
BEAUDET RICHARD 91S387 91W388 072892 TAC

Legal Library
STATE OF WISCONSIN
DEPARTMENT OF REVENUE

JUL 29 1992

RECEIVED
LEGAL DIVISION

STATE OF WISCONSIN
TAX APPEALS COMMISSION

RICHARD BEAUDET * DOCKET NO. 91-S-387
2901 Pine Run Rd., #202 *
Naples, FL 33942 * DOCKET NO. 91-W-388

Petitioner, *

vs. *

RULING AND ORDER

WISCONSIN DEPARTMENT OF REVENUE * ON MOTION FOR
P.O. Box 8933 *
Madison, WI 53708 * SUMMARY JUDGMENT

Respondent. *

Pursuant to its notice, this Commission convened in Madison, Wisconsin, at 10:00 a.m., on July 14, 1992, for the purpose of hearing the respondent's motion for summary judgment in the above-entitled matters. At the hearing, the respondent made motion to grant it summary judgment and dismiss the petitions for review in these matters on the following grounds:

That the only defense raised by petitioner is the existence of an indemnity agreement between the petitioner, 507 Corporation, and Frank Willey, and such an indemnity agreement, as a matter of law, does not absolve petitioner from liability as a responsible person for unpaid sales and use tax due to the Department of Revenue under sec. 77.60(9), Stats., and unpaid withholding tax due to the Department of Revenue under sec. 71.83 (1)(b)2, Stats.

The petitioner, Richard Beaudet, failed to appear in person and could not be reached by telephone. The respondent,

201908101001247

Wisconsin Department of Revenue, appeared by its attorney, Donald Goldsworthy.

The respondent introduced exhibits, presented its motion to grant it summary judgment, and offered oral argument in support of its motion.

Having considered the pleadings, the record, the motion to grant summary judgment, and the argument of the respondent thereon, this Commission finds as

FINDINGS OF FACT

1. By notice dated March 29, 1991, the respondent made an assessment of sales and use tax against the petitioner in the amount of \$19,110.03.

2. On April 15, 1991, the petitioner mailed a petition for redetermination of the sales and use tax assessment to the respondent, including a copy of an indemnity agreement between the petitioner, 507 Corporation, and Frank Willey dated October 13, 1989.

3. By notice dated September 13, 1991, the respondent granted in part and denied in part the petitioner's petition for redetermination of the sales and use tax assessment.

4. By notice dated March 18, 1991, the respondent made an assessment of withholding tax against the petitioner in the amount of \$3,796.93.

5. On March 28, 1991, the petitioner mailed a petition for redetermination of the withholding tax assessment to the respondent, including a copy of an indemnity agreement between the

petitioner, 507 Corporation, and Frank Willey dated October 13, 1989.

6. By notice dated September 13, 1991, the respondent granted in part and denied in part the petitioner's petition for redetermination of the withholding tax assessment.

7. On September 24, the petitioner filed with this Commission petitions for review of respondent's partial denials of the assessments at issue herein.

8. The record reflects the following:

a. The 507 Corporation filed a Certificate of Newly-Elected Officers and/or Directors, dated October 13, 1989, with the Wisconsin Secretary of State, listing Richard Beudet as President of the corporation. That filing was the result of two special meetings of the board of directors of 507 Corporation on October 13, 1989, during which Richard Beudet was appointed president and director of the corporation.

b. The petitioner had the authority to sign checks for the 507 Corporation.

c. The petitioner did sign checks on behalf of 507 Corporation payable to creditors other than the Wisconsin Department of Revenue.

d. The petitioner signed and filed Wisconsin state and county sales and use tax returns.

e. The petitioner signed and filed 'No Remit' withholding tax deposit report Forms WT-6.

20190110100124

f. Under Internal Revenue Code §6672, the Internal Revenue Service assessed the petitioner for failure to pay trust fund taxes as a responsible person.

g. On October 23, 1989, the 507 Corporation filed a petition under Chapter 11 of the U.S. Bankruptcy Code. The case was converted to Chapter 7 on May 29, 1990.

9. By notice dated June 4, 1992, this Commission sent a calendar scheduling respondent's motion for summary judgment, by certified mail, return receipt requested, to petitioner at his last known address. On June 15, 1992, the certified mail was returned to the Commission with the notation 'MOVED, LEFT NO ADDRESS, NAPLES, FL 33940'. The Commission then re-sent the calendar to petitioner's last known address by ordinary mail, which has not been returned to the Commission.

10. The respondent has shown good cause and sufficient grounds for the granting of its motion for summary judgment.

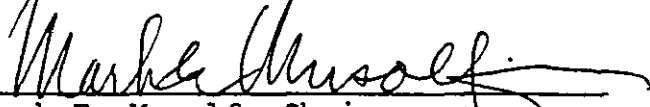
Therefore,

IT IS ORDERED

That the respondent's motion for summary judgment be granted and the petitions for review in the above-entitled matters be dismissed.

Dated at Madison, Wisconsin, this 28th day of July, 1992.

WISCONSIN TAX APPEALS COMMISSION


Mark E. Musolf, Chairperson


Thomas R. Timken, Commissioner


Douglass H. Bartley, Commissioner

pc: Petitioner
Respondent

ATTACHMENT: NOTICE OF APPEAL INFORMATION

201606191001247