253684 Div A
Judge Rauls

BOBBY JINDAL
Governor

TIM BARFIELD
Secretary

State of Louisiana
Department of Revenue

August 18, 2015

Robin L. Hooter, Clerk
9th Judicial District Court
P O Box 952
Alexandria, LA 71309

Re: Tim Barfield, Secretary, Department of Revenue, State of Louisiana v.
Glen Coutee D/B/A A 1 24 Hour Automotive Repair

Dear Ms. Hooter,

Please find enclosed for filing an original and three (3) copies of Rule to Cease Business filed by the Department in the above referenced case. Please time stamp a copy and return it to our office in the attached pre-paid self-addressed envelope.

It should be noted, that as a state agency, the Louisiana Department of Revenue is exempt from pre-paying court costs under La. R. S. 13:4521.

Should you have questions, please do not hesitate to contact our office.

Respectfully,

Dewanna Trask

Dewanna Trask
Paralegal
Business Tax Enforcement Division

Enclosures

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT
2015 AUG 19 PM 12:23
BY CLERK & RECORDER
RAPIDES PARISH LA.

Print Form

CIVIL SUIT NUMBER _____

DIVISION "_____"

Tim Barfield, Secretary
Department of Revenue
State of Louisiana

VERSUS
Glen Coutee D/B/A
A1 24 Hour Automotive Repair

* NINTH JUDICIAL DISTRICT COURT

* PARISH OF RAPIDES

* STATE OF LOUISIANA

CIVIL CASE FILE COVER SHEET

☒ **SIMPLE** - Cases that require little or no judicial attention before trial with limited discovery and resolution within six (6) months of initial filing.

☐ **STANDARD** - Cases involving multiple defendants in which twelve (12) months are given for discovery and trial occurs within eighteen (18) months of initial filing.

☐ **COMPLICATED STANDARD**: Medical malpractice, products liability and any other cases with demonstrated need for extensive discovery requiring eighteen (18) months and a management conference within one-hundred and twenty (120) days of initial filing and resolution within three (3) years.

☐ **COMPLEX** - Cases that need customized and early judicial management with a management conference within one-hundred (120) days, a pretrial discovery scheduling order and resolution within five (5) years.

TIM BARFIELD, SECRETARY
DEPARTMENT OF REVENUE,
STATE OF LOUISIANA

VERSUS

GLEN COUTEE D/B/A
A 1 24 HOUR AUTOMOTIVE REPAIR

NUMBER _____DIVISION____

9th JUDICIAL DISTRICT COURT

PARISH OF RAPIDES

STATE OF LOUISIANA

RULE TO CEASE BUSINESS
FOR FAILURE TO PAY SALES TAXES

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

1.

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.

Made defendant is GLEN COUTEE D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR, a sole proprietor located at 2620 Highway 457, Alexandria, Louisiana 71302, Parish of Rapides.

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) and provides a “sale of service” which, under 47:301 (14) (g) (i) (aa) is a

taxable service and includes repairs to tangible personal property, (hereinafter referred to as "sales,") at 2620 Highway 457, Alexandria, Louisiana 71302, Parish of Rapides, and has been so engaged continually since on or before November 2005.

6.

Defendant failed to correctly report its taxable sales to petitioner as required by La. R.S. 47:306 and/or failed to collect and remit the applicable Louisiana Sales taxes as required by La. R.S. 47:304 (C) for the sales tax periods encompassing December 2005 through June 2014.

7.

Due to defendant's failure to correctly report its sales and remit Louisiana sales taxes, the petitioner has determined that the defendant is indebted to the petitioner in the amount of $23,854.41; with sales tax in the amount of $13,928.11, penalties and fees in the amount of $6,895.64, and interest in the amount $4,724.47, in accordance with and being more fully shown on a sworn affidavit annexed hereto and made a part hereof. This amount is now delinquent pursuant to the authority granted by La. R.S. 47:307 calculated through August 4, 2015.

8.

Petitioner issued to defendant formal sales and use tax assessments for those sales tax periods encompassing December 2005 through June 2014. 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 of 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 are 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.

Pursuant to La. R.S. 47:314, 47:1574.1(A) and 47:1582(A), the petitioner is entitled to a hearing in this matter in not less than two or more than ten days, exclusive of holidays.

15.

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, Glen Coutee D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR, to 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 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, Glen Coutee D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR:

(1) ordering Glen Coutee D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR, to cease and desist from the operation of his business, furnishing of repairs to tangible personal property, including but not restricted to the repair and servicing of automobiles and other vehicles, until such time as it 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 Rapides Parish Sheriff's Office to: (a) enter the business location of the defendant located at 2620 Highway 457, Alexandria, Louisiana 71302; and (b) cause all business activity to cease immediately and (c) post a notice outside of the entrance of each premises 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.

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT
2015 AUG 19 PM 12: 2
BY
DY CLERK & RECORDER
RAPIDES PARISH, LA

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

TIM BARFIELD, SECRETARY
DEPARTMENT OF REVENUE,
STATE OF LOUISIANA

VERSUS

GLEN COUTEE D/B/A
A 1 24 HOUR AUTOMOTIVE REPAIR

NUMBER _____DIVISION____

9th JUDICIAL DISTRICT COURT

PARISH OF RAPIDES

STATE OF LOUISIANA

ORDER

Considering the above and foregoing rule;

IT IS ORDERED that the defendant, Glen Coutee D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR, appear before this Honorable Court on the _____ day of _____, 2015 at _____ o'clock _____.m. in court room _____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, furnishing of repairs to tangible personal property, including but not restricted to the repair and servicing of automobiles and other vehicles; until such taxes and related sums have been paid up to date.

Thus done Signed at Alexandria, Louisiana, on this ____ day of _____ 2015.

_____

9th JUDICIAL DISTRICT COURT JUDGE

SHERIFF, PLEASE RUSH SERVICE UPON:
Glen Coutee D/B/A
A 1 24 HOUR AUTOMOTIVE REPAIR (Personal Service)
2620 Highway 457
Alexandria, Louisiana 71302

CLERK PLEASE MAIL NOTICE TO:

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

TIM BARFIELD, SECRETARY
DEPARTMENT OF REVENUE,
STATE OF LOUISIANA

VERSUS

GLEN COUTEE D/B/A
A 1 24 HOUR AUTOMOTIVE REPAIR

NUMBER _____DIVISION____

9th JUDICIAL DISTRICT COURT

PARISH OF RAPIDES

STATE OF LOUISIANA

AFFIDAVIT OF CORRECTNESS

STATE OF LOUISIANA
PARISH OF RAPIDES

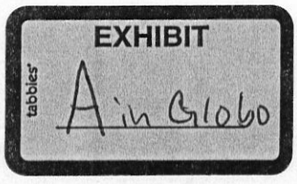
Before me, the undersigned authority, personally came and appeared

> **Ashley Beck** a person of the full age of majority, who serves as a Tax Officer of 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 has 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 of Business Tax Enforcement for the Louisiana Department of Revenue, she was assigned tax account belonging to Glen Coutee D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR.

Affiant stated that upon her review of Glen Coutee D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR's tax account, it was determined that the business failed to remit sales taxes on all of its sales. As shown on the attached Schedule of Outstanding Tax Liabilities, Affiant stated that Glen Coutee D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR has a Louisiana sales tax deficiency in the amount of $23,854.41; with sales tax in the amount of $13,928.11, penalties and fees in the amount of $6,895.64, and interest in the amount $4,724.47, 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.

Ashley Beck

Ashley Beck, Tax Officer,
Office of Business Tax Enforcement,
Louisiana Department of Revenue

Sworn to and subscribed before me,

this 19th day of August 2015,

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

Louisiana Department of Revenue

Run Date: August 4, 2015

Schedule of Outstanding Tax Liabilities

ID: 7697691-001-400

Legal Name: COUTEE GLEN

Location Address: 2620 HIGHWAY 457 ALEXANDRIA LA 713029251

Trade Name: A 1 24 HOUR AUTOMOTIVE REPAIR

Mailing Address: 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	Balance Due
Sales													
7697691-001-400													
	12/31/2005	E	300.00	166.79	75.00	0.00	15.00	0.00	0.00	0.00	114.18	389.32	281.65
	03/31/2006	E	300.00	163.34	75.00	0.00	15.00	0.00	0.00	0.00	41.08	279.45	314.97
	06/30/2006	E	281.05	126.27	70.25	0.00	14.05	0.00	0.00	0.00	73.74	512.48	52.88
	09/30/2006	E	301.88	145.76	75.45	0.00	15.09	0.00	0.00	0.00	78.24	255.53	360.89
	12/31/2006	E	317.18	150.51	79.30	0.00	15.86	0.00	0.00	0.00	81.66	257.03	387.48
	06/30/2007	E	348.69	232.09	87.15	0.00	17.43	0.00	0.00	0.00	102.80	0.00	788.16
	09/30/2007	E	370.45	231.66	92.60	0.00	18.52	0.00	0.00	0.00	106.98	0.00	820.21
	12/31/2007	E	392.02	233.23	98.00	0.00	19.60	0.00	0.00	0.00	111.43	0.00	854.28
	03/31/2008	E	416.52	233.73	104.15	0.00	20.83	0.00	0.00	0.00	116.28	0.00	891.51
	06/30/2008	E	425.49	224.60	106.35	0.00	21.27	0.00	0.00	0.00	116.66	0.00	894.37
	09/30/2008	E	420.11	209.12	105.05	0.00	21.01	0.00	0.00	0.00	113.29	0.00	868.58
	12/31/2008	E	409.70	192.97	102.40	0.00	20.48	0.00	0.00	0.00	108.83	0.00	834.38
	03/31/2009	E	395.59	178.31	98.90	0.00	19.78	0.00	0.00	0.00	103.89	0.00	796.47
	06/30/2009	E	385.84	163.89	96.45	0.00	19.29	0.00	0.00	0.00	99.82	0.00	765.29
	09/30/2009	E	395.01	161.27	98.75	0.00	19.75	0.00	0.00	0.00	101.22	0.00	776.00
	12/31/2009	E	403.16	155.58	100.80	0.00	20.16	0.00	0.00	0.00	101.96	0.00	781.66
	03/31/2010	E	410.68	152.15	102.65	0.00	20.53	0.00	0.00	0.00	102.90	0.00	788.91
	06/30/2010	E	425.00	148.83	106.25	0.00	21.25	0.00	0.00	0.00	0.00	0.00	701.33
	09/30/2010	E	425.00	141.60	106.25	0.00	21.25	0.00	0.00	0.00	0.00	0.00	694.10

R = Return
E = Estimate
A = Audit

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

traskd

Louisiana Department of Revenue

Run Date: August 4, 2015

Schedule of Outstanding Tax Liabilities

ID: 7697691-001-400

Legal Name: COUTEE GLEN

Location Address: 2620 HIGHWAY 457 ALEXANDRIA LA 713029251

Trade Name: A 1 24 HOUR AUTOMOTIVE REPAIR

Mailing Address: 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	Balance Due
	12/31/2010	E	435.00	137.45	108.75	0.00	21.75	0.00	0.00	0.00	0.00	0.00	702.95
	03/31/2011	E	445.00	134.96	111.25	0.00	22.25	0.00	0.00	0.00	0.00	0.00	713.46
	06/30/2011	E	445.00	127.20	111.25	0.00	22.25	0.00	0.00	0.00	0.00	0.00	705.70
	09/30/2011	E	437.07	115.13	109.25	0.00	21.85	0.00	0.00	0.00	88.77	0.00	772.07
	12/31/2011	E	438.55	107.77	109.65	0.00	21.93	0.00	0.00	0.00	88.98	0.00	766.88
	03/31/2012	E	441.08	100.60	110.25	0.00	22.05	0.00	0.00	0.00	89.52	0.00	763.50
	06/30/2012	E	445.06	95.43	111.25	0.00	22.25	0.00	0.00	0.00	90.47	0.00	764.46
	09/30/2012	E	450.24	88.03	112.55	0.00	22.51	0.00	0.00	0.00	92.04	0.00	765.37
	12/31/2012	E	455.07	80.66	113.75	0.00	22.75	0.00	0.00	0.00	99.48	0.00	771.71
	03/31/2013	E	459.62	73.64	114.90	0.00	22.98	0.00	0.00	0.00	99.31	0.00	770.45
	06/30/2013	E	463.90	66.18	116.00	0.00	23.20	0.00	0.00	0.00	99.02	0.00	768.30
	09/30/2013	E	467.30	58.40	116.80	0.00	23.36	0.00	0.00	0.00	98.50	0.00	764.36
	12/31/2013	E	471.00	50.39	117.75	0.00	23.55	0.00	0.00	0.00	98.03	0.00	760.72
	03/31/2014	E	474.15	42.47	118.55	0.00	23.71	0.00	0.00	0.00	98.28	0.00	757.16
	06/30/2014	E	476.70	34.46	119.20	0.00	23.84	0.00	0.00	0.00	0.00	0.00	654.20
			13,928.11	**4,724.47**	**3,481.90**	**0.00**	**696.38**	**0.00**	**0.00**	**0.00**	**2,717.36**	**1,693.81**	**23,854.41**
Sales			**13,928.11**	**4,724.47**	**3,481.90**	**0.00**	**696.38**	**0.00**	**0.00**	**0.00**	**2,717.36**	**1,693.81**	**23,854.41**
Grand Total:			**13,928.11**	**4,724.47**	**3,481.90**	**0.00**	**696.38**	**0.00**	**0.00**	**0.00**	**2,717.36**	**1,693.81**	**23,854.41**

R = Return
E = Estimate
A = Audit

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

traskd

TIM BARFIELD, SECRETARY
DEPARTMENT OF REVENUE,
STATE OF LOUISIANA

VERSUS

GLEN COUTEE D/B/A
A 1 24 HOUR AUTOMOTIVE REPAIR

NUMBER _____DIVISION____

9th JUDICIAL DISTRICT COURT

PARISH OF RAPIDES

STATE OF LOUISIANA

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 Business, against the defendant herein Glen Coutee D/B/A A-1 24 HOUR AUTOMOTIVE REPAIR ("Defendant").

Summary of Facts

The defendant is a Louisiana sole proprietor and owes sales taxes for business transactions occurring at its location at 2620 Highway 457, Alexandria, Louisiana 71302. The petitioner made numerous unsatisfied demands for payment of the delinquent taxes owed by defendant. Consequently, the petitioner is entitled to have the instant rule made absolute and to have the company enjoined from the further pursuit of business until the taxes at issue have been paid.

The outstanding sales tax obligations total of $23,854.41; with sales tax in the amount of $13,928.11, penalties and fees in the amount of $6,895.64, and interest in the amount $4,724.47, calculated through August 4, 2015.

The defendant has failed and refuses to cooperate with revenue officers, agents, and employees of the Louisiana Department of Revenue in its efforts collect the delinquent taxes, interest, and penalties owed by defendant as required by law.

Issue Presented

Whether the plaintiff is entitled to have the rule made absolute and thereby entitled to an order enjoining and prohibiting the defendant from further pursuit of business until such time as he has paid the delinquent tax, interest, penalties, fees and costs associated with this proceeding?

Summary of the Law

La. R.S. 47:302 and 47:331 levy a tax upon the sale at retail, use, consumption, distribution and storage thereof of items or articles of tangible personal property. There is a similar tax imposed on the lease of those same types of property. The sales/use 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).

Under La. R.S. 47:301(14)(g)(i)(aa), taxable sales of services includes "furnishing of repairs to tangible personal property, including but not restricted to the repair and servicing of automobiles and other vehicles."

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 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:

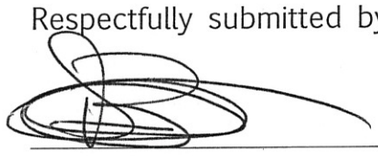
An affidavit of correctness signed by the Tax Officer assigned to the account in question, a representative of the Louisiana Department of Revenue for this purpose, accompanied the pleading filed. Accordingly, all of the facts alleged in the pleadings shall be accepted as prima facie true and as constituting 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

FILED & RECORDED
ROBIN L. HOOTER
CLERK OF COURT
2015 AUG 19 PM 12: 23
BY
DY CLERK & RECORDER
RAPIDES PARISH LA.

TIM BARFIELD, SECRETARY
DEPARTMENT OF REVENUE,
STATE OF LOUISIANA

VERSUS

GLEN COUTEE D/B/A
A 1 24 HOUR AUTOMOTIVE REPAIR

NUMBER _____DIVISION____

9th JUDICIAL DISTRICT COURT

PARISH OF RAPIDES

STATE OF LOUISIANA

JUDGMENT

Considering the Judgment rendered in open court at the hearing on this matter held on the ____ day of _____, 2015;

IT IS ORDERED, ADJUDGED AND DECREED that the defendant, GLEN COUTEE D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR shall immediately cease the operation of its business at 2620 Highway 457, Alexandria, Louisiana 71302, unless and until such time as all delinquent tax, interest penalties and other fees have been paid to the Louisiana Department of Revenue.

IT IS ORDERED, ADJUDGED, AND DECREED that the Rapides Parish Sheriff's Office shall enter the premises of GLEN COUTEE D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR located at 2620 Highway 457, Alexandria, Louisiana 71302, and cause all business activity to cease immediately.

IT IS ORDERED, ADJUDGED, AND DECREED that the RAPIDES PARISH SHERIFF'S OFFICE shall post a notice on the outside of the entrances of each of the foregoing premises stating that the defendant's business has been shut down for failure to pay Louisiana taxes.

IT IS ORDERED, ADJUDGED, AND DCREED that GLEN COUTEE D/B/A A 1 24 HOUR AUTOMOTIVE REPAIR shall be enjoined from doing business, which includes diagnosing and repairing automobiles including large trucks and taking payment for those services.

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

Signed at Alexandria, Louisiana, on this _____, day of _____, 2015.

_____
THIRD JUDICIAL DISTRICT COURT JUDGE

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

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

GLEN COUTEE D/B/A
A 1 24 HOUR AUTOMOTIVE REPAIR
2620 Highway 457
Alexandria, Louisiana 71301