

**ILLINOIS INDEPENDENT
TAX TRIBUNAL**

MOON GLO, INC.,)	
)	
Petitioner,)	
v.)	No. 14 TT 86
)	Chief Judge James Conway
ILLINOIS DEPARTMENT OF)	
REVENUE,)	
)	
Respondent.)	

DEPARTMENT' S VERIFIED ANSWER TO VERIFIED PETITION

Respondent, the Illinois Department of Revenue (the "Department"), by and through its attorney, Lisa Madigan, Illinois Attorney General, for its Answer to the Petition (the "Petition"), hereby states as follows:

1. Petitioner is Moon Glo, Inc., an Illinois corporation, 3124 Perrysville Road, Danville, Illinois, 61834-58485, telephone number 217/442-9519.

ANSWER: The Department admits the allegations contained in paragraph 1.

2. Petitioner' s identification number is 37-0858429.

ANSWER: The Department admits the allegations contained in paragraph 2.

3. Phillip Adams is the sole owner and shareholder of Moon Glo, Inc., is 62 years of age, was treated for colon cancer, and kidney stone surgery on April 26, 2011, again on August 29, 2011, again on March 13, 2012 and a fourth time on June 6, 2012,

and had a stint inserted on March 7, 2012, during periods of which the operation of the Moon Glo, Inc., was entrusted to employees of Petitioner.

ANSWER: Paragraph 3 is not a material allegation of fact and as such does not require an answer pursuant to Tribunal Rule 86 Ill.Adm.Code § 5000.310(b).

4. A copy of the statutory Notice of Tax Liability dated March 21, 2014, consisting of 6 pages, is attached hereto and marked Exhibit "A."

ANSWER: The Department admits the existence, force and effect, at all relevant times of the documents attached to the Petition as Exhibit A and referred to in paragraph 4 and state that such document speaks for itself.

5. The period involved runs from January 1, 2011 through June 30, 2013.

ANSWER: The Department admits the existence, force and effect, at all relevant times of the documents attached to the Petition as Exhibit A and referred to in paragraph 5 and state that such document speaks for itself.

6. Taxpayer filed sales tax returns for the periods involved and a copy of the same are submitted herewith, marked group Exhibit "B."

ANSWER: The Department admits the existence, force and effect, at all relevant times of the documents attached to the Petition as Exhibit B and referred to in paragraph 6 and state that such documents speak for themselves.

7. Said sales tax returns are true and correct.

ANSWER: Although paragraph 7 is not an allegation of material fact but a legal conclusion, the Department denies the allegation/legal conclusion contained in paragraph 7.

8. Because taxpayer's cost of goods sold was in excess of 60%, which deviated from the Department's expected cost of sales of 40%, Respondent computed Petitioner's purchases for the periods involved and then "reconstructed" Petitioner's sales such that the costs of goods sold would be approximately 40% of the reconstructed sales.

ANSWER: The Department denies the allegations contained in paragraph 8

9. Respondent ignored Petitioner's federal tax returns Form 1120-S for 2009 and 2010, which costs of sales from 53-56%.

ANSWER: Paragraph 9 is not a material allegation of fact since it pertains to years outside the audit period and as such does not require an answer pursuant to Tribunal Rule 86 Ill.Adm.Code § 5000.310(b).

10. Petitioner's cost of sales for 2011 and 2012 approximated 56-64%. Petitioner's 2013 income tax return is not yet completed.

ANSWER: The Department is without knowledge or information sufficient to form a belief as to the allegations contained in paragraph 10 and therefore neither admits or denies the allegations.

11. Petitioner's business is located in a remote area outside the City of Danville in a low traffic area which causes Petitioner's volume to be lower than other similar restaurant/bar operations which in turn causes Petitioner's cost of goods sold to be higher than 40%.

ANSWER: The Department admits that the location of Petitioner's restaurant is 3124 Perrysville Road, Danville, Illinois, but denies the remaining allegations contained in paragraph 11.

12. Petitioner did not have unreported sales in excess of \$300,000 for the subject periods and Petitioner did not spend or deposit such substantial sums as they did not exist. Further, Petitioner does not have funds available to pay the amount o claimed to be due by the Illinois Department of Revenue.

ANSWER: The Department denies the material factual allegations in the first sentence of Paragraph 12, concerning the amount of its unreported sales and whether such amounts were spent or deposited. The remaining allegation in the second sentence of Paragraph 12, regarding Petitioner's financial condition, is not a material allegation of fact and as such does not require an answer pursuant to Tribunal Rule 86 Ill.Adm.Code § 5000.310(b).

WHEREFORE, the Department prays:

- A) That Judgment be entered against the Petitioner and in favor of the Department in this matter;
- B) That the Department's Notices of Tax Liability be determined to be correct.
- C) That this Tribunal grant such other additional relief it deems just and proper

Respectfully Submitted,

LISA MADIGAN
Illinois Attorney General

LISA MADIGAN
ILLINOIS ATTORNEY GENERAL
REVENUE LITIGATION BUREAU
100 W. RANDOLPH ST., RM. 13-216
CHICAGO, IL 60601
By: Michael Coveny (312) 814-6697

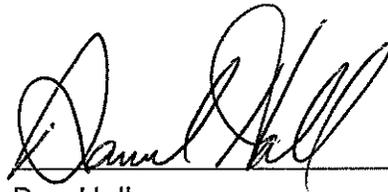


By _____
Michael Coveny,
Assistant Attorney General

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMAN)

VERIFICATION

DAN HALL, being first duly sworn, deposes and says that he is an employee and duly authorized agent of the Illinois Department of Revenue, that he has read the foregoing Department' s Verified Answer to Taxpayer' s Petition to the Illinois Independent Tax Tribunal, that he is well acquainted with its contents, and under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Illinois Code of Civil Procedure, he certifies that the statements set forth in that instrument are true and correct.



Dan Hall
Manager, Audit Bureau
Illinois Department of Revenue

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

AFFIDAVIT AS TO LACK OF SUFFICIENT KNOWLEDGE

I, THOMAS CLARK, being first duly sworn, deposes and says that I am an employee of the Illinois Department of Revenue, that I have read the foregoing Department's Answer to Petitioner's Petition to the Illinois Independent Tax Tribunal, that I am well acquainted with its contents, and under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Illinois Code of Civil Procedure, I certify that I lack the required personal knowledge to either admit or deny paragraph 10, pursuant to 735 ILCS 5/2-610(b) and Tribunal Rule 5000.310(b)(3). I hereby certify that the statements set forth in this affidavit are true and correct to the best of my knowledge, information and belief.

 06/19/2014
Thomas Clark
Revenue Auditor
Illinois Department of Revenue

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 Verified Answer to Petitioner's Verified Petition upon:

Gilbert Saikley
Saikley, Garrison, Colombo & Barne, LLC
208 W. North Street P.O. Box 6
Danville, IL 61834-0006

By email to gilbertsaikley@sbcglobal.net on June 20, 2014.



Michael Coveny,
Assistant Attorney General