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SEC. 23

Warvant

KIMBERLY LEWIS ROBINSON, : NUMBER 0410519
 SECRETARY, DEPARTMENT OF :
 REVENUE, STATE OF LOUISIANA : 19TH JUDICIAL DISTRICT COURT
 VERSUS : PARISH OF EAST BATON ROUGE
 LLGP INC : STATE OF LOUISIANA

SUMMARY PROCEEDING:
 RULE TO CEASE BUSINESS FOR
 FAILURE TO PAY SALES TAXES
 PURSUANT TO La. R.S. 47:314, 47:1574.1, and/or 47:1582.

The petition for rule to show cause of the Louisiana Department of Revenue respectfully represents the following:

1. Petitioner is entitled to a hearing in this matter in not less than two or more than ten days, exclusive of holidays, as this is a summary proceeding brought under the provisions of La. R.S. 47:314, 47:1574.1, and/or 47:1582.

2. The petitioner is the Louisiana Department of Revenue and is officially domiciled in the Parish of East Baton Rouge.

3. The defendant is LLGP INC, a business corporation organized under the laws of the State of Louisiana with its registered office located at 2502 North Acadian Thruway East, Baton Rouge, Louisiana 70805, in the parish of East Baton Rouge.

4. Jurisdiction is proper pursuant to Article V, Section 16 of the Louisiana Constitution. Venue is proper pursuant to Louisiana Code of Civil Procedure Article 42(2).

5. Defendant is engaged in business as a "dealer," as defined in La. R.S. 47:301 (4) at 2502 North Acadian Thruway East, Baton Rouge, East Baton Rouge Parish, Louisiana and has been so engaged continually since on or before June 2008.

6. Defendant failed to correctly report its taxable sales to the petitioner as required by La. R.S. 47:306 and/or collect and remit the applicable sales taxes to the petitioner

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as required by La. R.S. 47:304 (C) during the sales tax periods encompassing July 2008 through February 2015.

7.

Due to defendant's failure to correctly report its sales and/or remit Louisiana sales taxes, the petitioner has determined that the defendant is indebted to the petitioner in the amount of \$36,609.91; with sales tax in the amount of \$19,989.35, penalties and fees in the amount of \$11,311.92, and interest in the amount of \$5,478.64, all in accordance with and being more fully shown on a sworn affidavit annexed hereto and made a part hereof. This amount is now delinquent through January 28, 2016.

8.

Petitioner issued to defendant formal sales and use tax assessments for those sales tax periods encompassing July 2008 through February 2015. Said assessments were issued in accordance with all statutory requirements. The defendant neither paid nor protested the assessments.

9.

The time for appealing the assessments have run, no appeal has been taken, and no payments (or payments under protest) have been made on the assessments.

10.

Accordingly, by law, the assessments are now final and are an established liability of the defendant. Furthermore, the assessments are now the equivalent to judgments, pursuant to La. R.S. 47:1581.

11.

Because the aforesaid taxes are delinquent, petitioner is entitled to an injunction, pursuant to La. R.S. 47:314, enjoining the defendant from the further pursuit of business as a dealer until payment in full of the amount due have been tendered to the petitioner.

12.

Pursuant to La. R.S. 47:1577, the petitioner is entitled to recognition of its lien and privilege on all property, real and personal, of defendant to secure the payment of the amount due.

13.

Subsequent to the issuance of the assessments, additional taxes have become due from the defendant which has not been remitted to petitioner. Defendant is also liable to the petitioner for these additional taxes, together with applicable interest and penalty as provided by law.

14.

An affidavit of correctness which declares that the facts as alleged are true to the best of the affiant's knowledge or belief and a Schedule of Outstanding Liabilities are attached to this rule and identified as Exhibit "A", *in globo*. Thus, pursuant to La. R.S. 47:1574.1(D), all of the facts alleged shall be accepted as prima facie true and constitute a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the taxpayer.

WHEREFORE, the petitioner prays that defendant, LLGP INC. show cause on a date and time to be fixed by this Honorable Court why Judgment should not be rendered against it and why it should not be ordered to cease further operation of its business pursuant to the provisions of La. R.S. 47:314, 47:1574.1, and/or 47:1582.

The plaintiff further prays that after all due proceedings are had that this rule be made absolute, the assessments of the petitioner be made executory, and that this Honorable Court render a Judgment in favor of the plaintiff and against the defendant,

LLGP INC:

(1) ordering LLGP INC, to cease and desist from the operation of its business, until such time as defendant has paid to the Louisiana Department of Revenue all delinquent tax, interest, penalties and other fees due up to and including any amounts due as of the date of the hearing;

(2) ordering the East Baton Rouge Parish Sheriff's Office to: (a) enter the business location of the defendant located at 2502 North Acadian Thruway East, Baton Rouge, LA 70805; and (b) cause all business activity to cease immediately and (c) post a notice outside of the entrances of said premise stating that the defendant's business has been shut down for failure to pay Louisiana taxes; and

(3) ordering the defendant to pay all court costs incurred in this lawsuit.

Respectfully submitted by:



Donald M. Bowman (#29774)

**Attorney for the Secretary of the
Department of Revenue, State of Louisiana**
P.O. Box 4064
617 N. Third Street (70802)
Baton Rouge, LA 70821-4064
Tele: (225) 219-2080, Fax: (225) 231-6244

KIMBERLY LEWIS ROBINSON, : NUMBER _____ DIV ____
SECRETARY, DEPARTMENT OF :
REVENUE, STATE OF LOUISIANA : 19TH JUDICIAL DISTRICT COURT
VERSUS : PARISH OF EAST BATON ROUGE
LLGP INC. : STATE OF LOUISIANA

ORDER

Considering the above and foregoing rule;

IT IS ORDERED that the defendant, LLGP INC., be ordered to appear before this Honorable Court on the _____ day of _____, 2016 at _____ o'clock - _____m. in courtroom _____ to show cause why the foregoing rule should not be made absolute; why the assessments issued by petitioner should not be recognized as the judgment of this Court and made executory; why defendant should not be condemned to pay to petitioner the tax, interest, penalties, and attorney fees hereinabove set forth, together with the costs of these proceedings; why the lien and privilege of petitioner should not be recognized and enforced; and why defendant should not be enjoined from the further pursuit of business until such taxes and related sums have been paid up to date.

Thus done and signed at Baton Rouge, Louisiana, on this _____ day of _____ 2016.

19th JUDICIAL DISTRICT COURT JUDGE

SHERIFF, PLEASE RUSH SERVICE UPON:

LLGP, INC.
Through its Registered Agent,
Lindsey L. Lockett
2502 North Acadian Thruway East
Baton Rouge, LA 70805

CLERK PLEASE MAIL NOTICE TO:

Donald Bowman
LOUISIANA DEPARTMENT OF REVENUE
LEGAL DIVISION
P.O. BOX 4064
BATON ROUGE, LA 70821-4064

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AFFIDAVIT OF CORRECTNESS

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

Before me, the undersigned authority, personally came and appeared

Catonya Smith a person of the full age of majority, who serves as a Tax Officer for the Office of Business Tax Enforcement for the Louisiana Department of Revenue,

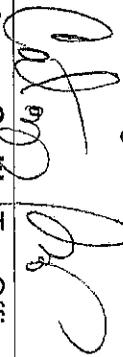
who after being duly sworn, did depose and say that all of the facts stated herein are based on her personal knowledge, that she read the foregoing Petition; and that to the best of her knowledge and belief, all of the allegations of fact contained therein are true and correct.

Affiant stated that in the course of her employment as a Revenue Tax Officer for the Louisiana Department of Revenue, she was assigned tax account belonging to LLGP INC.

Affiant stated that upon her review of LLGP INC.'s tax account it was determined the business failed to correctly report and/or collect and remit taxes on all of its sales. As shown on the attached schedule of liabilities, Affiant stated that LLGP INC. has a



Louisiana sales tax deficiency in the amount of \$36,609.91, with sales tax in the amount of \$19,989.35, penalties and fees in the amount of \$11,311.92, and interest in the amount of \$5,478.64, plus interest as provided for by La. R.S. 47:1601 along with late penalties that shall accrue until the aforesaid deficiency is paid in full to the Louisiana Department of Revenue. Affiant further stated that said amount is now delinquent, and that this affidavit is made for the purpose of enforcing the collection of said amount.



Catonya Smith, Tax Officer II
Office of Business Tax Enforcement
Louisiana Department of Revenue

Sworn to and subscribed before me,
this 2nd day of March _____ 2016,



Donald Bowman, Notary Public
State of Louisiana
LA Bar Roll: #29774
Commissioned for Life

Schedule of Outstanding Tax Liabilities

Run Date: January 28, 2016

Location Address: 2502 N ACADIAN THRUWAY E BATON ROUGE LA 70801
 Mailing Address: N/A

ID: 1131697-001-400
 Legal Name: LLGP INC
 Trade Name: N/A

Account Type	Filing Period	Status	Tax Due	Interest	Delinquent Penalty	Late Payment Penalty	Negligence Penalty	NSF Penalty	Warrant Penalty	UET Penalty	Fees/ Others	Credits
Corporation Income & Franchise	12/31/2007	E	10.00	6.71	2.50	0.00	0.00	0.00	10.00	0.00	148.09	0.00
	12/31/2008	E	10.00	5.57	2.50	0.00	0.00	0.00	10.00	0.00	5.67	0.00
	12/31/2009	E	10.00	4.70	2.50	0.00	0.00	0.00	0.00	0.00	3.55	0.00
	12/31/2010	E	199.00	67.44	49.75	0.00	0.00	0.00	0.00	0.00	41.34	0.00
	12/31/2011	E	208.95	55.31	52.25	0.00	0.00	0.00	0.00	0.00	80.48	0.00
	12/31/2012	E	219.40	42.50	54.85	0.00	0.00	0.00	0.00	0.00	82.74	0.00
	12/31/2013	E	230.37	28.68	57.60	0.00	0.00	0.00	0.00	0.00	84.96	0.00
887.72	210.91	221.95	0.00	62.94	0.00	20.00	0.00	446.83	0.00	0.00	0.00	0.00
Corporation Income & Franchise	07/31/2008	E	199.00	81.32	49.75	0.00	0.00	0.00	20.00	0.00	52.39	170.00
	08/31/2008	E	199.00	107.30	49.75	0.00	0.00	0.00	20.00	0.00	57.09	0.00
	09/30/2008	E	199.00	106.96	49.75	0.00	0.00	0.00	20.00	0.00	57.04	0.00
	10/31/2008	E	199.00	104.85	49.75	0.00	0.00	0.00	20.00	0.00	56.72	0.00
	11/30/2008	E	199.00	102.68	49.75	0.00	0.00	0.00	20.00	0.00	56.40	0.00
	12/31/2008	E	199.00	101.14	49.75	0.00	0.00	0.00	20.00	0.00	56.17	0.00
	01/31/2009	E	199.00	99.70	49.75	0.00	0.00	0.00	20.00	0.00	55.95	0.00
	02/28/2009	E	199.00	98.41	49.75	0.00	0.00	0.00	20.00	0.00	55.76	0.00
887.72	210.91	221.95	0.00	62.94	0.00	20.00	0.00	446.83	0.00	0.00	0.00	0.00

Interest will continue to accrue until tax is paid in full.
 Additional penalties and fees may be due.

R = Return
 E = Estimate
 A = Audit

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MEMORANDUM OF AUTHORITY

MAY IT PLEASE THE COURT:

The Department of Revenue for the State of Louisiana ("Petitioner"), through undersigned counsel, submits its memorandum in support of its Rule to Cease

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tax "shall be collected by the dealer from the purchaser or consumer [except as otherwise provided by law]." La. R.S. 47:304. The tax imposed under La. R.S. 47:302 shall be collectible from all persons engaged as dealers. La. R.S. 47:303 (A) (1).

All persons and dealers subject to the tax under the sales tax laws are expected and required to file a sales tax return either monthly or quarterly and to accrue and remit the amount of tax due to the Secretary of the Department of Revenue for the State of Louisiana. La. R.S. 47:306. In the event a dealer fails to make a report and pay the sales tax required or in the event a dealer makes a grossly incorrect report or a report that is false or fraudulent, the Secretary of the Department of Revenue has authority "to assess and collect the tax, together with any interest and penalty that may have accrued thereon, which assessment shall be considered prima facie correct and the burden of showing the contrary shall rest upon the dealer." La. R.S. 47:307.

Rule to Cease Business:

Title 47 contains three applicable provisions that allow the Secretary to request from a court of competent jurisdiction a rule against a taxpayer ordering the taxpayer to cease business activity for failure to pay amounts collected from others:

- (1) La. R.S. 47:314, found in Chapter 2 (Sales Taxes), Subtitle II (Provisions Relating to Taxes Collected and Administered by the Collector of Revenue) of Title 47 (Revenue and Taxation) provides:

Failure to pay any tax due as provided in this Chapter shall ipso facto, without demand or putting in default, cause the tax, interest, penalties, and costs to become immediately delinquent, and the collector has the authority, on motion in a court of competent jurisdiction, to take a rule on the dealer, to show cause in not less than two or more than ten days, exclusive of holidays, why the dealer should not be ordered to cease from further pursuit of business as a dealer. This rule may be tried out of term and in chambers, and shall always be tried by preference. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the state, prohibiting the dealer from the further pursuit of said business until such time as he has paid the delinquent tax, interest, penalties and costs, and every violation of the injunction shall be considered as a contempt of court, and punished according to law. For the purpose of the enforcement of this Chapter and the collection of the tax levied hereunder, it is presumed that all tangible personal property imported or held in this state by any dealer is to be sold at retail, used or consumed, or stored for use or consumption in this state, or leased or rented within this state, and is subject to the tax herein levied; this presumption shall be prima facie only, and subject to proof furnished to the collector.

La. R.S. 47:314 (emphasis added).

(2) La. R.S. 47:1574.1, found in Chapter 18, (Administrative Provisions), Part III (Assessment and Collection Procedures) of Subtitle II (Provisions Relating to Taxes Collected and Administered by the Collector of Revenue) of Title 47 (Revenue and Taxation) provides in relevant part:

A. On motion in a court of competent jurisdiction, the secretary may take a rule on a taxpayer, to show cause in not less than two or more than ten days, exclusive of holidays, why the taxpayer should not be ordered to cease from further pursuit of his business for failure to pay to the state amounts collected from others by his business as sales and use tax or as withholding income tax, along with any interest, penalty, and costs related to such taxes. Such rule may be taken only for amounts due as a result of assessments or judgments which have become final and non-appealable.

B. This rule may be tried out of term and in chambers, and shall always be tried by preference.

C. (1) *If the rule is made absolute*, the order rendered thereon shall be considered a judgment in favor of the state, and the court shall enjoin and prohibit the taxpayer from the further pursuit of his business until such time as he has paid the delinquent tax, interest, penalties, and all costs or has entered into an agreement with the secretary to do so.

D. Whenever the pleadings filed on behalf of the secretary shall be accompanied by an affidavit of the secretary or of one of his assistants or representatives or of the attorney filing the same, that the facts as alleged are true to the best of the affiant's knowledge or belief, all of the facts alleged in the pleadings shall be accepted as prima facie true and as constituting a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the taxpayer.

E. The collection procedure provided for in this Section shall be in addition to any other collection procedure provided by law.

La. R.S. 47:1574.1 (emphasis added).

(3) La. R.S. 1582 Chapter 18, (Administrative Provisions), Part III (Assessment and Collection Procedures) of Subtitle II (Provisions Relating to Taxes Collected and

Administered by the Collector of Revenue) of Title 47 (Revenue and Taxation) provides:

A. Failure by any person obligated to collect any tax from taxpayers on behalf of the state to remit such taxes collected shall, without demand or putting in default, cause the tax, interest, penalties, and costs to become immediately delinquent and the secretary has the authority, on motion in a court of competent jurisdiction, to take a rule on such person, to show cause in not less than two or more than ten days, exclusive of holidays, why such person should not be ordered to cease from further pursuit of business. This rule may be tried out of term and in chambers and shall always be tried by preference. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the state, prohibiting the person from the further pursuit of said business until he has paid the delinquent tax, interest, penalties, and costs, and every violation of the injunction shall be considered as a contempt of court and punished according to law.

B. The provisions of this Section shall not apply if the taxpayer has entered into an installment agreement for the payment of delinquent taxes with the department and is in compliance with the terms of the agreement.

La. R.S. 47:1582 (emphasis added).

Discussion

For the periods in question, the Defendant engaged in the business of retail sales, and the Defendant is responsible for the collection of the sales tax on each retail sales transaction pursuant to the provisions of La. R.S. 47:303. For the periods in question, the Defendant has failed to file all necessary tax returns and failed to pay the delinquent taxes, penalties, interest and fees due under the provisions of La. R.S. 47:306. Inasmuch as the defendant has failed to make a report and/or pay the sales tax required by law to the Secretary of the Department of Revenue, the Secretary has determined the tax owed for those periods pursuant to La. R.S. 47:307.

Affidavit of Correctness:

An affidavit of correctness signed by the Tax Officer assigned to the account in question, a representative of the Louisiana Department of Revenue for this purpose, accompanied the pleading filed. Accordingly, all of the facts alleged in the pleadings shall be accepted as prima facie true and as constituting a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the taxpayer. La. R.S. 47:1574.1(D), La. R.S. 13:5034. Should the defendant have a defense to this action, under these provisions, all defenses must be presented in an answer prior to the time fixed for hearing, and no court shall consider any defense unless so presented and filed. Nor may any court grant a continuance for the purpose of filing an answer. If any defense is asserted in an answer filed prior to the hearing and it becomes necessary to present other evidence in rebuttal, a supplemental memorandum will be filed on behalf of the petitioner.

Conclusion

It is respectfully submitted that the petitioner is entitled to judgment in its favor ordering the defendant to cease business until the delinquent taxes at issue have been paid.

Respectfully submitted by:



Donald M. Bowman (#29774)

**Attorney for the Secretary of the
Department of Revenue, State of Louisiana**
P.O. Box 4064
617 N. Third Street (70802)
Baton Rouge, LA 70821-4064
Tele: (225) 219-2080, Fax: (225) 231-6235

KIMBERLY LEWIS ROBINSON : NUMBER _____ DIV _____
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JUDGMENT

CONSIDERING the Judgment rendered in open court at the hearing on this matter held on the _____ day of _____, 2016;

IT IS ORDERED, ADJUDGED AND DECREED that the Petition and Rule to Show Cause issued herein and returnable this date is hereby made absolute, and accordingly, there be judgment herein in favor of the plaintiff, Secretary, Department of Revenue, State of Louisiana, and against the defendants, LLGP INC.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant, LLGP INC., shall immediately cease the operation of its business as a dealer at 2502 North Acadian Thruway East, Baton Rouge, Louisiana 70805, whether individually or through their agents or employees, within the meaning of the word "dealer" as set forth in La. R.S. 47:301(4), said prohibition to remain in force and effect until such time as there has been paid to the Department of Revenue, State of Louisiana, the delinquent taxes, interest penalties as set forth.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the East Baton Rouge Parish Sheriff's Office shall enter the premises at 2502 North Acadian Thruway East, Baton Rouge, Louisiana 70805, and cause all business activity to cease immediately.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the East Baton Rouge Parish Sheriff's Office shall post a notice outside of each entrance of the foregoing premises stating that the defendant's business has been shut down for failure to pay Louisiana taxes.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the defendant pay all court costs incurred in this lawsuit.

Signed in Baton Rouge, Louisiana, on this _____ day of _____ 2016.

19th JUDICIAL DISTRICT COURT JUDGE

CLERK, PLEASE MAIL NOTICE OF THE SIGNING OF JUDGMENT TO:

LLGP INC.
2502 North Acadian Thruway East
Baton Rouge, Louisiana 70805

Donald Bowman
Legal Division
Louisiana Department of Revenue
P O Box 4064
Baton Rouge, Louisiana 70821-4064