNIT
ILLINOIS DEPARTMENT OF REVENUE
BOX 19035
SPRINGFIELD IL 62794-9035

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



217 782-9904 ext. 31606
217 785-2635 fax
IDOR-5P-NPL (R-11/13)

Collection Action
Assessment and Notice of Intent



May 6, 2014



Letter ID: L2095780576

SALVADOR MORALES
 2840 MC DUFFEE CIR
 NORTH AURORA IL 60542-2031

Taxpayer ID: XXX-XX-1193
 NPL Penalty ID: 1880759



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: 3316-5785

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2011	26,176.00	18,496.00	2,341.25	-	(285.00)	46,728.25
31-Oct-2012	646.00	94.60	8.64	-	-	749.24
31-Dec-2012	404.00	70.40	3.99	-	-	478.39
28-Feb-2013	475.00	40.14	0.14	-	(467.00)	48.28
31-Mar-2013	347.00	34.70	-	-	(347.00)	34.70

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: L2095780576
 SALVADOR MORALES

Total amount due: \$48,038.86

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 011144032964 731 123199 7 0000004803886

Exhibit C

Exhibit C



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

October 21, 2014

Timothy F. Foley, EA
Tax Relief Inc.
1107 S. Mannheim Road Suite 310
Westchester, IL 60154

Re: **PROTEST DISMISSAL DUE TO LACK OF JURISDICTION**

Sandra Diaz
Account ID: 3316-5785 (Diamora Inc.)
Notice of Penalty Liability ID: 341078
Letter ID: L0048960224, dated May 6, 2014
Notice of Penalty Liability (1002D) ID: 341079
Letter ID: L0408617696, dated May 6, 2014

Dear Mr. Foley:

The Office of Administrative Hearings of the Illinois Department of Revenue received your protest and request for an administrative hearing for the above Collection Actions. The mailing date of your protest and request for hearing indicate that the protest was sent within the 60-day protest period for requesting an administrative hearing stated on the above Collection Actions. However, the amount of liability at issue for the 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 protests filed on or after January 1, 2014. For protests that exceed the statutory amount and are filed on or after January 1, 2014, jurisdiction is vested solely in the Illinois Independent Tax Tribunal (Tax Tribunal). See 35 ILCS 1010/1-1 *et seq.* **Because the Department does not have jurisdiction over this protest, the Department is respectfully dismissing your protest and request for administrative hearing.**

Because of these recent changes in Illinois law, the Department and the Tax Tribunal recognize that there may be instances, such as this, when a protest and request for an administrative hearing may be filed in the wrong jurisdiction. The Tax Tribunal's website (www.illinois.gov/taxtribunal) contains rules that include guidance on filing in the wrong jurisdiction and contact information for the Tax Tribunal. **The Tax Tribunal's rules provide that**

a timely protest that is dismissed by the Department for lack of jurisdiction may be filed with the Tax Tribunal within 60 days of the notice of such dismissal. See Subsection (a)(3) 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,



Terry D. Charlton
Chief Administrative Law Judge

TDC:vs

Assessment and Notice of Intent



May 6, 2014



Letter ID: L0048960224

SANDRA C. DIAZ
601 CARNATION DR
OSWEGO IL 60543-8253

Taxpayer ID: XXX-XX-5865
NPL Penalty ID: 341078



DIAMORA INC
210 E GALENA BLVD
AURORA, IL 60505-3416

**We have determined you are personally liable
for a penalty of \$48,038.86.**

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

Illinois law (35 ILCS 735/3-7) provides that any person who has control, supervision, or responsibility of filing returns or making payments for 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 \$48,038.86. 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 July 5, 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.

BETH WINTER
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. 31606
217 785-2635 fax
IDOR-SP-NPL (7-11/13)

To avoid this collection action

Pay

Your payment must be guaranteed (*i.e.* cashier's check, money order) and made payable to the Illinois Department of Revenue.

If you believe you are not personally responsible, send us proof

Send us written proof, documents, or testimony for review. You may provide one or all of the following:

- copies of notarized resignation papers.
- corporate minutes where your resignation was accepted.
- copy of signed agreement to transfer stocks and bonds to another party.
- a notarized affidavit from someone whom we recognize as knowledgeable of the business' operation stating that you were not responsible for filing returns and paying taxes.
- the name of the person who was responsible for filing returns and paying taxes.

Federal Bankruptcy Court

If you are currently under the protection of the Federal Bankruptcy Court, contact us and provide the bankruptcy number and the bankruptcy court. The bankruptcy "automatic stay" does not relieve your obligations to file tax returns.

Correct our records

If our records are not correct, send us proof of your prior payment, a copy of the return you filed, or other documentations so that we can correct our records.

Collection action information

Applicable Illinois law

This law (35 ILCS 735/3-7 of the Retailers' Occupation Tax) 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. The penalty is equal to the amount of tax due including penalty and interest.

More information is on our website at tax.illinois.gov.

What other collection actions may we take?

Additional collection action includes, but is not limited to:

- levy of wages and bank accounts.
- withholding of your state payments, tax refunds, lottery winnings, contractual service vouchers, *etc.*
- seizure and sale of your assets.
- referral to a collection agency.
- civil judgments.
- referral for non-renewal or revocation of your
 - Professional license,
 - Certificate of Registration,
 - Liquor license,
 - Corporate Charter with the Secretary of State, or
 - Lottery license.
- prosecution for bad checks and deceptive practice.
- filing a tax lien against your property (the filing of a lien may damage your credit rating for up to seven years, even after the lien is released). If we file a lien against your property, you are responsible for paying the lien filing and release fees and charges.

**IN THE
ILLINOIS INDEPENDENT TAX TRIBUNAL**

DIAMORA INC., SALVADORE MORALES)

and SANDRA C. DIAZ)

Petitioner,)

v.)

ILLINOIS DEPARTMENT OF REVENUE)

Respondent.)

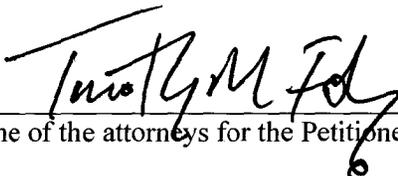
Case No.: _____

NOTICE OF FILING OF PETITION

TO: Mr. Brain A. Hamer
Director of the Illinois Department of Revenue
100 West Randolph Street, Suite 7-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that on December 19, 2014, Diamora Inc., Salvadore Morales, and Sandra Diaz, through their counsel Fornaro Law, filed with the Clerk of the Illinois Independent Tax Tribunal, Cook County, Illinois, their Petition, a copy of which is attached hereto and herewith served upon you.

Dated: December 19, 2014

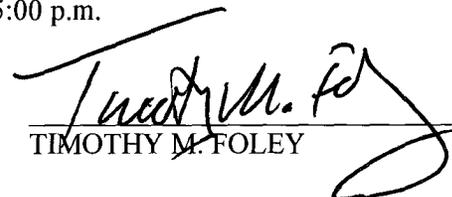


One of the attorneys for the Petitioners

FORNARO LAW
1022 South LaGrange Road
LaGrange, Illinois 60525
708.639.4320 - Telephone
708.390.0665 – Facsimile
Attorney No. 40511

CERTIFICATE OF SERVICE

I, Timothy M. Foley, an attorney, on oath state that on December 19, 2014, I served a copy of the foregoing Petition of the Taxpayer to the entity listed above, via first class mail by placing the same in the U.S. Postal Service located in LaGrange, Illinois on or before 5:00 p.m.



TIMOTHY M. FOLEY