ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

MICHAEL DEMNICKI,	)	
	)	
Petitioner,	)	**Case No. 14-TT-98**
	)	**Judge Brian F. Barov**
	)	
ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Respondent.	)	

NOTICE OF MOTION

To: **Michael R. Collins**
COLLINS & COLINS
8 S. Michigan Ave., Ste. 1414
Chicago, Illinois 60603
michael.collins@collinsandcollins.com

Please be advised that on August 6, 2014 at 2014 at 10:00 a.m., the undersigned will appear before Judge Brian F. Barov, or any other Judge of the Illinois Independent Tax Tribunal, 160 N. LaSalle, Room 704, Chicago, Illinois, and shall then and there present the **Illinois Department of Revenue's Motion to Dismiss for Lack of Jurisdiction,** a copy of which is attached and served upon you.

State of Illinois, Department of Revenue
by: LISA MADIGAN, Illinois Attorney General

by: /s/ Faith Dolgin
Faith Dolgin, SPAAG
100 W. Randolph St., 7th Floor
Chicago, Illinois 60601
(312) 814-3185

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that she served a copy of this Notice of Motion and the document therein mentioned on the parties set forth above, by U.S. Mail and by email on July 30, 2014.

/ Faith Dolgin
Faith Dolgin

ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS

MICHAEL DEMNICKI,	)	
	)	
Petitioner,	)	**Case No. 14-TT-098**
	)	**Judge Brian F. Barov**
	)	
ILLINOIS DEPARTMENT OF REVENUE,	)	
	)	
Respondent.	)	

ILLINOIS DEPARTMENT OF REVENUE'S
MOTION TO DISMISS FOR LACK OF JURISDICTION

NOW COMES the State of Illinois, Department of Revenue ("Department), by and through its attorney, LISA MADIGAN, Illinois Attorney General, and moves this Tribunal to enter an order dismissing the Taxpayer's Petition for lack of jurisdiction. In support of this Motion, the Department states as follows:

1. The Taxpayer, Michael Demnicki, filed a Petition with this Tribunal seeking to enjoin the Department's collection action pursuant to three separate Notices of Intent. Copies of the Notices are attached. None of the Notices relates to a proceeding to determine tax liability. Two of the Notices, rather, are Notices of Intent to levy assets -- collection notices. The merits of the liability underlying each of those Notices have already been adjudicated. The third Notice is also a Notice of Intent. It, likewise, does not concern the determination of liability but, instead, gives notice to the Petitioner that the Department may seek to propose a responsible officer assessment against him.

2. In addition to his request for an injunction of the Department's collection action under the Notices, the Petitioner also seeks money damages against the Department.

3. Pursuant to §10-45(a) of the Illinois Independent Tax Tribunal Act of 2012 (IITA), *35 ILCS 1010/1-1, et seq.,* this Tribunal was granted jurisdiction to determine issues relating to the following matters:

> …the Tax Tribunal shall have original jurisdiction over all determinations of the Department reflected on a Notice of Deficiency, Notice of Tax Liability, Notice of Claim Denial, or Notice of Penalty Liability…

4. Section 10-45(e) of the IITA specifically limits this Tribunal's jurisdiction and withholds its authority to review the following matters:

> (e) The Tax Tribunal shall not have jurisdiction to review:…
> (3) a notice of proposed tax liability, notice of proposed deficiency, or any other notice of proposed assessment or **notice of intent to take some action.**

5. Petitioner, here, seeks a determination as to the propriety of the Department's collection action as well as the imposition of damages in connection with two Notices of Intent to levy assets and a Notice of Intent to issue a proposed assessment. This Tribunal, however, lacks jurisdiction to hear such matters since §10-45 of the IITA grants jurisdiction only over matters concerning the Department's determination under either a Notice of Deficiency, Notice of Tax Liability Notice of Claim Denial or a Notice of Penalty Liability. Petitioner's request to enjoin the Department's enforcement action and to order damages in connection with the Notices of Intent does not involve a determination under any of the Notices enumerated in §10-45(a). Furthermore, §10-45(e)(3) of the IITA specifically precludes jurisdiction over a "notice of intent to take some action". Each of the three Notices of Intent at issue in this case is precisely that type of matter over which jurisdiction is precluded under §10-45(e) -- a "notice of intent to take some action" -- and therefore, such cannot be reviewed in this Tribunal.

6. Since this Tribunal is without jurisdiction to determine the matters raised by the Taxpayer in his Petition, his Petition must be dismissed.

WHEREFORE, the Illinois Department of Revenue respectfully requests that an order be entered (1) dismissing the Taxpayer's Petition for lack of jurisdiction; and (2) for such other and further relief as this Court deems just and proper.

Respectfully submitted,

State of Illinois, Department of Revenue
by: LISA MADIGAN, Illinois Attorney General

by: /s/ Faith Dolgin

Faith Dolgin, SPAAG
100 W. Randolph St., 7th Floor
Chicago, Illinois 60601
(312) 814-3185

Collection Action

Notice of Intent

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

May 19, 2014

Letter ID: L0364718560

MICHAEL DEMNICKI
800 S ROSELLE RD
SCHAUMBURG IL 60193-3965

Taxpayer ID: XXX-XX-5189
NPL Penalty ID: 1980073

PANACEA PARTNERS LLC
325 N LA SALLE DR
625
CHICAGO, IL 60654-6465

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

You must pay us $158,423.65 by June 9, 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.

JENNIFER THOMAS
ILLINOIS DEPARTMENT OF REVENUE
200 SOUTH WYMAN STREET SUITE 306
ROCKFORD, IL 61101-1237

815 987-7494
815 987-7474 fax

For information about
› how to pay
› what you owe
› collection actions

Turn page

Collection Action
Notice of Intent

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

May 19, 2014

Letter ID: L0364718560

MICHAEL DEMNICKI
800 S ROSELLE RD
SCHAUMBURG IL 60193-3965

Taxpayer ID: XXX-XX-5189
NPL Penalty ID: 1980073

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: 3710-6351**

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-May-2008	44,237.00	4,773.70	8,340.78	0.00	0.00	57,351.48
30-Jun-2008	44,204.00	4,520.40	8,122.65	0.00	0.00	56,847.05
31-Aug-2008	34,586.00	3,558.60	6,056.76	0.00	0.00	44,201.36
30-Sep-2008	24,403.00	2,165.36	940.25	0.00	(27,484.85)	23.76
					Total Balance:	158,423.65

Collection Action

Notice of Intent

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

May 19, 2014

Letter ID: L0901589472

MICHAEL DEMNICKI
800 S ROSELLE RD
SCHAUMBURG IL 60193-3965

Taxpayer ID: XXX-XX-5189
1002D Penalty ID: 11348011

PANACEA PARTNERS LLC
325 N LA SALLE DR
625
CHICAGO, IL 60654-6465

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

You must pay us $7,928.32 by June 9, 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.

JENNIFER THOMAS
ILLINOIS DEPARTMENT OF REVENUE
200 SOUTH WYMAN STREET SUITE 306
ROCKFORD, IL 61101-1237

815 987-7494
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Collection Action

Notice of Intent

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

May 19, 2014

Letter ID: L0901589472

MICHAEL DEMNICKI
800 S ROSELLE RD
SCHAUMBURG IL 60193-3965

Taxpayer ID: XXX-XX-5189
1002D Penalty ID: 11348011

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: 26-0095917-000**

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Mar-2008	11,525.53	812.56	1,177.73	0.00	(5,587.50)	7,928.32
					Total Balance:	7,928.32

Collection Action

Notice of Intent

STATE OF Illinois
DEPARTMENT OF REVENUE
tax.illinois.gov

April 25, 2014

Letter ID: L0448178656

MICHAEL DEMNICKI
800 S ROSELLE RD
SCHAUMBURG IL 60193-3965

Taxpayer ID: 26-0095917

PANACEA PARTNERS LLC
325 N LA SALLE DR
625
CHICAGO, IL 60654-6465

You have been identified as a responsible officer, partner, or individual of PANACEA PARTNERS LLC .

Illinois law provides that we may hold you personally liable for a penalty equal to the total tax, penalty, and interest due from PANACEA PARTNERS LLC .

The following pages detail the current amount of debt we are pursuing against PANACEA PARTNERS LLC . This debt must be paid immediately. 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 this debt is not paid, we intend to issue a penalty against you for the full amount of the debt. Once the penalty becomes final, we can take further collection action against you personally which may include the seizure and sale of your assets and levy of your wages and bank accounts.

If you believe you are not personally responsible for this debt, send us written proof within 10 days. If the information you submit is insufficient, we may continue to issue the penalty.

If you have any questions, please write or call our office weekdays from 8:30 a.m. to 4:30 p.m.

JENNIFER THOMAS
ILLINOIS DEPARTMENT OF REVENUE
200 SOUTH WYMAN STREET SUITE 306
ROCKFORD, IL 61101-1237

815 987-7494
815 987-7474 fax

For information about
- how to pay
- submitting proof
- what you owe
- collection actions

Turn page

Taxpayer Statement

April 25, 2014

Letter ID: L1086371040

MICHAEL DEMNICKI
800 S ROSELLE RD
SCHAUMBURG IL 60193-3965

Taxpayer ID: 26-0095917
Total amount due: $731,689.66

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: 3710-6351

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
28-Feb-2007	33,348.00	3,685.00	7,810.91	-	(7,810.95)	37,032.96
31-Mar-2007	45,308.00	4,881.00	12,476.78	-	-	62,665.78
30-Apr-2007	47,038.00	5,054.00	12,633.64	-	-	64,725.64
31-May-2007	46,558.00	5,006.00	12,198.14	-	-	63,762.14
30-Jun-2007	48,984.00	5,248.00	402.87	-	(48,984.00)	5,650.87
31-Jul-2007	41,113.00	1,172.00	163.00	-	(41,113.00)	1,335.00
31-Dec-2007	41,607.00	4,285.70	8,956.45	-	-	54,849.15
31-Jan-2008	24,621.00	2,052.02	167.23	-	(24,190.00)	2,650.25
29-Feb-2008	28,557.00	2,074.02	106.71	-	(28,556.00)	2,181.73
31-Mar-2008	32,950.00	2,627.56	49.92	-	(32,950.00)	2,677.48
30-Apr-2008	37,826.00	1,478.00	-	-	(37,826.00)	1,478.00
31-May-2008	44,237.00	4,773.70	8,253.52	-	-	57,264.22
30-Jun-2008	44,204.00	4,520.40	8,035.45	-	-	56,759.85
31-Jul-2008	34,750.00	3,825.00	4,755.33	-	(8,000.00)	35,330.33
31-Aug-2008	34,586.00	3,558.60	5,988.54	-	-	44,133.14

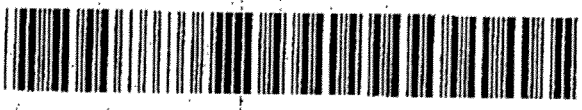
SOC

Statement continues on the following page(s).

P-000456

Retain this portion for your records.
Fold and detach on perforation. Return bottom portion with your payment.

Taxpayer Statement (R-12/08) (136)



Letter ID: L1086371040
MICHAEL DEMNICKI

Total amount due: $731,689.66

Write the amount you are paying below.

$_____

Write your Taxpayer ID on your check.

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

000 006 00987359376 7 731 123199 8 000007316496

Taxpayer Statement

April 25, 2014

Sales/Use Tax & E911 Surcharge

Account ID: 3710-6351

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Sep-2008	24,403.00	2,165.36	940.25	-	(27,484.85)	23.76
30-Nov-2008	38,383.00	4,955.96	6,157.66	-	(101.56)	49,395.06
31-Dec-2008	38,383.00	4,955.96	6,015.09	-	-	49,354.05
31-Jan-2009	38,383.00	4,955.96	5,852.10	-	-	49,191.06
31-Jul-2009	-	-	-	-	-	Not Included*

* File and pay this return.

ST-4 MPEA Food & Beverage Tax

Account ID: 3710-6351

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Mar-2007	4,984.00	698.00	208.50	-	(4,819.89)	1,070.61
30-Apr-2007	5,175.00	722.00	1,390.34	-	-	7,287.34
31-May-2007	5,122.00	714.00	1,342.30	-	-	7,178.30
30-Jun-2007	5,389.00	677.00	35.00	-	(5,389.00)	712.00
31-Jul-2007	4,523.00	120.00	11.00	-	(4,523.00)	131.00
30-Sep-2007	4,334.00	34.92	11.41	-	(4,285.00)	95.33
31-Jan-2008	2,709.00	425.00	567.88	-	-	3,701.88
29-Feb-2008	3,142.00	344.36	12.69	-	(3,141.00)	358.05
31-May-2008	4,735.00	669.00	883.73	-	-	6,287.73
30-Jun-2008	4,731.00	573.00	859.92	-	-	6,163.92
31-Jul-2008	4,168.00	581.60	146.87	-	(3,357.00)	1,539.47
31-Aug-2008	3,372.00	436.76	583.73	-	-	4,392.49
30-Sep-2008	2,887.88	227.88	214.05	-	(1,088.03)	1,710.65
31-Oct-2008	2,929.00	393.32	483.74	-	-	3,806.06

soc

Taxpayer Statement

April 25, 2014

ST-4 MPEA Food & Beverage Tax

Account ID: 3710-6351

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Nov-2008	4,168.00	850.16	669.72	-	-	5,687.88
31-Dec-2008	4,168.00	850.16	653.16	-	-	5,671.32
31-Jan-2009	4,168.00	850.16	635.47	-	-	5,653.63
31-Jul-2010	3,357.00	502.84	299.04	-	-	4,158.88

IL Withholding Income Tax

Account ID: 26-0095917-000

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Jun-2007	12,928.65	1,093.06	1,410.33	-	(7,844.03)	7,588.01
31-Mar-2008	11,525.53	812.56	1,166.02	-	(5,587.50)	7,916.61
30-Jun-2008	10,948.00	283.22	4.83	-	(10,921.25)	314.80

ST-14 Chicago Soft Drink Tax

Account ID: 3710-6351

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
30-Nov-2006	62.00	287.44	18.71	-	-	368.15
31-Dec-2006	62.00	287.44	18.26	-	-	367.70
31-Jan-2007	62.00	287.44	17.86	-	-	367.30
28-Feb-2007	62.00	287.44	17.48	-	-	366.92
31-Mar-2007	62.00	287.44	17.06	-	-	366.50
30-Apr-2007	62.00	287.44	16.64	-	-	366.08
31-May-2007	62.00	287.44	16.23	-	-	365.67
30-Jun-2007	62.00	287.44	15.82	-	-	365.26
31-Jul-2007	62.00	287.44	15.40	-	-	364.84
31-Aug-2007	62.00	287.44	14.98	-	-	364.42
30-Sep-2007	62.00	287.44	14.55	-	-	363.99
31-Oct-2007	62.00	287.44	14.15	-	-	363.59
30-Nov-2007	62.00	287.44	13.74	-	-	363.18
31-Dec-2007	62.00	287.44	13.33	-	-	362.77
31-Jan-2008	62.00	287.44	12.99	-	-	362.43
29-Feb-2008	62.00	287.44	12.65	-	-	362.09
31-Mar-2008	62.00	287.44	12.27	-	-	361.71
30-Apr-2008	62.00	287.44	11.92	-	-	361.36
31-May-2008	62.00	287.44	11.55	-	-	360.99
30-Jun-2008	62.00	287.44	11.25	-	-	360.69
31-Jul-2008	62.00	287.44	11.00	-	-	360.44
31-Aug-2008	62.00	287.44	10.72	-	-	360.16
30-Sep-2008	62.00	287.44	10.48	-	-	359.92
31-Oct-2008	62.00	287.44	10.22	-	-	359.66
30-Nov-2008	62.00	287.44	9.95	-	-	359.39

Taxpayer Statement

April 25, 2014

ST-14 Chicago Soft Drink Tax

Account ID: 3710-6351

Period	Tax	Penalty	Interest	Other	Payments/Credits	Balance
31-Dec-2008	62.00	287.44	9.70	-	-	359.14
31-Jan-2009	62.00	287.44	9.44	-	-	358.88