

**ILLINOIS INDEPENDENT TAX TRIBUNAL**

EDWIN EDELBERG, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 ILLINOIS DEPARTMENT OF REVENUE, )  
 )  
 Respondent. )

RECEIVED  
 Case No. APR 28 2014  
 BY: \_\_\_\_\_  
 14 77 2071

**PETITION**

The Petitioner, Edwin Edelberg, requests a determination concerning his status as a responsible person pursuant to the Notices of Personal Liability (“NPLs”) that are described below. In support thereof, Petitioner states:

1. The Petitioner, Edwin Edelberg, presently resides at 7089 Palazzo Reale, Boynton Beach, Florida 33437. His phone number is 561/853-8694. His taxpayer identification number is xxx-xx-9193.

2. This matter involves Respondent’s determination that Petitioner was a responsible person pursuant to the NPLs identified below for the periods, taxes and amounts identified below.

<i>NPL Number</i>	<i>Period(s)</i>	<i>Tax</i>	<i>Amount</i>
22201110	March 31, 2009	Sales & Use	\$5,924.77
11326007	June 30, 2008, through November 30, 2008	Sales & Use	\$32,138.58
200924402	February 29, 2008, through April 30, 2008	Hotel Operators	\$10,457.38

200902103	May 31, 2008, through November 30, 2008	Hotel Operators	\$76,958.52
200932002	March 31, 2009	Hotel Operators	\$2,182.65
11292067	March 31, 2009	Illinois Income Tax withholding	\$904.70

Petitioner never received these NPLs but he has received notices of levy concerning them, copies of which are attached as Exhibit A.

3. The determinations of liability set forth in each of the NPLs are erroneous for each of the following reasons:

(a) The NPLs were not issued to Petitioner at his last known address and, therefore, are defective and legal nullities;

(b) The NPLs were issued after the relevant statute of limitations had expired and therefore are untimely, illegal, and legal nullities;

(c) Petitioner was not a responsible person with respect to the Illinois taxes claimed due in the NPLs and, therefore, the assessments made against him with respect to such taxes are improper and illegal;

(d) The Petitioner was unaware that any Illinois taxes were unpaid by the entity to which the proposed assessments relate and, therefore, there is no basis for personal liability being assessed against him for any of these taxes;

(e) Petitioner did not willfully cause any of the Illinois taxes set forth in the NPLs to be unpaid and, therefore, there is no basis for any assessment for personal liability being assessed against him;

(f) Certain of the assessments reflected in the NPLs are not trust fund assessments but, instead, reflect obligations imposed upon the business and, therefore, no personal liability can be assessed Petitioner;

(g) No “trust fund” taxes were ever assessed against the business with respect to which the NPLs relate and, therefore, there is no basis for any assessment or personal liability against Petitioner;

(h) The taxes claimed due in the NPLs are excessive and, therefore, must be abated;  
and

(i) Payments made toward these tax obligations were misapplied by the Respondent and, therefore, no net tax is due.

4. The facts upon which this case is based are as follows:

(a) Petitioner was born on March 13, 1930.

(b) At all times since on or before December 31, 2007, Petitioner has been retired and maintained his principal residence in Florida.

(c) During calendar 2008 and 2009, Petitioner was an investor and member of Eagle Creek Resort, LLC (hereinafter “Eagle Creek” or “the Company”), which operated a resort in Shelbyville, Illinois.

(d) At all relevant times, Petitioner was a passive investor in Eagle Creek, did not sign checks for the Company, did not sign tax returns for the Company, did not hire or fire employees of the Company and did not receive any financial information concerning the Company’s operations (other than the annual information required to file his personal income tax returns).

(e) Eagle Creek suffered financial reversals and was put in bankruptcy in or about March, 2009.

(f) As a result of Eagle Creek’s bankruptcy, Petitioner was also required to file personal bankruptcy in or about August 2009.

(g) Respondent was notified of pendency of Eagle Creek's and Petitioner's bankruptcy proceedings including notice that Petitioner maintained his principal residence in Florida.

(h) Nonetheless, Respondent took no action to assert liabilities against Eagle Creek and/or Petitioner in connection with the bankruptcy proceedings.

(i) To the extent that Eagle Creek actually collected sales, hotel operators and/or income tax from its customers and employees, such amounts were properly reported and turned over to Respondent.

(j) Petitioner had no knowledge and had no reason to know that any taxes due to Respondent were not being timely reported and paid.

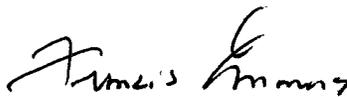
(k) Respondent was not a "responsible person" with respect to the collection and payment of Illinois tax.

5. By letter dated March 25, 2014, a copy of which is attached as Exhibit B, the Respondent granted the Petitioner the right to file a late petition in this case.

WHEREFORE, IT IS PRAYED, that the Notices of Liability upon which this case is based be in all respects disapproved, that any assessments made against the Petitioner with respect to such Notices be abated, and that the court grant such other and further relief as may be warranted.

Dated: April 25, 2014

Respectfully Submitted



Francis J. Emmons, Counsel for Petitioner

Of Counsel:  
Ungaretti & Harris LLP  
70 W. Madison, Suite 3500  
Chicago, Illinois 60602  
Tel. No. 312/977-4644  
Fax: 312/977-4405  
E-Mail: FJEmmons@uhlaw.com

**Collection Action**  
**Notice of Intent**



January 14, 2014



Letter ID: L0440273120

EDWN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 2220110



EAGLE CREEK RESORT LLC  
PO BOX 230  
FINDLAY, IL 62534-0230

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

You must pay us **\$5,924.77** by **February 4, 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.

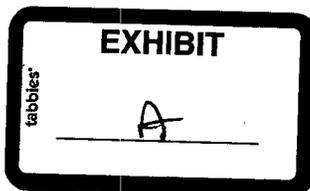
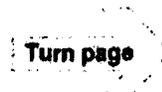
The following pages detail the items that need your immediate attention.

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

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# Collection Action Notice of Intent



January 14, 2014



Letter ID: L0440273120

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 2220110



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: 2797-8583

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Mar-2009	4,400.00	928.00	698.77	0.00	0.00	5,924.77
<b>Total Balance:</b>						<b>5,924.77</b>

**Collection Action**  
**Notice of Intent**



January 14, 2014



Letter ID: L1514014944

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 11326007



EAGLE CREEK RESORT LLC  
PO BOX 230  
FINDLAY, IL 62534-0230

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

You must pay us **\$32,138.58** by **February 4, 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.

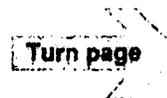
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# Collection Action Notice of Intent



January 14, 2014



Letter ID: L1514014944

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 11328007



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: 2797-8583

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2008	6,079.00	707.90	311.66	0.00	(5,844.80)	1,253.76
31-Jul-2008	8,187.00	918.70	1,386.62	0.00	0.00	10,492.32
31-Aug-2008	8,079.00	907.90	1,331.79	0.00	0.00	10,318.69
30-Sep-2008	4,956.00	694.72	797.91	0.00	0.00	6,448.63
31-Oct-2008	2,657.00	387.70	416.54	0.00	0.00	3,461.24
30-Nov-2008	1,785.00	161.70	2.24	0.00	(1,785.00)	163.94
<b>Total Balance:</b>						<b>32,138.58</b>

**Collection Action**  
**Notice of Intent**



January 14, 2014



Letter ID: L0683527392

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 200924402



EAGLE CREEK RESORT LLC  
PO BOX 230  
FINDLAY, IL 62534-0230

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

You must pay us **\$10,457.36** by **February 4, 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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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

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# Collection Action Notice of Intent



January 14, 2014



Letter ID: L0683527392

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 200924402



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

### Hotel Operators Occupation Tax

Account ID: HM-10943

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
29-Feb-2008	1,923.82	1,243.98	170.51	0.00	(2,057.48)	1,280.83
31-Mar-2008	3,913.82	1,624.49	273.38	0.00	(2,437.00)	3,374.69
30-Apr-2008	8,740.48	1,659.46	533.10	0.00	(5,131.20)	5,801.84
<b>Total Balance:</b>						<b>10,457.36</b>

# Collection Action

## Notice of Intent



January 14, 2014



Letter ID: L1757269216

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 200802103



EAGLE CREEK RESORT LLC  
PO BOX 230  
FINDLAY, IL 62534-0230

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

**You must pay us \$76,958.52 by February 4, 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 19036  
101 W JEFFERSON  
SPRINGFIELD, IL 62794-9035

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# Collection Action Notice of Intent



January 14, 2014



Letter ID: L1757269216

EDWN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 200902103



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

### Hotel Operators Occupation Tax

Account ID: HM-10943

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-May-2008	6,738.43	1,547.68	1,810.50	0.00	0.00	10,096.61
30-Jun-2008	7,906.63	2,597.58	2,057.29	0.00	0.00	12,561.50
31-Jul-2008	13,373.49	2,874.70	3,358.74	0.00	0.00	19,806.93
31-Aug-2008	12,055.31	2,611.06	2,935.19	0.00	0.00	17,801.58
30-Sep-2008	6,418.35	1,483.68	1,508.22	0.00	0.00	9,410.25
31-Oct-2008	2,994.53	798.90	678.28	0.00	0.00	4,471.71
30-Nov-2008	2,122.30	624.46	463.20	0.00	0.00	3,209.96

**Total Balance: 76,958.52**

TRANSMISSION VERIFICATION REPORT

TIME : 01/31/2014 19:07  
NAME :  
FAX :  
TEL :  
SER. # : 000M1N222673

DATE, TIME 01/31 19:06  
FAX NO./NAME 912177824217  
DURATION 00:01:33  
PAGE(S) 04  
RESULT OK  
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Telephone: 202.639.7500  
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Springfield, Illinois 62701  
Telephone: 217.544.7000  
Fax: 217.544.7950

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FAX COVER SHEET

TO: Illinois Department of Revenue

FIRM NAME: \_\_\_\_\_

FILE NO: 9774400-0169

PHONE NUMBER: \_\_\_\_\_

FAX NUMBER: 217/782-4217

FROM: Frank Emmons

DIRECT LINE: 312-977-4644

DATE: \_\_\_\_\_

NUMBER OF PAGES: 4

**Collection Action**  
**Notice of Intent**



January 14, 2014



Letter ID: L1220398304

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 200932002



EAGLE CREEK RESORT LLC  
PO BOX 230  
FINDLAY, IL 62534-0230

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

**You must pay us \$2,182.65 by February 4, 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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DAVID FINLEY  
ILLINOIS DEPARTMENT OF REVENUE  
PO BOX 19035  
101 W JEFFERSON  
SPRINGFIELD, IL 62794-9035

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



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# Collection Action Notice of Intent



January 14, 2014



Letter ID: L1220398304

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
NPL Penalty ID: 200932002



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

### Hotel Operators Occupation Tax

Account ID: HM-10943

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Mar-2009	1,024.74	967.02	189.99	0.00	0.00	2,182.65

\* You did not provide a processable return.

**Total Balance: 2,182.65**

**Collection Action**  
**Notice of Intent**



January 14, 2014



Letter ID: L0977144032

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
1002D Penalty ID: 11292067



EAGLE CREEK RESORT LLC  
PO BOX 230  
FINDLAY, IL 62534-0230

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

You must pay us \$904.70 by February 4, 2014. If you do not, we intend to issue a levy for this amount against your assets without further notice to you.

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

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

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217 785-2635 fax

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**Collection Action**  
**Notice of Intent**



January 14, 2014



Letter ID: L0977144032

EDWIN A. EDELBERG  
7089 PALAZZO REALE  
BOYNTON BEACH FL 33437-3739

Taxpayer ID: XXX-XX-9193  
1002D Penalty ID: 11292087



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: 36-4137102-000**

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Mar-2009	5,170.19	100.84	95.43	0.00	(4,461.76)	904.70
<b>Total Balance:</b>						<b>904.70</b>



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

March 25, 2014

Francis J. Emmons  
Ungaretti & Harris, LLP  
70 W. Madison – Suite 3500  
Chicago, IL 60602

Re: **Late Discretionary Hearing Granted – Tribunal Jurisdiction**

Edwin A. Edelberg  
Taxpayer ID: XXX-XX-9193  
6 Notices of Personal Liability (“NPLs”)

NPL ID: 11292067  
Letter ID: L1566104640, dated October 15, 2009

NPL ID: 11326007  
Letter ID: CNXXXXX516937X880, dated January 21, 2009

NPL ID: 2220110  
Letter ID: L0025254976, dated October 15, 2009

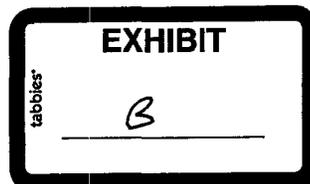
NPL ID: 2009-320-02-N, dated November 18, 2009

NPL ID: 2009-021-03-N, dated January 22, 2009

NPL ID: 2009-244-02-N, dated September 1, 2009

Dear Mr. Emmons:

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



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 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](http://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 encourage you to file as quickly as possible with the Tax Tribunal as collection activity will continue until you perfect your filing with 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  
Illinois Department of Revenue

TDC