

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

Patrick Joslin,
Petitioner,

v

Michigan Department of Treasury,
Respondent.

MTT Docket No. 345503
Assessment No. P009729

Tribunal Judge Presiding
Cynthia J. Knoll

ORDER GRANTING SUMMARY DISPOSITION FOR PETITIONER

ORDER CANCELLING ASSESSMENT

The Tribunal, having given due consideration to the case file, finds:

1. Respondent issued a Final Assessment to Petitioner on March 25, 2008, as a liable corporate officer given the failure of the underlying business to file a single business tax return for the periods 12/02, 12/03, 12/04, 12/05, 12/06 and 12/07. The assessment included tax of \$6,000, penalty of \$1,500, and interest of \$1,136.36.
2. Petitioner filed an appeal (i.e., petition) of the assessment on April 25, 2008. In the petition, Petitioner states:
 - a. "He was never involved with the operations of the subject business. He did not participate in the decisions relating to or the payment of or the nonpayment of, and did not sign checks for the payment of creditors and/or the taxing authorities. All such things were done or not done without his knowledge."
 - b. "He was listed as an officer of the said corporation without his knowledge and without his agreement. This he discovered years after the business had failed."
 - c. "Any signature that appears to be reflective of his name was in fact not signed by him, was not signed with his authority and was not signed with his knowledge or participation, be it directly or indirectly."
 - d. "Legal counsel for the referenced company, Attorney John Doyle, has openly stated that Patrick Joslin had nothing to do with the company or its operations."
 - e. "On information and belief, Patrick Joslin also understands that affirmations were made to the Michigan State Liquor Control Commission by those people who actually were involved with the operations of the referenced business, and that such affirmations categorically affirm that Patrick Joslin had absolutely nothing to do with the operations, structure, legal or tax affairs of the business."

3. The evidence submitted includes a copy of a handwritten letter by Americ Joslin, Petitioner's brother, dated April 22, 2008. In the letter, Americ Joslin states that Petitioner "had nothing to do with Josab Corp" and that Petitioner "was just a shell, he never got any money or benefit from Josab. He never signed any tax [documents]."
4. The evidence also includes a letter to Petitioner from John J. Doyle, dated July 24, 2008, which states :

"While I believe your name may have appeared as a corporate officer of one of these entities, it was only at the very beginning. My understanding is that early on, Americ became the 100% owner and sole officer and director of these entities and represented as much to the Michigan Liquor Control Commission on numerous occasions. Further, to my knowledge, you never had any responsibility of any kind regarding the operation of these entities, nor did you receive any monies from them. Your brother, Americ, was the only decision maker I knew about and had told me early on in my representation of him that you were out of these entities all together."

5. A Prehearing Conference was held on September 9, 2010. Petitioner's representative stated that this is a case of identity theft. Petitioner reiterated that he was unaware that his name had been added to corporate documents and that his signature had been placed on any documents without his consent. Respondent indicated that it did not have any further information for this assessment.
6. The Tribunal, having given due consideration to the Petition, the Answer and the case file, finds that summary disposition is appropriate under the circumstances. MCR 2.116(I) allows the court to render a judgment where the proofs show that there is no genuine issue of material fact. The Tribunal finds that there is no genuine issue in the instant case, as Petitioner did not have sufficient tax-specific involvement in the company for personal liability to attach, as Petitioner did not "have control or supervision of, or responsibility for, making the returns or payments" See MCL 205.27a(5). Petitioner did not participate in or have knowledge of the activities of Josab Corp. It appears from the evidence submitted that the corporation was created by Petitioner's brother, Americ Joslin, in 1995. Americ Joslin is listed as the incorporator and registered officer. Subsequent annual information updates list Petitioner as either owner, manager or president. The updates also appear to be signed by Patrick Joslin. However, Petitioner has affirmed that he had no knowledge that his name had been added to these filings or that his signature was placed on any documents. Petitioner stated that he did not sign any documents and did not authorize or direct his signature to be placed on any documents relating to Josab Corp. As such, the assessment, including penalties and interest, should be cancelled. Therefore,

IT IS ORDERED that Summary Disposition for Petitioner is GRANTED.

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IT IS FURTHER ORDERED that Assessment No. P009729 is CANCELLED.

This Order resolves all pending claims in this matter and closes this case.

MICHIGAN TAX TRIBUNAL

Entered: November 1, 2010

By: Cynthia J Knoll