ILLINOIS INDEPENDENT
TAX TRIBUNAL

BOBBY BURLESON,	)	
Petitioner	)	
	)	
V	)	**No. 14 TT 41**
ILLINOIS DEPARTMENT	)	**Judge Brian Barov**
OF REVENUE,	)	
Respondent	)	
	)	

ANSWER

Now comes the Department of Revenue of the State of Illinois ("the Department") by and through its attorney, Lisa Madigan, Attorney General of the State of Illinois, and for its Answer to Taxpayer's Petition states as follows:

1. The Petitioner, BOBBY BURLESON, maintains an office at 950 W. Armitage Avenue, in the City of Chicago, County of Cook, and State of Illinois, and his telephone number is (773) 348-0010.

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

2. The Petitioner's attorney, Charles J. Hartnett III of the law firm of HARTNETT FISCH, has his office at 22 W. Chicago Avenue, Suite 202, Naperville, Illinois 60540, and his telephone number is (312) 416-9981, and his email address is jhartnett@hartnettfisch.com.

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

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

   ANSWER: The allegations in Paragraph 3 of the Petition do not constitute material allegations of fact that can be reasonably responded to and are therefore denied.

4. On January 16, 2014, the Illinois Department of Revenue sent to the Petitioner a letter entitled, "Collection Action – Assessment and Notice of Intent", Letter ID L1058515808. The letter states that the Department "determined" the Petitioner "personally liable for a penalty of $59,964.49. However, the Notice contained a list of taxes, penalties, and interest that only amounted to $6,426.39. The Notice further indicated that the Department had determined that the Petitioner was liable for a penalty equal to the amount unpaid by LALOS 500 LLC, because of his "...status as a responsible officer, partner, or individual of LALOS 500 LLC". Attached to this Petition and marked as Petitioner's Exhibit "A" is a copy of the Department's letter.

   ANSWER: The Department admits that on January 16, 2014 it sent a statutory notice to the petitioner, titled "Collection Action – Assessment and Notice of Intent", but denies that the document attached as Exhibit "A" to the petition is a complete copy of said statutory notice. The Department further states that the document speaks for itself and denies any and all other allegations in paragraph 4 of the petition.

5. According to the Notice received from the Illinois Department of Revenue, the years and periods involved are from and including April 30, 2011 through June 30, 2012. See Petitioner's Exhibit "A".

ANSWER: The Department states that the Notice speaks for itself and therefore denies the allegations in paragraph 5 of the petition.

6. During this alleged period, another individual was responsible for the control, supervision and operation of the business, Lalo's 500, LLC, namely Joseph Vartanian.

   ANSWER: The Department responds to the allegations in paragraph 6 of the petition by stating that they are vague, and consist not of material allegations of fact, but of factual and/or legal conclusions and are therefore denied.

7. The Petitioner did not have "control, supervision, or responsibility of filing returns or making payments" as defined under Illinois law 35 ILCS 735/3-7; the Petitioner did not have access to the records, books, or finances of the business; and the Petitioner did not receive benefit from Lalo's 500, LLC, during the periods as indicated in the Department Notice.

   ANSWER: The statement that "The Petitioner did not have "control, supervision, or responsibility of filing returns or making payments" as defined under Illinois law 35 ILCS 735/3-7" is not a material allegation of fact, but a legal conclusion and is denied. The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 7 of the petition that the Petitioner did not have access to the records, books, or finances of the business; and that the Petitioner did not receive benefit from Lalo's 500, LLC, during the periods as indicated in the Department Notice.

8. The Petitioner did not have knowledge of any outstanding obligation or liability of Lalo's 500 LLC to the Department during the periods as indicated in the Department's Notice.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 8 of the petition.

9. Further, Petitioner transferred his entire interest in the business to Joseph Vartanian and was assured by Joseph Vartanian that all debts and obligations including those liabilities that were due to the Illinois Department of Revenue were the responsibility of Joseph Vartanian.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 9 of the petition.

10. As a result, the Petitioner has retained counsel to file a separate action against Joseph Vartanian in the Circuit Court of Cook County addressing these obligations and other liabilities created or resulting from Joseph Vartanian's management operation of Lalo's 500, LLC, during 2011 and 2012, including the period of time identified in the Department's Notice.

ANSWER: The Department lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 10 of the petition.

WHEREFORE, the Department prays that the Tribunal enter an order:

a. denying the prayer for relief in the Petitioner's Petition in its entirety;

b. finding that the Notice of Penalty Liability at issue is correct as issued;

c. ordering judgment in favor of the Department and against the Petitioner; and

granting such further relief as this Tribunal deems appropriate under the circumstances.

Respectfully Submitted,

LISA MADIGAN
Attorney General
State of Illinois

By: _____

George Foster
Special Assistant Attorney General

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ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLLINOIS

BOBBY BURLESON	)	
	)	
v.	)	14-TT-41
	)	
STATE OF ILLINOIS	)	
DEPARTMENT OF REVENUE	)	

AFFIDAVIT OF DEBRA PAONI
PURSUANT TO TRIBUNAL RULE 5000.310(b)(3)

1. I am currently employed by the Illinois Department of Revenue in the Collection Bureau's 100% Penalty Unit.
2. My current title is RTS III.
3. I lack the personal knowledge required to either admit or deny the allegations alleged and neither admitted or denied in Petitioner's Petition paragraphs 7, 8, 9, and 10.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies that he (she) verily believes the same to be true.

Debra Paoni

Debra Paoni
RTS III
Illinois Department of Revenue

DATED: 4/11/14

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies that he (she) verily believes the same to be true.

CERTIFICATE OF SERVICE

I, George Foster, an attorney, do hereby certify that on April 15, 2014 a copy of the Department's ANSWER was served on Charles J. Hartnett III, Hartnett Fisch, Attorneys at Law, by causing a copy to be sent by electronic mail to jhartnett@hartnettfisch.com