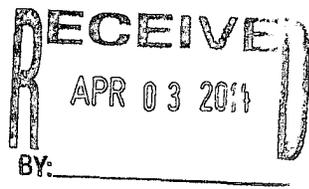


**IN THE ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

JAYESH PATEL,)
)
) Petitioner,)
)
) v.)
)
) BRAIN HAMER, in his official capacity as)
) DIRECTOR OF THE ILLINOIS DEPARTEMENT)
) OF REVENUE, and the ILLINOIS)
) DEPARTMENT OF REVENUE,)
)
) Defendants.)

No.



147751

PETITION

Petitioner, Jayesh Patel (“Petitioner”), by and through his attorneys, Romanoff & Dickett, Ltd, complains of the Defendants, the Illinois Department of Revenue (“Department”) and Brian Hamer, Director of the Department (“Director Hamer”), and alleges as follows:

PARTIES

1. Petitioner is an individual who lives at 48 Buttonwood Drive, East Brunswick, New Jersey, 08816, and can be reached at 732-213-6718.
2. Petitioner is represented by Romanoff & Dickett, Ltd. attorney James E. Dickett, located at 600 Hillgrove Avenue, Suite 1, Western Springs, Illinois, 60558 and can be reached at 708-784-3200 or jdickett@aol.com.
3. Petitioner’s Taxpayer ID is [REDACTED]
4. The Department is an agency of the Executive Department of the State Government and is tasked with the enforcement and administration of Illinois tax laws. 20 ILCS 5/5-15.

5. Director Hamer is the current Director of the Department.

6. Director Hamer is lawfully appointed by the Governor of the State of Illinois to execute the powers and discharge the duties vested by law in the Director. 20 ILCS 5/5-20.

NOTICE

7. On February 3, 2014, Petitioner received a Collection Action Assessment and Notice of Intent for a personal liability penalty (a.k.a. NPL) (“Notice”) in the amount of \$57,812.60, which covers the tax periods ending June 30, 2012, July 31, 2012, August 31, 2012, and September 30, 2012, and which is comprised of \$50,459.12 in tax due, \$6,926.09 in penalties, and \$427.39 in interest. Of the \$50,459.12 in tax due in the Notice, exactly \$50,000 is from the tax periods ending September 30, 2012. The Notice is attached hereto as Exhibit A.

JURISDICTION

8. Petitioner brings this action pursuant to the Illinois Independent Tax Tribunal Act (“Tribunal Act”), 35 ILCS 1010/1-1 to 35 ILCS 1010/1-100.

9. This Tribunal has jurisdiction over this matter pursuant to Section 1-45 and 1-50 of the Tribunal Act because Petitioner timely filed this Petition within 60 days of the Notice.

BACKGROUND

10. Petitioner is a corporate officer of Butterfield Petroleum LLC.

11. Petitioner is 60 years old and was not involved in the filing, preparation, and payment of Illinois sales tax for Butterfield Petroleum LLC during the tax periods at issue.

12. The tax amount on the Notice for the tax period ending September 30, 2012 is exactly \$50,000 because the tax amount was estimated by the Department.

13. Butterfield Petroleum LLC did not operate the business in September 2012 because a bank-appointed foreclosure receiver took over the operation of the business.

COUNT I

Petitioner is not a responsible officer who failed to pay the sales tax penalties and interest of Butterfield Petroleum LLC.

14. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 13, inclusive, hereinabove.

15. A corporate officer who does not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments is not personally liable for the corporation's unpaid sales tax penalties and interest. 35 ILCS 35 ILCS 735/3-7.

16. Petitioner is a corporate officer of Butterfield Petroleum LLC who lives outside of Illinois and who does not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments and therefore is not personally liable for Butterfield Petroleum LLC's unpaid sales tax, penalties, and interest.

17. Contrary to the Department's determination, Petitioner is not a responsible officer who failed to pay the sales tax, penalties, and interest of Butterfield Petroleum LLC.

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

- (a) finds and declares that Petitioner is not personally liable for the unpaid sales tax, penalties, and interest of Butterfield Petroleum LLC because Petitioner does not have control, supervision, or responsibility for filing sales tax returns or making sales tax payments;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice;
- (c) enters judgment in favor of Petitioner and cancels the Notice; and
- (d) grants such further relief as the Tribunal deems appropriate.

COUNT II

Petitioner did not willfully fail to pay the sales tax penalties and interest of Butterfield Petroleum LLC.

18. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 17, inclusive, hereinabove.

19. A corporate officer who does not willfully fail to pay the corporation's sales tax is not personally liable for the corporation's unpaid sales tax penalties and interest. 35 ILCS 35 ILCS 735/3-7.

20. Petitioner is a corporate officer of Butterfield Petroleum LLC who did not willfully fail to pay the sales tax, penalties, and interest and therefore is not personally liable for such amounts.

21. Contrary to the Department's determination, Petitioner is not a responsible officer who willfully failed to pay the sales tax penalties and interest of Butterfield Petroleum LLC.

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

- (a) finds and declares that Petitioner is not personally liable for the unpaid sales tax penalties and interest of Butterfield Petroleum LLC because Petitioner did not willfully fail to pay such amounts;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice;
- (c) enters judgment in favor of Petitioner and against the Defendants and cancels the Notice; and
- (d) grants such further relief as the Tribunal deems appropriate.

COUNT III

The Department's estimated liability for the tax periods ending September 30, 2012 is erroneous

22. Petitioner realleges and incorporates by reference the allegation made in paragraphs 1 through 21, inclusive, hereinabove.

23. The Notice includes an estimated liability for the tax periods ending September 30, 2012, which is erroneous because Butterfield Petroleum LLC did not operate the business during that month.

24. Contrary to the Department's determination, Petitioner is not a responsible officer who willfully failed to pay the estimated sales tax, penalties, and interest of Butterfield Petroleum LLC for the tax periods ending September 30, 2012.

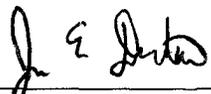
WHEREFORE, Petitioner prays that the Tribunal enter an order that:

- (a) finds and declares that Petitioner is not personally liable for the estimated sales tax, penalties, and interest of Butterfield Petroleum LLC for the tax periods ending September 30, 2012;
- (b) enjoins the Department from taking any action to assess, lien, levy, offset, or any other way prosecute and collect the amount due on the Notice;
- (c) enters judgment in favor of Petitioner and against the Defendants and cancels the Notice; and
- (d) grants such further relief as the Tribunal deems appropriate.

Thank you for considering this Petition.

Respectfully submitted,

Jayesh Patel,
Petitioner

By: 

One of Petitioner's Attorneys

Date: 4/1/14

James E. Dickett
Romanoff & Dickett, Ltd.
600 Hillgrove Avenue, Suite 1
Western Springs, IL 60558
708-784-3200 (fax 3201)



Illinois Department of Revenue IL-2848 Power of Attorney

Read this information first

Attach a copy of this form to each specific tax return or item of correspondence for which you are requesting power of attorney. Do not send this form separately.

Step 1: Complete the following taxpayer information

1 <u>JAYESH PATEL</u> Taxpayer's name	3 <u>48 BUTTONWOOD DRIVE</u> Taxpayer's street address
2 <u>3931-4154</u> Taxpayer's identification number(s)	<u>E. BRUNSWICK</u> <u>NJ</u> <u>08816</u> City State ZIP

Step 2: Complete the following information

4 The taxpayer named above appoints the following to represent him before the Illinois Department of Revenue.

<u>GUST DICKETT/JAMES DICKETT</u> Name	Name	Name
<u>ROMANOFF & DICKETT, LTD.</u> Name of firm	Name of firm	Name of firm
<u>600 HILLGROVE AVE, SUITE 1</u> Street address	Street address	Street address
<u>WESTERNSPRING IL 60558</u> City State ZIP	City State ZIP	City State ZIP
<u>(708) 784-3200</u> Daytime phone number	()	()
<u>JDICKETT@AOL.COM</u> E-mail address	E-mail address	E-mail address
<u>ALL</u> <u>ALL</u> Specific tax type Year or period	Specific tax type Year or period	Specific tax type Year or period

5 The attorneys-in-fact named above shall have, subject to revocation, full power and authority to perform any act that the principals can and may perform, including the authority to receive confidential information.

The attorneys-in-fact named above do not have the power to -- Check only the items below you do not wish to grant.

- endorse or collect checks in payment of refunds.
- receive checks in payment of any refund of Illinois taxes, penalties, or interest.
- execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.
- execute consents extending the statutory period for assessments or collection of taxes.
- delegate authority or substitute another representative.
- file a protest to a proposed assessment.
- execute offers in compromise or settlement of tax liability.
- represent the taxpayer before the department in all proceedings including hearings (requiring representation by an attorney) pertaining to matters specified above.
- obtain a private letter ruling on behalf of the taxpayer.
- perform other acts (explain) _____

6 This power of attorney revokes all prior powers of attorney on file with the department with respect to the same matters and years or periods covered by this form, except for the following:

Name	Name	Name
Street address	Street address	Street address
City State ZIP	City State ZIP	City State ZIP
()	()	()
Daytime phone number	Daytime phone number	Daytime phone number
Date granted	Date granted	Date granted



Continued on Page 2

7 Copies of notices and other written communications addressed to the taxpayer in proceedings involving the matters listed on the front of this form should be sent to the following:

JAMES DICKETT

Name JAMES DICKETT	Name	Name
Street address 600 HILLGROVE, SUITE 1	Street address	Street address
City State ZIP WESTERNSPRING IL 60558	City State ZIP	City State ZIP
Daytime phone number (708) 784-3200	Daytime phone number	Daytime phone number

Step 3: Taxpayer's signature

If signing as a corporate officer, partner, fiduciary, or individual on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

<input checked="" type="checkbox"/> <i>James Dickett</i> Taxpayer's signature	ACCOUNTANT Title, if applicable	4/28/11 Date
Spouse's signature	Title, if applicable	Date
If corporation or partnership, signature of officer or partner	Title, if applicable	Date

Step 4: Complete the following if the power of attorney is granted to an attorney, a certified public accountant, or an enrolled agent

- I declare that I am not currently under suspension or disbarment and that I am
- a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
 - duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
 - enrolled as an agent pursuant to the requirements of United States Treasury Department Circular Number 230.

ATTORNEY Designation (attorney, C.P.A., enrolled agent)	ILLINOIS Jurisdiction (state(s), etc.)	<i>Garret Pickett</i> Signature	5-2-11 Date
ATTORNEY Designation (attorney, C.P.A., enrolled agent)	ILLINOIS Jurisdiction (state(s), etc.)	<i>John E. Pickett</i> Signature	5-2-11 Date
Designation (attorney, C.P.A., enrolled agent)	Jurisdiction (state(s), etc.)	Signature	Date

Step 5: Complete the following if the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent

If the power of attorney is granted to a person other than an attorney, a certified public accountant, or an enrolled agent, this document must be witnessed or notarized below. Please check and complete one of the following.

Any person signing as or for the taxpayer

_____ is known to and this document is signed in the presence of the two disinterested witnesses whose signatures appear here.

Signature of witness	Date
Signature of witness	Date

_____ appeared this day before a notary public and acknowledged this power of attorney as his or her voluntary act and deed.

Signature of notary	Date
---------------------	------

Notary seal



Collection Action

Assessment and Notice of Intent



February 3, 2014



Letter ID: L0480399200

JAYESH PATEL
48 BUTTONWOOD DR
E BRUNSWICK NJ 08816-4402

Taxpayer ID: [REDACTED]
NPL Penalty ID: 2540086



BUTTERFIELD PETROLEUM LLC
1395 BUTTERFIELD RD
AURORA, IL 60502-8715

We have determined you are personally liable for a penalty of \$57,812.60.

The penalty is equal to the amount of unpaid liability of BUTTERFIELD PETROLEUM LLC, due to your status as a responsible officer, partner, or individual of BUTTERFIELD PETROLEUM 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 \$57,812.60. 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 **April 4, 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

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



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

Collection Action

Assessment and Notice of Intent



February 3, 2014



Letter ID: L0480399200

JAYESH PATEL
48 BUTTONWOOD DR
E BRUNSWICK NJ 08816-4402

Taxpayer ID: [REDACTED]
NPL Penalty ID: 2540086



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: 3931-4154

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2012	47,312.00	54.00	-	-	(47,288.40)	77.60
31-Jul-2012	48,776.00	52.00	-	-	(48,751.96)	76.04
31-Aug-2012	51,471.00	470.09	-	-	(51,059.52)	881.57
30-Sep-2012	50,000.00	6,350.00	427.39	-	-	56,777.39

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: L0480399200
JAYESH PATEL

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

Total amount due: \$57,812.60

Write the amount you are paying below.

\$ _____

Write your Taxpayer ID on your check.