

**ILLINOIS INDEPENDENT TAX TRIBUNAL  
CHICAGO, ILLINOIS**

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<b>ECD GREAT STREET LLC,</b>	)	
<b>Petitioner,</b>	)	
v.	)	<b>Case No. 14-TT-8</b>
	)	<b>Chief Judge James M. Conway</b>
<b>ILLINOIS DEPARTMENT</b>	)	
<b>OF REVENUE,</b>	)	
<b>Respondent.</b>	)	

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**ILLINOIS DEPARTMENT OF REVENUE’S RESPONSE TO  
PETITIONER’S FIRST SET OF INTERROGATORIES TO RESPONDENT**

Now comes the State of Illinois, Department of Revenue (“Department”), by and through its attorney, LISA MADIGAN, Illinois Attorney General, and responds to Petitioner’s First Set of Interrogatories to Respondent as follows:

**GENERAL OBJECTIONS**

These General Objections are made in addition to the Specific Objections and no full or partial answer of a Request is intended to waive either these General Objections or any Specific Objection to Request. The Department incorporates the following General Objections into their Responses and Specific Objections below:

- (a) The Department objects to the extent Petitioner’s First Set of Interrogatories seeks disclosure of information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or doctrine.
  
- (b) The Department objects to the extent Petitioner’s First Set of Interrogatories purport to impose obligations beyond those imposed by the Illinois Supreme Court Rules, Rules of the Illinois Independent Tax Tribunal, 86 Ill.Adm.Code § 5000.10, *et. seq.*, or any rules or orders of this Court.

(c) The Department objects to the extent Petitioner's First Set of Interrogatories seek or call for a legal conclusion rather than the admission of a fact.

**ANSWERS TO INTERROGATORIES**

1. Identify the Person(s) responding to and in any way contributing to each answer to Petitioner's First Set of Interrogatories and Petitioner's First Request for Production of Documents. For each person, indicate the specific interrogatory and/or request for production to which that person contributed or responded and how that person contributed to the response.

**ANSWER:** (a) Danzie Dicker, Revenue Auditor III contributed to all questions; (b) Roger Koss, Sales and Miscellaneous Taxes Division Manager contributed to all questions; (c) Angela Freitag, Revenue Audit Supervisor contributed to all questions; and (d) Michael Coveny, Special Assistant Attorney General contributed to all questions.

2. Indicate whether the Department and the persons identified in the previous interrogatory have made a complete and diligent search of all the documents and information in their possession or control in order to more accurately respond to this discovery.

**OBJECTION:** The Department objects to Interrogatory 2 on the basis that it attempts to impose obligations on the Department beyond or in addition to those required in the Supreme Court Rules. Specifically, Supreme Court Rule 213(d) requires the responding party to provide a sworn answer to the interrogatories while Supreme Court Rule 214 requires the responding party to furnish an affidavit attesting to the completeness of its response to the document request. The Department states that its response to this request complies with the aforementioned Supreme Court Rules.

**ANSWER:** For the reasons stated in the Objections above, the Department declines to answer.

3. Identify every factual basis supporting the Department's Notice of Tax Liability dated May 17, 2013.

**ANSWER:** See the Department's audit file, a copy of which was previously provided to Petitioner's counsel. Specifically, see auditor's narrative for both legal and factual basis for Department's Notice of Tax Liability.

4. Identify every legal basis supporting the Department's Notice of Tax Liability dated May 17, 2013.

**ANSWER:** See the Department's audit file, a copy of which was previously provided to Petitioner's counsel. Specifically, see auditor's narrative for both legal and factual basis for Department's Notice of Tax Liability.

5. Identify any and all documents, facts and information relied on by the Department as support for its Notices of Tax Liability dated May 17, 2013.

**ANSWER:** See the Department's audit file, a copy of which was previously provided to Petitioner's counsel. Specifically, see auditor's narrative for both legal and factual basis for Department's Notice of Tax Liability as well as all documents referred to in the narrative.

6. Identify and all persons who participated or contributed to the Department's determination or decision to issue a Notice of Tax Liability and describe each persons' participation.

**ANSWER:** (a) Danzie Dicker, Revenue Auditor III, Illinois Department of Revenue, Maine North Regional Building, 9511 Harrison Avenue, Des Plaines, IL 60016-1563; (847) 636-7376-Audit; Mr. Dicker was the auditor who replaced Denise Konicki.

(b) Terry Erwin, Revenue Audit Supervisor, Illinois Department of Revenue, Maine North Regional Building, 9511 Harrison Avenue, Des Plaines, IL; (847) 894-7955 – Audit; Ms. Erwin was Mr. Dicker's supervisor at the time of the audit.

(c) Joann Collins, Revenue Audit Supervisor, Illinois Department of Revenue, Audit Supervisor, Illinois Department of Revenue, 101 W. Jefferson, Springfield, IL 62702 (217) 557-8769;

(d) Steve Kreiter, Assistant Division Manager, Sales and Miscellaneous Tax, Illinois Department of Revenue, Maine North Regional Building, 9511 Harrison Avenue, Des Plaines, IL; (847) 294-4167.

7. What procedures did the Department follow when obtaining the waiver of the limitations from Mr. Tim Ditmer?

**ANSWER:** See the Department's audit file, a copy of which was previously provided to Petitioner's counsel. Specifically, see auditor's narrative for reference to the waiver.

8. Did the Department inquire as to whether Mr. Ditmer had the authority to execute a waiver of limitations?

**ANSWER:** Auditor Jemal Everett sent the audit initiation letter to taxpayer. Mr Ditmer was the individual who responded on behalf of the taxpayer to the letter about the audit. All of Mr. Ditmer's email correspondence with the Auditor indicated he was the Director of Finance for the taxpayer. No reason to doubt that he was not authorized to speak for taxpayer.

9. On what basis did the Department conclude that Mr. Ditmer was authorized to execute a waiver of statute of limitations?

**ANSWER:** See Response to Interrogatory No. 8.

10. Identify and explain any and all Authorities, guidelines or policies, whether official or unofficial, published or unpublished, internal or public that the Department has regarding obtaining a waiver of statute of limitations.

**OBJECTION:** The Department objects to Interrogatory No. 10 on the basis that it is unduly burdensome. In addition, the Department's audit manual, which is exempt from public disclosure, contains limited references to statute of limitations waivers. Further, to the extent that documents may be available in the public domain, the Department objects since such documents are readily accessible by the Petitioner. For example a simple word search for "waiver of statute of limitations" on the Department's website returns about 227 hits. While many of the hits are not pertinent, there are some that discuss various aspects and issues concerning a statute of limitations waiver.

**ANSWER:** For the reasons stated in the Objections above, the Department declines to answer.

11. Identify each and every person whom you intend to call or may call as a witness at the hearing in this case. For each person, provide the following:

a. State the name, title, address, and telephone number of each such person;

- b. Whether such person is a “lay witness,” “independent witness,” or “controlled expert witness,” as those terms are defined in Illinois Supreme Court Rule 213(f);
- c. For each witness, identify the subjects on which the witness will testify;
- d. Identify the documents, visual aids, or exhibits that will be offered in connection with the testimony of each witness.
- e. For each independent witness, describe the independent expert witness’ opinions;
- f. For each controlled expert witness identify: (i) the subject matter on which the witness will testify; (ii) the conclusions and opinions of the witness and the bases therefore; (iii) the qualifications of the witness; and (iv) any reports prepared by the witness about the case.

**ANSWER:** Danzie Dicker, Revenue Auditor III, Illinois Department of Revenue, Maine North Regional Building, 9511 Harrison Avenue, Des Plaines, IL 60016-1563; (847) 636-7376-Audit; Mr. Dicker’s anticipated testimony will concern his audit of the Petitioner. Documents introduced would be limited to contents of audit file, which has previously been provided to Petitioner’s counsel. Mr. Dicker will testify as a lay witness.

Jemal Everett, Revenue Auditor III, 100 W Randolph, Chicago, IL 60601. He was originally assigned the case. He is the one that received the waivers signed by Mr Ditmer. His anticipated testimony will concern his audit of the Petitioner. Documents introduced would be limited to contents of audit file, which has previously been provided to Petitioner’s counsel. Mr. Everett will testify as a lay witness.

- 12. Identify and all documents and exhibits that the Department may or will utilize at any hearing in this matter.

**ANSWER:** The Department may introduce any of the documents contained in its audit file, a copy of which was previously provided to Petitioner’s counsel. Copies of any additional documents not contained in the audit file which the Department might introduce at any hearing

would be provided pursuant to the Department's obligation to supplement its responses to discovery under Supreme Court Rule 213(i).

Respectfully submitted,



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Michael Coveny  
Special Assistant Attorney General

Illinois Department of Revenue  
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Dated: November 24, 2014

**CERTIFICATE OF SERVICE**

I, Michael Coveny, an attorney for the Illinois Department of Revenue, state that I served a copy of the attached Department's Response to Taxpayer's First Set of Written Interrogatories upon:

David A. Hughes  
Horwood Marcus & Berk Chartered  
500 West Madison Street  
Suite 3700  
Chicago, IL 60661

By email to [dhughes@hmbllaw.com](mailto:dhughes@hmbllaw.com) on November 25, 2014.



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Michael Coveny

