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**Oct 22 2024**

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

\_\_\_\_\_  
APPEAL FROM S. C. ADMINISTRATIVE LAW COURT

Debra B. Durden, Judge  
\_\_\_\_\_

Administrative Law Court Docket No.: 23-ALJ-17-0362-CC  
\_\_\_\_\_

Watertoys, L.L.C., d/b/a Tidalwave Watersports, .....Appellant,

v.


South Carolina Department of Revenue,..... Respondent.

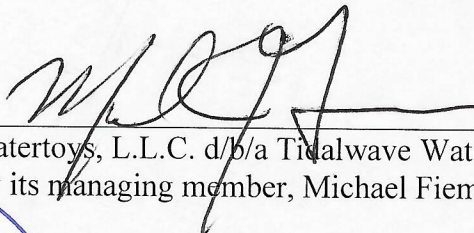
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SUPPLEMENTAL APPEAL BOND (INTEREST)  
\_\_\_\_\_

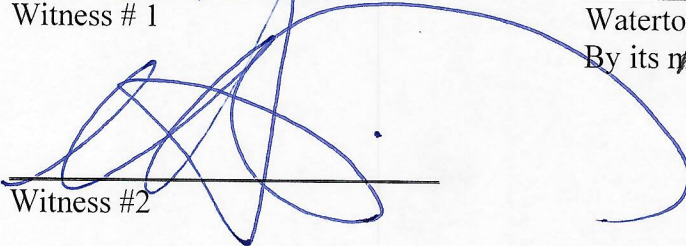
In accordance with § 12-60-3370, S. C. Code, ann.,<sup>1</sup> the appellant, Watertoys, L.L.C. d/b/a as Tidalwave Watersports acknowledges itself potentially indebted unto the Respondent, Department of Revenue in an interest amount of \$7,842.52, said amount being the amount of alleged interest the Administrative Law Court is requiring be posted as an additional condition of appeal.

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<sup>1</sup> The appellant filed an appeal of the administrative Law Court’s September 8, 2024, Order on September 28, 2024, and does not waive its legal argument that alleged interest is **not** a requirement to gain access to judicial review. The appeal bond statute says: “Except as otherwise provided, a taxpayer shall pay, or post a bond for, all taxes, **not including penalties or civil fines**, determined to be due by the administrative law judge before appealing the decision to the court of appeals.” (emphasis added) Appellant’s posting interest is **not a waiver** of its legal position that the D.O.R. cannot demand interest as a condition to judicial review under **at least** the controlling statute and Article I, § 9 of the *South Carolina Constitution*. (See also Article I, §§ 3 and 4.)

Without waiving its right to challenge the Administrative Law Court's conclusion that alleged interest must be posted as a condition of appeal, the Appellant, Watertoys, L.L.C. d/b/a Tidalwave Watersports, acknowledges that should it fail to have this appeal disposed of in its favor, or should the appeal be dismissed for cause, the Appellant shall release the posted interest along with the amount of the disputed taxes in accordance with South Carolina law as well as any costs awarded in consequence of this action as provided by the *South Carolina Appellate Court Rules*. The appellant reserves the right to contest the Administrative Law Court's decision that interest is required as a pre-condition to seek judicial review.

  
\_\_\_\_\_  
Witness # 1

  
\_\_\_\_\_  
Watertoys, L.L.C. d/b/a Tidalwave Watersports  
By its managing member, Michael Fiem

  
\_\_\_\_\_  
Witness #2

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BELK, COBB, INFINGER & GOLDSTEIN, P.A.  
P. O. Box 71121  
N. Charleston, S. C. 29415-1121

Oct 22 2024

SC Court of Appeals

October 21, 2024

Hon. Jenny A. Kitchings,  
Clerk of Court  
South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, South Carolina 29211

RE: Watertoys, LLC d/b/a Tidalwave Watersports v. S. C. Dept. of Revenue  
Appellate Tracking No.: 2024-000962

Dear Ms. Kitchings,

I am providing a copy of the supplemental appeal bond in conformity with the Administrative Law Court's September 4, 2024, Order (appealed by amended Notice of Appeal dated September 22, 2024). I am unsure if an appeal of an Order requiring pre-hearing interest as a pre-condition to judicial review is or is not automatically stayed by Rule 241, *South Carolina Appellate Court Rules*. Therefore, in an abundance of caution, we have deposited the disputed interest amount in addition to the previously posted admissions/amusement taxes allegedly due.

We received the transcript of the Administrative Law Court hearing on October 14, 2024, making the Appellant's Initial Brief due on or before Wednesday November 13, 2024 (one day later if the 14<sup>th</sup>—Columbus Day—is not counted). Please let me know if you require anything further. By copy of this letter, I am providing a copy of this Supplemental Appeal Bond to opposing counsel. With kind regards, I am

Very truly yours,

Belk, Cobb, Infinger & Goldstein, P.A.  
Thomas R. Goldstein  
(843) 729 0928  
[tgoldstein@cobblaw.net](mailto:tgoldstein@cobblaw.net)

cc: Marcus Antley, III (with enclosure)